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Table of Contents

Agency/Action/Subject Index iii
Rules Affected Index v
Agency Index (Title numbers assigned) xv
Notices of Rulemaking Intent
Environmental Quality, Department of (Title 252) 955
Submissions for Review
Agriculture, Food, and Forestry, Oklahoma Department of (Title 35) 957
Commerce, Oklahoma Department of (Title 150) 957
Corporation Commission (Title 165) 957, 958, 961, 965, 966, 967, 968
Grand River Dam Authority (Title 300) 968
Health, Oklahoma State Department of (Title 310) 968, 969, 970, 971, 972
Labor, Department of (Title 380) 973
Personnel Management, Office of (Title 530) 973
Tax Commission, Oklahoma (Title 710) 973
Teachers' Retirement System (Title 715) 974
Transportation, Department of (Title 730) 974
Treasurer, State (Title 735) 974
Career and Technology Education, Oklahoma Department of (Title 780) 974, 975, 976
Gubernatorial Approvals
Cosmetology, State Board of (Title 175) 977
Health, Oklahoma State Department of (Title 310) 978, 979
Motor Vehicle Commission, Oklahoma (Title 465) 979, 980
Police Pension and Retirement System, Oklahoma (Title 550) 980
Regents for Higher Education, State (Title 610) 981
Speech-Language Pathology and Audiology, Board of Examiners for (Title 690) 981, 982
Gubernatorial Disapprovals
Speech-Language Pathology and Audiology, Board of Examiners for (Title 690) 983
Withdrawn Rules
Speech-Language Pathology and Audiology, Board of Examiners for (Title 690) 985
Emergency Adoptions
Health, Oklahoma State Department of (Title 310) 987
Permanent Final Adoptions
Benefits Council, Oklahoma State Employees (Title 87) 989, 990, 993
Commerce, Oklahoma Department of (Title 150) 995, 998
Cosmetology, State Board of (Title 175) 999, 1002
Employment Security Commission, Oklahoma (Title 240) 1028
Environmental Quality, Department of (Title 252) 1029, 1030, 1031, 1032
Health, Oklahoma State Department of (Title 310) 1035, 1037, 1038, 1039, 1041
Land Office, Department of the Commissioners of the (Title 385) 1043
Medical Licensure and Supervision, State Board of (Title 435) 1047, 1049, 1050, 1051, 1052, 1055, 1056
Mental Health and Substance Abuse Services, Department of (Title 450) 1061, 1067, 1082, 1086, 1088, 1093
Nursing Home Administrators, Oklahoma State Board of Examiners for (Title 490) 1108, 1110
Pardon and Parole Board (Title 515) 1114
Regents for Higher Education, State (Title 610) 1116
Speech-Language Pathology and Audiology, Board of Examiners for (Title 690) 1117, 1118, 1119, 1122
Tax Commission, Oklahoma (Title 710) 1123, 1125, 1128, 1137, 1142, 1145, 1147
Executive Orders (Title 1) 1151

Agency/Action/Subject Index

AGRICULTURE, Food, and Forestry, Oklahoma Department of (Title 35)
Submissions for Review
Fees (Chapter 2) 957
BENEFITS Council, Oklahoma State Employees (Title 87)
Permanent Final Adoptions
Administrative Operations (Chapter 1) 989
Flexible Benefits Plan (Chapter 10) 990
Competitive Bidding Criteria and Procedures for Contracts Awarded for Flexible Benefits Plans (Chapter 15) 993
COMMERCE, Oklahoma Department of (Title 150)
Submissions for Review
Oklahoma Quality Jobs Program (Chapter 65) 957
Permanent Final Adoptions
Emergency Shelter Grant Program (Chapter 85) 995
Community Services Block Grant Program (Chapter 90) 998
CORPORATION Commission (Title 165)
Submissions for Review
Rules of Practice (Chapter 5) 957
Oil and Gas Conservation (Chapter 10) 957
Fuel Inspection (Chapter 15) 958
Underground Storage Tanks (Chapter 25) 958
Aboveground Storage Tanks (Chapter 26) 961
Electric Utility Rules (Chapter 35) 965, 966
Gas Service Utilities (Chapter 45) 966
Telecommunications Services (Chapter 55) 967
Resellers of Interexchange Telecommunication Services (Chapter 56) 967
Operator Service Providers Telecommunications Services (Chapter 57) 968
Facilitation and Provisioning of Payphone Service (Chapter 58) 968
COSMETOLOGY, State Board of (Title 175)
Gubernatorial Approvals
Administrative Operations (Chapter 1) 977
Licensure of Cosmetologists, Schools and Related Establishments (Chapter 10) 977
Permanent Final Adoptions
Administrative Operations (Chapter 1) 999
Licensure of Cosmetologists, Schools and Related Establishments (Chapter 10) 1002
EMPLOYMENT Security Commission, Oklahoma (Title 240)
Permanent Final Adoptions
General Provisions (Chapter 1) 1028
ENVIRONMENTAL Quality, Department of (Title 252)
Notices of Rulemaking Intent
Laboratory Accreditation (Chapter 300) 955
Permanent Final Adoptions
Rules of Practice and Procedure (Chapter 4) 1029
Air Pollution Control (Chapter 100) 1030, 1031, 1032
GOVERNOR
Executive Orders
Ordering flags at half-staff to honor former Senator Helen Cole (04-11) 1151
GRAND River Dam Authority (Title 300)
Submissions for Review
Public Purpose Support and Assistance (Chapter 10) 968
Purchasing Policy (Chapter 20) 968
HEALTH, Oklahoma State Department of (Title 310)
Submissions for Review
Alarm Industry (Chapter 205) 968
Food Service Establishments (Chapter 256) 969
HEALTH, Oklahoma State Department of – *continued*
Submissions for Review – continued
Hearing Aid Dealers and Fitters ~~Regulations~~ (Chapter 265) 969
Home Inspection Industry (Chapter 276) 969
Licensed Marital and Family Therapists (Chapter 400) 970
Licensed Behavioral Practitioners (Chapter 403) 970
Licensed Professional Counselors (Chapter 405) 970
Family Planning Centers (Chapter 530) 970
Immunizations (Chapter 535) 971
Adult Day Care Centers (Chapter 605) 971
Emergency Medical Services (Chapter 641) 971
Health Maintenance Organizations (Chapter 659) 971
Continuum of Care and Assisted Living (Chapter 663) 971
Hospital Standards (Chapter 667) 972
Nursing and Specialized Facilities (Chapter 675) 972
Nurse Aide Training and Certification (Chapter 677) 972
Residential Care Homes (Chapter 680) 972
Gubernatorial Approvals
Lodging Establishments (Chapter 285) 978
Fee Schedule for Public Health Laboratory Service (Chapter 546) 978
Newborn ~~Metabolic Disorder~~ Screening Program ~~Regulations~~ (Chapter 550) 978
Hospice ~~Regulations~~ (Chapter 661) 979
Nursing and Specialized Facilities (Chapter 675) 979
Emergency Adoptions
Nursing and Specialized Facilities (Chapter 675) 987
Permanent Final Adoptions
Medical Micropigmentation (Chapter 234) 1035
~~Ionizing Radiation Regulations~~Diagnostic X-Ray Systems (Chapter 281) 1037
Licensed Marital and Family Therapists (Chapter 400) 1038
Licensed Professional Counselors (Chapter 405) 1039
Notification of Communicable Disease Risk Exposure ~~Regulations~~ (Chapter 555) 1041
LABOR, Department of (Title 380)
Submissions for Review
Protection of Labor (Chapter 30) 973
LAND Office, Department of the Commissioners of the (Title 385)
Permanent Final Adoptions
Sale and Operation of Oil and Gas Leases (Chapter 15) 1043
MEDICAL Licensure and Supervision, State Board of (Title 435)
Permanent Final Adoptions
Administration and Organization (Chapter 1) 1047
Physicians and Surgeons (Chapter 10) 1047, 1049, 1050, 1051
Physician Assistants (Chapter 15) 1052
Physical Therapists and Assistants (Chapter 20) 1055
Registered Electrologists (Chapter 40) 1056
MENTAL Health and Substance Abuse Services, Department of (Title 450)
Permanent Final Adoptions
Standards and Criteria for Community Residential Mental Health Facilities (Chapter 16) 1061
Standards and Criteria for Community Mental Health Services Centers (Chapter 17) 1067
Standards and Criteria for Community-Based Structured Crisis Centers (Chapter 23) 1082
Clinical Care (Chapter 30) 1086

MENTAL Health and Substance Abuse Services, Department of – *continued*
Permanent Final Adoptions – continued
Certified Behavioral Health Case Managers (Chapter 50) 1088
Standards and Criteria for Programs of Assertive Community Treatment (Chapter 55) 1093
MOTOR Vehicle Commission, Oklahoma (Title 465)
Gubernatorial Approvals
Administrative Operations (Chapter 1) 979
License (Chapter 10) 980
Advertising (Chapter 15) 980
NURSING Home Administrators, Oklahoma State Board of Examiners for (Title 490)
Permanent Final Adoptions
Administrative Operations (Chapter 1) 1108
Rules and Regulations for Nursing Home Administrators (Chapter 10) 1110
PARDON and Parole Board (Title 515)
Permanent Final Adoptions
Parole Docketing Procedures (Chapter 3) 1114
PERSONNEL Management, Office of (Title 530)
Submissions for Review
Merit System of Personnel Administration Rules (Chapter 10) 973
Voluntary Payroll Deduction Rules (Chapter 15) 973
POLICE Pension and Retirement System, Oklahoma (Title 550)
Gubernatorial Approvals
Administrative Operations (Chapter 1) 980
Retirement and Pension Benefit Program (Chapter 10) ... 980
Oklahoma Police Deferred Option Plan (Chapter 15) 980
REGENTS for Higher Education, State (Title 610)
Gubernatorial Approvals
Administrative Operations (Chapter 1) 981
Student Financial Aid and Scholarships (Chapter 25) 981
Permanent Final Adoptions
Administrative Operations (Chapter 1) 1116
SPEECH-LANGUAGE Pathology and Audiology, Board of Examiners for (Title 690)
Gubernatorial Approvals
Administrative Operations (Chapter 1) 981
Rules of Practice (Chapter 5) 981
Licensure and Fees (Chapter 10) 981
Professional Code of Ethics (Chapter 15) 982
SPEECH-LANGUAGE Pathology and Audiology, Board of Examiners for – *continued*
Gubernatorial Disapprovals
Administrative Operations (Chapter 1) 983
Licensure and Fees (Chapter 10) 983
Withdrawn Rules
Licensure and Fees (Chapter 10) 985
Permanent Final Adoptions
Administrative Operations (Chapter 1) 1117
Rules of Practice (Chapter 5) 1118
Licensure and Fees (Chapter 10) 1119
Professional Code of Ethics (Chapter 15) 1122
TAX Commission, Oklahoma (Title 710)
Submissions for Review
Ad Valorem (Chapter 10) 973
Permanent Final Adoptions
Aircraft (Chapter 15) 1123
Alcohol, Mixed Beverages, and Low-Point Beer (Chapter 20) 1125
Boats and Motors (Chapter 22) 1128
Gross Production, Petroleum Excise, and Conservation Excise (Chapter 45) 1128
Motor Vehicles (Chapter 60) 1137, 1142
Tobacco, ~~and~~ Tobacco Products, and Cigarettes (Chapter 70) 1145
Miscellaneous Areas of Regulatory and Administrative Authority (Chapter 95) 1147
TEACHERS' Retirement System (Title 715)
Submissions for Review
General Operations (Chapter 10) 974
TRANSPORTATION, Department of (Title 730)
Submissions for Review
Administrative Operations (Chapter 1) 974
TREASURER, State (Title 735)
Submissions for Review
Unclaimed Property Administration (Chapter 80) 974
CAREER and Technology Education, Oklahoma Department of (Title 780)
Submissions for Review
General (Chapter 1) 974
Administration and Supervision (Chapter 10) 975
~~Area Vocational-Technical Schools~~ Technology Centers (Chapter 15) 975
Programs and Services (Chapter 20) 975
Business and Industry Services (Chapter 25) 975
Skills Centers (Chapter 30) 976

Rules Affected Index

[(E) = Emergency action]

Rule		Register Page
35:1-9-16.	[REVOKED]	697
35:1, App. A.	[REVOKED]	699
35:2-3-2.4.	[AMENDED]	724
35:2-3-3.	[AMENDED]	725
35:2-3-6.	[REVOKED]	726
35:2-3-7.	[REVOKED]	726
35:2-3-11.	[AMENDED]	723
35:2-3-12.	[AMENDED]	726
35:2-3-13.	[AMENDED]	727
35:2-3-14.	[AMENDED]	727
35:2-3-15.	[AMENDED]	728
35:2-3-16.	[AMENDED]	728
35:2-3-18.	[AMENDED]	728
35:2-3-22.	[AMENDED]	728
35:2-3-26.	[AMENDED]	729
35:2-3-27.	[NEW]	730
35:2-3-28.	[NEW]	730
35:3-1-1.	[NEW]	731
35:3-1-10.	[NEW]	731
35:3-1-15.	[NEW]	732
35:3-1-16.	[NEW]	733
35:3-1-17.	[NEW]	736
35:3-1-18.	[NEW]	736
35:3-1-19.	[NEW]	737
35:3-1-20.	[NEW]	738
35:3-1-21.	[NEW]	739
35:3-1-22.	[NEW]	740
35:3-1-23.	[NEW]	740
35:10-3-1.	[REVOKED]	741
35:10-3-2.	[REVOKED]	741
35:10-3-3.	[REVOKED]	741
35:10-3-4.	[REVOKED]	742
35:10-3-8.	[REVOKED]	742
35:10-3-9.	[REVOKED]	742
35:10-3-10.	[REVOKED]	742
35:15-3-4.	[NEW]	742
35:15-11-41.	[NEW]	743
35:15-15-4.	[AMENDED]	744
35:15-15-111.	[AMENDED]	745
35:15-25-1.	[REVOKED]	745
35:15-25-2.	[REVOKED]	745
35:15-25-3.	[REVOKED]	745
35:15-25-4.	[REVOKED]	745
35:15-25-7.	[REVOKED]	745
35:15-25-16.	[REVOKED]	745
35:15-25-17.	[REVOKED]	745
35:15-25-18.	[REVOKED]	745
35:15-25-19.	[REVOKED]	745
35:15-25-20.	[REVOKED]	745
35:15-25-21.	[REVOKED]	745
35:15-25-22.	[REVOKED]	745
35:15-25-23.	[REVOKED]	745
35:15-25-24.	[REVOKED]	745
35:15-25-28.	[REVOKED]	745
35:15-25-29.	[REVOKED]	745
35:15-25-37.	[REVOKED]	745
35:15-25-53.	[REVOKED]	745
35:15-25-54.	[REVOKED]	745
35:15-25-55.	[REVOKED]	745
35:15-25-56.	[REVOKED]	745
35:15-25-67.	[REVOKED]	745
35:15-25-254.	[REVOKED]	745
35:15-25-350.	[REVOKED]	745
35:15-25-351.	[REVOKED]	745
35:15-25-352.	[REVOKED]	745
35:15-25-353.	[REVOKED]	745
35:15-25-354.	[REVOKED]	745
35:15-25-355.	[REVOKED]	745
35:15-25-356.	[REVOKED]	745
35:15-25-357.	[REVOKED]	745
35:15-25-358.	[REVOKED]	745
35:15-25-362.	[REVOKED]	745
35:15-25-363.	[REVOKED]	745
35:15-25-364.	[REVOKED]	745
35:15-25-365.	[REVOKED]	745
35:15-25-366.	[REVOKED]	745
35:15-25-367.	[REVOKED]	745
35:15-25-368.	[REVOKED]	745
35:15-25-369.	[REVOKED]	745
35:15-25-370.	[REVOKED]	745
35:15-25-380.	[REVOKED]	745
35:15-27-1.	[REVOKED]	745
35:15-27-3.	[REVOKED]	745
35:15-27-4.	[REVOKED]	745
35:15-27-14.	[REVOKED]	745
35:15-27-15.	[REVOKED]	745
35:15-27-41.	[REVOKED]	745
35:15-27-42.	[REVOKED]	745
35:15-27-43.	[REVOKED]	745
35:15-27-44.	[REVOKED]	745
35:15-27-45.	[REVOKED]	745
35:15-27-46.	[REVOKED]	745
35:15-27-60.	[REVOKED]	745
35:15-27-86.	[REVOKED]	745
35:15-27-87.	[REVOKED]	745
35:15-27-88.	[REVOKED]	745
35:15-27-89.	[REVOKED]	745
35:15-27-90.	[REVOKED]	745
35:15-27-190.	[REVOKED]	745
35:15-27-191.	[REVOKED]	745
35:15-27-192.	[REVOKED]	745
35:15-27-195.	[REVOKED]	745
35:15-27-223.	[REVOKED]	745
35:15-27-232.	[REVOKED]	745
35:15-27-296.	[REVOKED]	745
35:15-27-400.	[REVOKED]	745
35:15-27-401.	[REVOKED]	745
35:15-29-1.	[REVOKED]	745
35:15-29-2.	[REVOKED]	745
35:15-29-3.	[REVOKED]	745
35:15-29-4.	[REVOKED]	745
35:15-29-5.	[REVOKED]	745
35:15-29-6.	[REVOKED]	745
35:15-29-7.	[REVOKED]	745
35:15-29-8.	[REVOKED]	745
35:15-29-12.	[REVOKED]	745
35:15-29-13.	[REVOKED]	745
35:15-29-14.	[REVOKED]	745
35:15-29-15.	[REVOKED]	745
35:15-29-16.	[REVOKED]	745
35:15-29-17.	[REVOKED]	745
35:15-29-21.	[REVOKED]	745

35:15-29-22. . . . . [REVOKED] 745
35:15-29-23. . . . . [REVOKED] 745
35:15-29-24. . . . . [REVOKED] 745
35:15-29-25. . . . . [REVOKED] 745
35:15-29-26. . . . . [REVOKED] 745
35:15-29-27. . . . . [REVOKED] 745
35:15-29-28. . . . . [REVOKED] 745
35:15-29-32. . . . . [REVOKED] 745
35:15-29-33. . . . . [REVOKED] 745
35:15-29-34. . . . . [REVOKED] 745
35:15-29-35. . . . . [REVOKED] 745
35:15-29-36. . . . . [REVOKED] 745
35:15-29-37. . . . . [REVOKED] 745
35:15-29-38. . . . . [REVOKED] 745
35:15-29-39. . . . . [REVOKED] 745
35:15-29-40. . . . . [REVOKED] 745
35:15-29-41. . . . . [REVOKED] 745
35:15-29-42. . . . . [REVOKED] 745
35:15-29-43. . . . . [REVOKED] 745
35:15-29-47. . . . . [REVOKED] 745
35:15-29-48. . . . . [REVOKED] 745
35:15-29-49. . . . . [REVOKED] 745
35:15-29-50. . . . . [REVOKED] 745
35:15-29-54. . . . . [REVOKED] 745
35:15-29-55. . . . . [REVOKED] 745
35:15-29-56. . . . . [REVOKED] 745
35:15-29-57. . . . . [REVOKED] 745
35:15-29-58. . . . . [REVOKED] 745
35:15-29-62. . . . . [REVOKED] 745
35:15-29-63. . . . . [REVOKED] 745
35:15-29-64. . . . . [REVOKED] 745
35:15-29-65. . . . . [REVOKED] 745
35:15-29-66. . . . . [REVOKED] 745
35:15-29-67. . . . . [REVOKED] 745
35:15-29-68. . . . . [REVOKED] 745
35:15-29-69. . . . . [REVOKED] 745
35:15-29-73. . . . . [REVOKED] 745
35:15-29-74. . . . . [REVOKED] 745
35:15-29-75. . . . . [REVOKED] 745
35:15-29-76. . . . . [REVOKED] 745
35:15-29-80. . . . . [REVOKED] 745
35:15-29-81. . . . . [REVOKED] 745
35:15-29-82. . . . . [REVOKED] 745
35:15-29-83. . . . . [REVOKED] 745
35:15-29-84. . . . . [REVOKED] 745
35:15-29-88. . . . . [REVOKED] 745
35:15-29-89. . . . . [REVOKED] 745
35:15-29-90. . . . . [REVOKED] 745
35:15-29-91. . . . . [REVOKED] 745
35:15-29-92. . . . . [REVOKED] 745
35:15-29-93. . . . . [REVOKED] 745
35:15-29-94. . . . . [REVOKED] 745
35:15-29-95. . . . . [REVOKED] 745
35:15-29-99. . . . . [REVOKED] 745
35:15-29-100. . . . . [REVOKED] 745
35:15-29-101. . . . . [REVOKED] 745
35:15-29-102. . . . . [REVOKED] 745
35:15-29-103. . . . . [REVOKED] 745
35:15-29-104. . . . . [REVOKED] 745
35:15-29-108. . . . . [REVOKED] 745
35:15-29-112. . . . . [REVOKED] 745
35:15-29-113. . . . . [REVOKED] 745
35:15-29-114. . . . . [REVOKED] 745
35:15-29-115. . . . . [REVOKED] 745
35:15-29-116. . . . . [REVOKED] 745
35:15-29-120. . . . . [REVOKED] 745
35:15-29-121. . . . . [REVOKED] 745
35:15-29-122. . . . . [REVOKED] 745
35:15-47-6. . . . . [AMENDED] 746
35:15-47-12. . . . . [AMENDED] 747
35:15-47-13. . . . . [AMENDED] 747
35:15-47-14. . . . . [AMENDED] 747
35:15-47-18. . . . . [AMENDED] 747
35:15-47-19. . . . . [AMENDED] 748
35:20-17-7. . . . . [AMENDED] 748
35:20-17-8. . . . . [AMENDED] 749
35:20-17-14. . . . . [AMENDED] 749
35:20-17-15. . . . . [AMENDED] 749
35:20-17-18. . . . . [AMENDED] 749
35:30-14-1. . . . . [AMENDED] 750
35:30-14-2. . . . . [AMENDED] 750
35:30-14-3. . . . . [AMENDED] 750
35:30-14-4. . . . . [AMENDED] 751
35:30-14-5. . . . . [REVOKED] 751
35:30-14-6. . . . . [REVOKED] 751
35:30-17-20. . . . . [AMENDED] 752
35:30-17-21. . . . . [AMENDED] 752
35:30-17-22.2. . . . . [AMENDED] 753
35:30-17-24. . . . . [AMENDED] 753
35:30-17-35. . . . . [AMENDED] 753
35:30-17-83. . . . . [AMENDED] 754
35:30-21-1. . . . . [REVOKED] (E) 347
35:30-21-1.1. . . . . [NEW] (E) 348
35:30-21-2. . . . . [REVOKED] (E) 348
35:30-21-3. . . . . [REVOKED] (E) 349
35:30-21-4. . . . . [REVOKED] (E) 349
35:30-27-11. . . . . [AMENDED] 754
35:30-29-23. . . . . [NEW] 755
35:30-29-34. . . . . [AMENDED] 755
35:30-29-51. . . . . [AMENDED] 755
35:35-1-1. . . . . [REVOKED] 756
35:35-1-2. . . . . [REVOKED] 756
35:35-1-3. . . . . [REVOKED] 756
35:35-1-4. . . . . [REVOKED] 757
35:35-1-5. . . . . [REVOKED] 757
35:35-3-1. . . . . [REVOKED] 757
35:35, App. A. . . . . [REVOKED] 758
40:35-1-2. . . . . [NEW] (E) 37
87:1-5-10. . . . . [AMENDED] 989
87:10-3-2. . . . . [AMENDED] 991
87:10-17-3. . . . . [AMENDED] 991
87:10-17-4. . . . . [AMENDED] 992
87:10-17-5. . . . . [NEW] 993
87:10-19-1. . . . . [AMENDED] 993
87:15-1-2. . . . . [AMENDED] 993
87:15-1-4. . . . . [AMENDED] 994
87:15-1-14. . . . . [NEW] 995
115:1-1-1. . . . . [AMENDED] (E) 487
115:1-1-2. . . . . [AMENDED] (E) 487
115:1-1-3. . . . . [AMENDED] (E) 488
115:1-1-4. . . . . [AMENDED] (E) 488
115:1-1-5. . . . . [AMENDED] (E) 489
115:1-1-6. . . . . [NEW] (E) 489
115:10-1-1. . . . . [AMENDED] (E) 489
115:10-1-2. . . . . [AMENDED] (E) 490
115:10-1-2.1. . . . . [NEW] (E) 491
150:65-1-2. . . . . [AMENDED] (E) 543
150:65-1-12. . . . . [AMENDED] (E) 544
150:65-9-1. . . . . [NEW] (E) 15
150:65-9-2. . . . . [NEW] (E) 15
150:65-9-3. . . . . [NEW] (E) 16
150:65-9-4. . . . . [NEW] (E) 17
150:65-9-5. . . . . [NEW] (E) 17
150:85-1-6. . . . . [AMENDED] 996

150:85-1-7. . . . . [AMENDED] 996
150:85-1-8. . . . . [AMENDED] 996
150:85-1-9. . . . . [AMENDED] 996
150:85-1-10. . . . . [AMENDED] 998
150:85-1-12. . . . . [AMENDED] 998
150:90-1-7. . . . . [AMENDED] 998
150:90-1-9. . . . . [AMENDED] 998
150:95-1-1. . . . . [NEW] (E) 181
150:95-1-2. . . . . [NEW] (E) 181
150:95-1-3. . . . . [NEW] (E) 182
150:95-1-4. . . . . [NEW] (E) 183
150:95-1-5. . . . . [NEW] (E) 183
158:1-1-4. . . . . [AMENDED] 760
158:1-3-1. . . . . [AMENDED] 760
158:1-5-17. . . . . [NEW] 760
158:10-3-4. . . . . [AMENDED] 761
158:30-1-4. . . . . [AMENDED] (E) 492
158:30-5-2. . . . . [AMENDED] (E) 492
158:30-5-2. . . . . [AMENDED] 762
158:30-5-4. . . . . [NEW] (E) 492
158:30-5-4. . . . . [NEW] 763
158:30-9-2. . . . . [AMENDED] (E) 493
158:30-9-2. . . . . [AMENDED] 764
158:30-9-3. . . . . [AMENDED] (E) 494
158:30-9-3. . . . . [AMENDED] 764
158:30-9-4. . . . . [NEW] 764
158:30-11-2. . . . . [AMENDED] (E) 494
158:30-11-2. . . . . [AMENDED] 765
158:40-5-5. . . . . [AMENDED] 766
158:40-7-5. . . . . [NEW] (E) 495
158:40-7-5. . . . . [NEW] 766
158:40-9-3. . . . . [AMENDED] (E) 496
158:40-9-3. . . . . [AMENDED] 767
158:40-11-2. . . . . [AMENDED] (E) 496
158:40-11-2. . . . . [AMENDED] 768
158:50-1-4. . . . . [AMENDED] (E) 498
158:50-1-4. . . . . [AMENDED] 769
158:50-5-3. . . . . [AMENDED] 769
158:50-9-2. . . . . [AMENDED] (E) 498
158:50-9-2. . . . . [AMENDED] 770
158:50-9-3. . . . . [AMENDED] (E) 498
158:50-9-3. . . . . [AMENDED] 770
158:50-9-6. . . . . [NEW] (E) 498
158:50-9-6. . . . . [NEW] 771
158:50-9-7. . . . . [NEW] 771
158:50-11-2. . . . . [AMENDED] (E) 499
158:50-11-2. . . . . [AMENDED] 772
158:60-5-4. . . . . [AMENDED] (E) 501
158:60-5-4. . . . . [AMENDED] 773
165:30-3-3. . . . . [AMENDED] 775
165:30-3-12. . . . . [AMENDED] 775
165:30-3-103. . . . . [AMENDED] 775
165:30-3-104. . . . . [AMENDED] 776
165:30-9-46. . . . . [NEW] 776
165:30-11-47. . . . . [NEW] 776
165:30-13-94. . . . . [AMENDED] 777
165:30-15-5. . . . . [AMENDED] 777
165:30-15-9. . . . . [NEW] 777
165:30-15-34. . . . . [AMENDED] 778
175:1-3-1. . . . . [AMENDED] 999
175:1-3-2. . . . . [AMENDED] 1000
175:1-5-1. . . . . [AMENDED] 1000
175:1-5-4. . . . . [AMENDED] 1000
175:1-5-5. . . . . [AMENDED] 1000
175:1-5-6. . . . . [AMENDED] 1000
175:1-5-7. . . . . [AMENDED] 1001
175:1-5-9. . . . . [AMENDED] 1001
175:1-5-10. . . . . [AMENDED] 1001
175:1-5-11. . . . . [REVOKED] 1002
175:1-5-13. . . . . [AMENDED] 1002
175:1-7-2. . . . . [AMENDED] 1002
175:1-7-3. . . . . [AMENDED] 1002
175:10-3-1. . . . . [AMENDED] 1003
175:10-3-2. . . . . [AMENDED] 1005
175:10-3-3. . . . . [AMENDED] 1006
175:10-3-5. . . . . [AMENDED] 1006
175:10-3-15. . . . . [REVOKED] 1006
175:10-3-16. . . . . [AMENDED] 1006
175:10-3-30. . . . . [AMENDED] 1007
175:10-3-31. . . . . [AMENDED] 1007
175:10-3-32. . . . . [REVOKED] 1008
175:10-3-34. . . . . [AMENDED] 1008
175:10-3-37. . . . . [AMENDED] 1010
175:10-3-38. . . . . [AMENDED] 1010
175:10-3-39. . . . . [AMENDED] 1011
175:10-3-40. . . . . [AMENDED] 1012
175:10-3-42. . . . . [AMENDED] 1013
175:10-3-44. . . . . [AMENDED] 1013
175:10-3-51. . . . . [AMENDED] 1014
175:10-3-52. . . . . [AMENDED] 1014
175:10-3-53. . . . . [AMENDED] 1014
175:10-3-55. . . . . [AMENDED] 1014
175:10-3-60. . . . . [AMENDED] 1015
175:10-3-61. . . . . [AMENDED] 1015
175:10-3-62. . . . . [AMENDED] 1015
175:10-3-63. . . . . [AMENDED] 1015
175:10-3-64. . . . . [AMENDED] 1015
175:10-3-67. . . . . [AMENDED] 1016
175:10-3-69. . . . . [REVOKED] 1016
175:10-3-70. . . . . [REVOKED] 1016
175:10-3-71. . . . . [AMENDED] 1016
175:10-3-72. . . . . [REVOKED] 1016
175:10-3-73. . . . . [AMENDED] 1016
175:10-3-75. . . . . [AMENDED] 1016
175:10-3-77. . . . . [AMENDED] 1016
175:10-3-78. . . . . [AMENDED] 1017
175:10-5-1. . . . . [AMENDED] 1017
175:10-5-2. . . . . [AMENDED] 1017
175:10-5-4. . . . . [NEW] 1017
175:10-7-1. . . . . [AMENDED] 1017
175:10-7-3. . . . . [AMENDED] 1018
175:10-7-4. . . . . [AMENDED] 1018
175:10-7-5. . . . . [AMENDED] 1018
175:10-7-6. . . . . [AMENDED] 1018
175:10-7-7. . . . . [AMENDED] 1018
175:10-7-9. . . . . [REVOKED] 1019
175:10-7-10. . . . . [REVOKED] 1019
175:10-7-11. . . . . [AMENDED] 1019
175:10-7-12. . . . . [AMENDED] 1019
175:10-7-13. . . . . [AMENDED] 1019
175:10-7-14. . . . . [AMENDED] 1019
175:10-7-15. . . . . [AMENDED] 1020
175:10-7-17. . . . . [AMENDED] 1020
175:10-7-18. . . . . [AMENDED] 1020
175:10-7-19. . . . . [AMENDED] 1020
175:10-7-20. . . . . [AMENDED] 1020
175:10-7-21. . . . . [REVOKED] 1020
175:10-7-24. . . . . [REVOKED] 1020
175:10-7-25. . . . . [AMENDED] 1021
175:10-9-1. . . . . [AMENDED] 1021
175:10-9-2. . . . . [AMENDED] 1022
175:10-9-3. . . . . [AMENDED] 1022
175:10-9-4. . . . . [AMENDED] 1022
175:10-9-5. . . . . [AMENDED] 1022

175:10-9-6. [REVOKED] 1022
175:10-9-7. [AMENDED] 1023
175:10-9-25. [AMENDED] 1023
175:10-9-26. [AMENDED] 1023
175:10-9-27. [REVOKED] 1024
175:10-9-28. [AMENDED] 1024
175:10-9-29. [AMENDED] 1024
175:10-9-30. [AMENDED] 1024
175:10-9-31. [AMENDED] 1024
175:10-9-32. [AMENDED] 1025
175:10-9-33. [AMENDED] 1025
175:10-9-50. [AMENDED] 1025
175:10-9-52. [AMENDED] 1026
175:10-9-53. [AMENDED] 1026
175:10-9-54. [AMENDED] 1026
175:10-11-1. [AMENDED] 1027
175:10-11-2. [AMENDED] 1027
175:10-13-2. [AMENDED] 1027
175:10-15-1. [REVOKED] 1027
175:10-15-2. [AMENDED] 1027
175:10-15-4. [REVOKED] 1028
175:10-17-1. [AMENDED] 1028
175:10-17-2. [REVOKED] 1028
210:1-5-6. [AMENDED] (E) 395
210:1-5-8. [AMENDED] (E) 184
210:10-13-2. [AMENDED] (E) 185
210:10-13-4. [AMENDED] (E) 186
210:10-13-11. [AMENDED] (E) 189
210:10-13-13. [REVOKED] (E) 189
210:10-13-14. [REVOKED] (E) 190
210:10-13-18. [NEW] (E) 190
210:15-3-45. [AMENDED] (E) 192
210:15-3-47. [AMENDED] (E) 193
210:15-3-48. [AMENDED] (E) 194
210:15-3-49. [AMENDED] (E) 195
210:15-3-51. [AMENDED] (E) 196
210:15-3-95. [AMENDED] (E) 196
210:15-29-1. [NEW] (E) 198
210:15-29-2. [NEW] (E) 198
210:20-9-172. [AMENDED] (E) 199
210:20-21-1. [AMENDED] (E) 611
210:20-23-3. [NEW] (E) 612
210:25-3-4. [AMENDED] (E) 350
210:25-5-4. [AMENDED] (E) 235
210:35-9-31. [AMENDED] (E) 236
230:10-3-8. [AMENDED] (E) 546
230:10-3-9.2. [NEW] (E) 546
230:10-3-16.1. [NEW] (E) 546
230:10-3-28.1. [NEW] (E) 546
230:15-5-30. [AMENDED] (E) 547
230:15-9-22. [AMENDED] (E) 548
230:15-9-22.1. [AMENDED] (E) 548
230:20-3-1. [AMENDED] (E) 550
230:20-3-47. [AMENDED] (E) 550
230:20-3-50. [AMENDED] (E) 550
230:30-1-2. [AMENDED] (E) 551
230:30-3-3. [AMENDED] (E) 551
230:30-5-1.1. [AMENDED] (E) 552
230:30-5-8.1. [AMENDED] (E) 552
230:30-5-8.2. [AMENDED] (E) 553
230:30-7-6. [AMENDED] (E) 553
230:30-7-13. [AMENDED] (E) 553
230:30-9-2. [AMENDED] (E) 553
230:30-9-3. [AMENDED] (E) 554
230:30-9-5. [AMENDED] (E) 554
230:30-9-5.1. [NEW] (E) 555
230:30-11-2. [AMENDED] (E) 555
230:30-11-6. [AMENDED] (E) 556
230:30-11-6.1. [NEW] (E) 556
230:30-11-7. [AMENDED] (E) 557
230:30-13-1. [AMENDED] (E) 557
230:30-15-1. [AMENDED] (E) 557
230:30-15-2. [AMENDED] (E) 557
230:30-15-3. [AMENDED] (E) 558
230:30-15-5. [AMENDED] (E) 558
230:30-15-7. [AMENDED] (E) 558
230:30-15-8. [AMENDED] (E) 558
230:30-15-9. [AMENDED] (E) 558
230:35-3-57. [AMENDED] (E) 559
230:35-3-65. [AMENDED] (E) 559
230:35-3-66. [AMENDED] (E) 559
230:35-3-101.1. [AMENDED] (E) 559
230:35-3-101.2. [NEW] (E) 560
230:35-5-60. [NEW] (E) 560
230:40-3-1.1. [AMENDED] (E) 560
230:40-7-1. [AMENDED] (E) 561
230:55-1-1. [NEW] (E) 562
230:55-1-2. [NEW] (E) 562
230:55-3-1. [NEW] (E) 562
230:55-3-2. [NEW] (E) 562
230:55-3-3. [NEW] (E) 562
230:55-3-4. [NEW] (E) 562
230:55-3-9. [NEW] (E) 563
230:55-3-10. [NEW] (E) 563
230:55-3-11. [NEW] (E) 563
230:55-3-12. [NEW] (E) 564
230:55-3-13. [NEW] (E) 564
230:55-3-14. [NEW] (E) 564
230:55-3-15. [NEW] (E) 564
230:55-3-16. [NEW] (E) 565
230:55-3-21. [NEW] (E) 566
230:55-3-22. [NEW] (E) 566
230:55-3-23. [NEW] (E) 566
230:55-3-24. [NEW] (E) 567
230:55-3-25. [NEW] (E) 567
230:55-3-26. [NEW] (E) 567
230:55-3-27. [NEW] (E) 567
230:55-3-28. [NEW] (E) 568
230:55-3-29. [NEW] (E) 568
230:55-3-30. [NEW] (E) 568
230:55-3-31. [NEW] (E) 569
230:55-3-32. [NEW] (E) 569
230:55-3-33. [NEW] (E) 569
230:55-5-1. [NEW] (E) 569
230:55-5-2. [NEW] (E) 570
230:55-7-1. [NEW] (E) 570
230:55-9-1. [NEW] (E) 570
230:55-9-2. [NEW] (E) 571
230:55-9-3. [NEW] (E) 571
230:55-9-4. [NEW] (E) 571
230:55-9-5. [NEW] (E) 571
230:55-9-6. [NEW] (E) 571
230:55-9-7. [NEW] (E) 571
240:1-3-3. [AMENDED] 1029
240:1-3-4. [AMENDED] 1029
240:1-3-7. [AMENDED] 1029
240:5-3-4. [AMENDED] 778
240:10-3-41. [AMENDED] 779
240:10-3-44. [NEW] 779
240:10-3-45. [NEW] 779
240:10-13-20. [AMENDED] 780
240:10-13-45. [REVOKED] 780
240:12-5-4. [REVOKED] 780
240:15-1-5. [AMENDED] 781

240:15-1-7. [NEW] 781
252:4-9-51. [AMENDED] 1030
252:4-9-52. [AMENDED] 1030
252:100-33-1.1. [AMENDED] 1031
252:100-33-1.2. [AMENDED] 1031
252:100-41-15. [AMENDED] 1032
252:100, App. E. [REVOKED] 1033
252:100, App. E. [NEW] 1033
252:100, App. F. [REVOKED] 1034
252:100, App. F. [NEW] 1034
310:234-3-1. [AMENDED] 1035
310:234-3-3.1. [NEW] (E) 238
310:234-3-3.1. [NEW] 1035
310:234-3-4. [AMENDED] (E) 238
310:234-3-4. [AMENDED] 1036
310:234-9-1.1. [NEW] (E) 239
310:234-9-1.1. [NEW] 1037
310:281-1-1. [AMENDED] 1037
310:281-1-2. [AMENDED] 1037
310:281-1-3. [AMENDED] 1037
310:281-1-4. [AMENDED] 1037
310:281-3-1. [AMENDED] 1037
310:281-3-2. [AMENDED] 1037
310:281-3-3. [AMENDED] 1037
310:281-3-4. [AMENDED] 1037
310:281-3-6. [AMENDED] 1037
310:281-3-7. [AMENDED] 1037
310:281-5-1. [AMENDED] 1037
310:281-5-2. [AMENDED] 1037
310:281-5-5. [AMENDED] 1037
310:281-9-1. [AMENDED] 1037
310:281-9-2. [AMENDED] 1037
310:281-9-3. [AMENDED] 1037
310:281-9-4. [REVOKED] 1037
310:281-9-5. [AMENDED] 1037
310:281-9-6. [AMENDED] 1037
310:281-9-7. [REVOKED] 1037
310:281-9-8. [REVOKED] 1037
310:281-9-10. [REVOKED] 1037
310:281-9-11. [AMENDED] 1037
310:281-9-12. [AMENDED] 1037
310:281-9-13. [AMENDED] 1037
310:281-9-14. [AMENDED] 1037
310:281-9-16. [REVOKED] 1037
310:281-9-17. [REVOKED] 1037
310:281-9-18. [REVOKED] 1037
310:281-9-19. [REVOKED] 1037
310:281-9-20. [REVOKED] 1037
310:281-9-21. [REVOKED] 1037
310:281-9-22. [REVOKED] 1037
310:281-9-23. [REVOKED] 1037
310:281-9-24. [REVOKED] 1037
310:281-9-25. [REVOKED] 1037
310:281-9-26. [REVOKED] 1037
310:281-9-27. [REVOKED] 1037
310:281-9-28. [REVOKED] 1037
310:281-9-29. [AMENDED] 1037
310:281-9-30. [AMENDED] 1037
310:281-9-31. [AMENDED] 1037
310:281-9-33. [REVOKED] 1037
310:281-9-35. [AMENDED] 1037
310:281-9-36. [AMENDED] 1037
310:281-9-37. [REVOKED] 1037
310:281-9-38. [REVOKED] 1037
310:281-9-39. [REVOKED] 1037
310:281-9-40. [NEW] 1037
310:281-11-1. [AMENDED] 1037
310:281-11-1.1. [REVOKED] 1037
310:281-11-2. [AMENDED] 1037
310:281-11-3. [AMENDED] 1037
310:281-11-4. [AMENDED] 1037
310:281-11-5. [AMENDED] 1037
310:281-11-6. [AMENDED] 1037
310:281-11-7. [AMENDED] 1037
310:281-11-8. [AMENDED] 1037
310:281-11-9. [AMENDED] 1037
310:281-11-12. [AMENDED] 1037
310:281-11-13. [AMENDED] 1037
310:281-11-14. [AMENDED] 1037
310:281-11-15. [AMENDED] 1037
310:281-11-16. [AMENDED] 1037
310:281-11-17. [AMENDED] 1037
310:281-11-18. [REVOKED] 1037
310:281-11-19. [REVOKED] 1037
310:281-11-20. [AMENDED] 1037
310:281-11-21. [AMENDED] 1037
310:281-13-1. [REVOKED] 1037
310:281-13-1.1. [REVOKED] 1037
310:281-13-2. [REVOKED] 1037
310:281-13-3. [REVOKED] 1037
310:281-13-4. [REVOKED] 1037
310:281-13-5. [REVOKED] 1037
310:281-15-1. [REVOKED] 1037
310:281-15-2. [REVOKED] 1037
310:281-15-3. [REVOKED] 1037
310:281-15-4. [REVOKED] 1037
310:281-15-5. [REVOKED] 1037
310:281-15-6. [REVOKED] 1037
310:281-15-7. [REVOKED] 1037
310:281-15-8. [REVOKED] 1037
310:281-15-9. [REVOKED] 1037
310:281-15-10. [REVOKED] 1037
310:281-15-11. [REVOKED] 1037
310:281-15-12. [REVOKED] 1037
310:281-17-1. [NEW] 1037
310:281, App. A. [REVOKED] 1037
310:281, App. A. [NEW] 1037
310:281, App. B. [REVOKED] 1037
310:281, App. B. [NEW] 1037
310:281, App. C. [REVOKED] 1037
310:281, App. D. [REVOKED] 1037
310:281, App. E. [AMENDED] 1037
310:400-7-2.1. [NEW] 1038
310:400-9-7. [AMENDED] 1039
310:405-7-4. [NEW] 1040
310:405-7-5. [NEW] 1040
310:405-7-6. [NEW] 1040
310:405-7-7. [NEW] 1040
310:555-1-1. [AMENDED] 1041
310:555-1-2. [AMENDED] (E) 240
310:555-1-2. [AMENDED] 1041
310:555-1-3. [AMENDED] 1042
310:555-1-4. [AMENDED] (E) 240
310:555-1-4. [AMENDED] 1042
310:641-3-130. [AMENDED] (E) 572
310:667-1-3. [AMENDED] (E) 573
310:667-59-3. [AMENDED] (E) 575
310:667-59-9. [AMENDED] (E) 575
310:675-13-14. [NEW] (E) 987
317:30-3-46. [AMENDED] (E) 398
317:30-3-57. [AMENDED] (E) 399
317:30-3-57. [AMENDED] (E) 502
317:30-3-59. [AMENDED] (E) 504
317:30-5-2. [AMENDED] (E) 401

317:30-5-2. . . . . [AMENDED] (E) 505
317:30-5-9. . . . . [AMENDED] (E) 510
317:30-5-11. . . . . [AMENDED] (E) 511
317:30-5-15. . . . . [AMENDED] (E) 511
317:30-5-72. . . . . [AMENDED] (E) 407
317:30-5-72.1. . . . . [AMENDED] (E) 420
317:30-5-77.2. . . . . [AMENDED] (E) 421
317:30-5-241. . . . . [AMENDED] (E) 408
317:30-5-356. . . . . [AMENDED] (E) 512
317:30-5-1043. . . . . [AMENDED] (E) 416
317:30-5-1046. . . . . [AMENDED] (E) 419
317:40-1-1. . . . . [AMENDED] (E) 513
317:40-5-111. . . . . [NEW] (E) 423
317:40-5-112. . . . . [NEW] (E) 516
317:40-5-153. . . . . [NEW] (E) 423
317:40-5-154. . . . . [NEW] (E) 424
318:20-1-1. . . . . [NEW] 782
318:20-1-2. . . . . [NEW] 782
318:20-1-3. . . . . [NEW] 782
318:20-1-4. . . . . [NEW] 782
318:20-1-5. . . . . [NEW] 782
318:20-1-6. . . . . [NEW] 782
318:20-1-7. . . . . [NEW] 782
318:20-1-8. . . . . [NEW] 782
318:20-1-9. . . . . [NEW] 782
318:20-1-10. . . . . [NEW] 783
318:20-1-11. . . . . [NEW] 783
318:20-1-12. . . . . [NEW] 783
318:20-1-13. . . . . [NEW] 783
318:20-1-14. . . . . [NEW] 783
318:20-1-15. . . . . [NEW] 784
318:20-1-16. . . . . [NEW] 784
325:15-3-2. . . . . [AMENDED] (E) 352
340:2-8-1. . . . . [NEW] 784
340:2-8-2. . . . . [NEW] 785
340:2-8-3. . . . . [NEW] 785
340:2-8-4. . . . . [NEW] 785
340:2-8-5. . . . . [NEW] 786
340:2-8-6. . . . . [NEW] 786
340:2-8-7. . . . . [NEW] 787
340:2-8-8. . . . . [NEW] 787
340:2-8-9. . . . . [NEW] 787
340:2-8-10. . . . . [NEW] 787
340:2-8-11. . . . . [NEW] 787
340:2-8-12. . . . . [NEW] 788
340:2-8-13. . . . . [NEW] 788
340:2-8-14. . . . . [NEW] 788
340:2-17-4. . . . . [REVOKED] 789
340:2, App. A. . . . . [REVOKED] 792
340:2, App. C. . . . . [REVOKED] 796
340:2, App. D. . . . . [REVOKED] 798
340:2, App. E. . . . . [REVOKED] 802
340:2, App. F. . . . . [REVOKED] 805
340:2, App. J. . . . . [REVOKED] 807
340:2, App. N. . . . . [REVOKED] 799
340:2, App. R. . . . . [REVOKED] 812
340:10-1-3. . . . . [AMENDED] 814
340:10-2-3. . . . . [AMENDED] 815
340:10-2-4. . . . . [AMENDED] 816
340:10-2-7. . . . . [AMENDED] 819
340:10-2-8. . . . . [AMENDED] 822
340:10-2-9. . . . . [REVOKED] 823
340:10-3-2. . . . . [AMENDED] 823
340:10-3-3. . . . . [AMENDED] 824
340:10-3-5. . . . . [AMENDED] 824
340:10-3-10. . . . . [AMENDED] 827
340:10-3-32. . . . . [AMENDED] 828
340:10-3-39. . . . . [AMENDED] 828
340:10-3-40. . . . . [AMENDED] 829
340:10-3-56. . . . . [AMENDED] 831
340:10-12-1. . . . . [AMENDED] 833
340:10-15-1. . . . . [AMENDED] 833
340:10-15-3. . . . . [AMENDED] 834
340:10-15-5. . . . . [REVOKED] 835
340:10-15-9. . . . . [REVOKED] 835
340:10-20-1. . . . . [AMENDED] (E) 242
340:10-20-1. . . . . [AMENDED] 835
340:10-22-1. . . . . [AMENDED] 836
340:20-1-10. . . . . [AMENDED] 837
340:20-1-11. . . . . [AMENDED] 838
340:20-1-17. . . . . [AMENDED] 839
340:25-5-168. . . . . [RESERVED] (E) 243
340:25-5-169. . . . . [RESERVED] (E) 243
340:25-5-170. . . . . [RESERVED] (E) 243
340:25-5-171. . . . . [NEW] (E) 243
340:25-5-211.1. . . . . [NEW] (E) 353
340:50-5-8.1. . . . . [AMENDED] 842
340:50-5-49. . . . . [AMENDED] 842
340:50-7-2. . . . . [AMENDED] 843
340:50-7-4. . . . . [AMENDED] 846
340:50-7-20. . . . . [REVOKED] 847
340:50-7-21. . . . . [REVOKED] 847
340:50-7-22. . . . . [AMENDED] 847
340:50-7-23. . . . . [REVOKED] 850
340:50-7-24. . . . . [REVOKED] 850
340:50-7-26. . . . . [REVOKED] 851
340:50-7-27. . . . . [REVOKED] 851
340:50-7-28. . . . . [REVOKED] 851
340:50-7-29. . . . . [AMENDED] 851
340:50-7-31. . . . . [AMENDED] 853
340:50-7-45. . . . . [AMENDED] 855
340:50-7-46. . . . . [AMENDED] 856
340:50-7-47. . . . . [REVOKED] 857
340:50-7-48. . . . . [REVOKED] 857
340:50-9-1. . . . . [AMENDED] 858
340:50-9-5. . . . . [AMENDED] (E) 244
340:50-9-5. . . . . [AMENDED] 861
340:50-10-11. . . . . [AMENDED] 863
340:50-13-2. . . . . [AMENDED] 863
340:50-15-1. . . . . [AMENDED] 864
340:50-15-6. . . . . [AMENDED] 864
340:70-8-1. . . . . [AMENDED] 866
340:75-1-12.1. . . . . [REVOKED] 868
340:75-1-12.2. . . . . [AMENDED] 868
340:75-1-18.1. . . . . [AMENDED] 872
340:75-1-22. . . . . [AMENDED] 872
340:75-1-28. . . . . [AMENDED] 881
340:75-4-13. . . . . [AMENDED] 870
340:75-6-30. . . . . [AMENDED] 872
340:75-6-31. . . . . [AMENDED] 874
340:75-6-31.3. . . . . [AMENDED] 882
340:75-6-31.4. . . . . [AMENDED] 876
340:75-6-40. . . . . [AMENDED] 876
340:75-6-40.1. . . . . [AMENDED] 877
340:75-6-40.4. . . . . [AMENDED] 877
340:75-6-40.5. . . . . [AMENDED] 879
340:75-6-48. . . . . [AMENDED] 882
340:75-16-27. . . . . [REVOKED] (E) 246
340:75-16-27. . . . . [REVOKED] 884
340:75-16-28. . . . . [AMENDED] (E) 247
340:75-16-28. . . . . [AMENDED] 884
340:75-16-29. . . . . [AMENDED] (E) 247
340:75-16-29. . . . . [AMENDED] 885
340:75-16-30. . . . . [AMENDED] (E) 248

340:75-16-30. . . . . [AMENDED] 886
340:75-16-31. . . . . [AMENDED] (E) 249
340:75-16-31. . . . . [AMENDED] 887
340:75-16-32. . . . . [AMENDED] (E) 249
340:75-16-32. . . . . [AMENDED] 887
340:75-16-33. . . . . [AMENDED] (E) 249
340:75-16-33. . . . . [AMENDED] 887
340:75-16-36. . . . . [AMENDED] (E) 249
340:75-16-36. . . . . [AMENDED] 887
340:75-16-37. . . . . [AMENDED] (E) 250
340:75-16-37. . . . . [AMENDED] 888
340:75-16-39. . . . . [AMENDED] 871
340:100-3-5.2. . . . . [AMENDED] 888
340:100-3-27. . . . . [AMENDED] 890
340:100-3-29. . . . . [AMENDED] 892
340:100-3-38.12. . . . . [NEW] 892
340:100-5-22.5. . . . . [AMENDED] 893
340:100-5-26. . . . . [AMENDED] 894
340:100-5-26.2. . . . . [NEW] 898
340:105-10-41. . . . . [AMENDED] 899
340:105-10-51. . . . . [AMENDED] 899
340:105-10-72. . . . . [AMENDED] 901
340:105-10-75. . . . . [AMENDED] 902
340:105-10-79. . . . . [AMENDED] 902
340:105-10-86. . . . . [AMENDED] 903
340:105-10-89. . . . . [AMENDED] 903
340:105-10-90.1. . . . . [AMENDED] 904
340:105-10-101. . . . . [AMENDED] 905
340:105-10-102. . . . . [AMENDED] 906
340:105-10-104. . . . . [AMENDED] 907
340:105-10-117. . . . . [AMENDED] 907
340:105-10-118. . . . . [AMENDED] 908
340:105-10-119. . . . . [AMENDED] 908
340:105-10-121. . . . . [AMENDED] 908
340:105-10-122. . . . . [AMENDED] 909
340:110-1-4.1. . . . . [AMENDED] 911
340:110-1-6. . . . . [AMENDED] 912
340:110-1-8. . . . . [AMENDED] 913
340:110-1-8.3. . . . . [AMENDED] 915
340:110-1-9. . . . . [AMENDED] 922
340:110-1-9.1. . . . . [AMENDED] 923
340:110-1-9.2. . . . . [AMENDED] 925
340:110-1-9.3. . . . . [AMENDED] 926
340:110-1-9.5. . . . . [AMENDED] 928
340:110-1-10. . . . . [AMENDED] 928
340:110-1-11. . . . . [AMENDED] 929
340:110-1-14. . . . . [AMENDED] 929
340:110-1-20. . . . . [AMENDED] 930
340:110-3-1. . . . . [AMENDED] 952
340:110-3-2. . . . . [AMENDED] 952
340:110-3-3. . . . . [AMENDED] 952
340:110-3-4. . . . . [REVOKED] 952
340:110-3-5. . . . . [AMENDED] 952
340:110-3-5.1. . . . . [AMENDED] 952
340:110-3-6. . . . . [AMENDED] 952
340:110-3-7.1. . . . . [AMENDED] 952
340:110-3-9.1. . . . . [AMENDED] 952
340:110-3-10. . . . . [AMENDED] 952
340:110-3-11. . . . . [AMENDED] 952
340:110-3-14. . . . . [AMENDED] 952
340:110-3-22. . . . . [AMENDED] 952
340:110-3-25. . . . . [AMENDED] 952
340:110-3-25.1. . . . . [AMENDED] 952
340:110-3-25.2. . . . . [AMENDED] 952
340:110-3-25.3. . . . . [AMENDED] 952
340:110-3-25.4. . . . . [AMENDED] 952
340:110-3-25.5. . . . . [AMENDED] 952
340:110-3-25.6. . . . . [AMENDED] 952
340:110-3-26. . . . . [AMENDED] 952
340:110-3-27. . . . . [AMENDED] 952
340:110-3-28. . . . . [AMENDED] 952
340:110-3-29. . . . . [AMENDED] 952
340:110-3-31. . . . . [AMENDED] 952
340:110-3-33. . . . . [AMENDED] 952
340:110-3-33.1. . . . . [AMENDED] 952
340:110-3-220. . . . . [NEW] 952
340:110-3-221. . . . . [NEW] 952
340:110-3-222. . . . . [NEW] 952
340:110-3-223. . . . . [NEW] 952
340:110-3-224. . . . . [NEW] 952
340:110-3-225. . . . . [NEW] 952
340:110-3-226. . . . . [NEW] 952
340:110-3-227. . . . . [NEW] 952
340:110-3-228. . . . . [NEW] 952
340:110-3-229. . . . . [NEW] 952
340:110-3-230. . . . . [NEW] 952
340:110-3-231. . . . . [NEW] 952
340:110-3-232. . . . . [NEW] 952
340:110-3-233. . . . . [NEW] 952
340:110-3-234. . . . . [NEW] 952
340:110-3-235. . . . . [NEW] 952
340:110-3-236. . . . . [NEW] 952
340:110-3-237. . . . . [NEW] 952
340:110-3-238. . . . . [NEW] 952
340:110-3-239. . . . . [NEW] 952
340:110-3-240. . . . . [NEW] 952
340:110-3-241. . . . . [NEW] 952
340:110-3-242. . . . . [NEW] 952
340:110, App. P. . . . . [REVOKED] 931
340:110, App. Q. . . . . [REVOKED] 936
340:110, App. R. . . . . [REVOKED] 939
340:110, App. BB. . . . [REVOKED] 942
340:110, App. CC. . . . [REVOKED] 943
340:110, App. DD. . . . [REVOKED] 950
380:30-3-6. . . . . [AMENDED] (E) 38
385:15-1-4. . . . . [AMENDED] 1044
385:15-1-5. . . . . [AMENDED] (E) 633
385:15-1-5. . . . . [AMENDED] 1044
385:15-1-6. . . . . [AMENDED] (E) 633
385:15-1-6. . . . . [AMENDED] 1044
385:15-1-7. . . . . [AMENDED] 1044
385:15-1-9. . . . . [AMENDED] (E) 634
385:15-1-9. . . . . [AMENDED] 1044
385:15-1-14. . . . . [AMENDED] (E) 634
385:15-1-14. . . . . [AMENDED] 1045
385:15-1-18. . . . . [AMENDED] (E) 635
385:15-1-18. . . . . [AMENDED] 1045
385:15-1-20. . . . . [AMENDED] (E) 635
385:15-1-20. . . . . [AMENDED] 1046
385:15-1-22. . . . . [AMENDED] (E) 635
385:15-1-22. . . . . [AMENDED] 1046
385:15-1-32. . . . . [AMENDED] 1047
435:1-1-2. . . . . [AMENDED] 1047
435:10-4-6. . . . . [AMENDED] 1048
435:10-4-7. . . . . [AMENDED] 1048
435:10-5-1. . . . . [AMENDED] 1049
435:10-17-1. . . . . [AMENDED] 1050
435:10-17-2. . . . . [AMENDED] 1050
435:10-17-3. . . . . [AMENDED] 1050
435:10-19-1. . . . . [NEW] 1051
435:10-19-2. . . . . [NEW] 1051
435:10-19-3. . . . . [NEW] 1051
435:15-1-1.1. . . . . [AMENDED] 1052
435:15-9-4. . . . . [AMENDED] 1052

435:20-5-9. [NEW] 1055
435:40-1-4.1. [NEW] 1056
435:40-1-6. [AMENDED] 1060
450:16-1-1. [AMENDED] 1061
450:16-1-2. [AMENDED] 1061
450:16-5-1. [AMENDED] 1063
450:16-5-2. [AMENDED] 1063
450:16-11-2. [AMENDED] 1064
450:16-13-2. [AMENDED] 1064
450:16-13-3. [AMENDED] 1064
450:16-13-12.1. [AMENDED] 1064
450:16-13-12.2. [NEW] 1064
450:16-13-16. [AMENDED] 1064
450:16-13-27.1. [AMENDED] 1064
450:16-15-1. [AMENDED] 1064
450:16-15-2. [REVOKED] 1065
450:16-15-3. [REVOKED] 1065
450:16-15-4. [REVOKED] 1065
450:16-15-5. [AMENDED] 1065
450:16-21-1. [AMENDED] 1066
450:16-21-4. [AMENDED] 1066
450:16-29-2. [AMENDED] 1066
450:16-29-2.1. [AMENDED] 1066
450:16-29-4. [AMENDED] 1066
450:16-29-7. [AMENDED] 1066
450:16-29-8. [AMENDED] 1067
450:17-1-2. [AMENDED] 1068
450:17-1-6. [AMENDED] 1072
450:17-3-2. [AMENDED] 1072
450:17-3-83. [AMENDED] 1072
450:17-3-101.1. [AMENDED] 1072
450:17-3-103. [AMENDED] 1073
450:17-3-122. [REVOKED] 1073
450:17-3-141. [AMENDED] 1073
450:17-3-142. [REVOKED] 1074
450:17-3-144. [AMENDED] 1074
450:17-3-144.1. [REVOKED] 1075
450:17-3-146. [NEW] 1075
450:17-5-56. [AMENDED] 1076
450:17-5-59.1. [NEW] 1076
450:17-5-60. [AMENDED] 1076
450:17-5-61. [AMENDED] 1076
450:17-5-62. [AMENDED] 1076
450:17-5-63. [REVOKED] 1077
450:17-5-64. [AMENDED] 1077
450:17-5-65. [REVOKED] 1077
450:17-5-66. [AMENDED] 1077
450:17-5-67. [AMENDED] 1077
450:17-5-67.1. [REVOKED] 1078
450:17-5-67.2. [AMENDED] 1078
450:17-5-67.3. [AMENDED] 1078
450:17-5-127. [AMENDED] 1078
450:17-7-8. [AMENDED] 1078
450:17-11-1. [AMENDED] 1079
450:17-11-2. [REVOKED] 1080
450:17-11-3. [AMENDED] 1081
450:17-15-5. [AMENDED] 1081
450:17-19-3. [AMENDED] 1081
450:17-23-1. [AMENDED] 1082
450:23-1-2. [AMENDED] 1083
450:23-9-1. [AMENDED] 1084
450:23-9-2. [AMENDED] 1085
450:23-21-1. [AMENDED] 1086
450:23-21-3. [NEW] 1086
450:30-9-3.1. [AMENDED] 1087
450:30-9-5. [AMENDED] 1087
450:30-9-9. [NEW] 1087
450:30-9-10. [NEW] 1088
450:30-9-11. [NEW] 1088
450:50-1-1. [NEW] 1089
450:50-1-2. [NEW] 1089
450:50-1-3. [NEW] 1089
450:50-3-1. [NEW] 1090
450:50-3-2. [NEW] 1090
450:50-3-3. [NEW] 1090
450:50-3-4. [NEW] 1090
450:50-3-5. [NEW] 1091
450:50-3-6. [NEW] 1091
450:50-5-1. [NEW] 1091
450:50-5-2. [NEW] 1091
450:50-5-3. [NEW] 1092
450:50-5-4. [NEW] 1092
450:50-7-1. [NEW] 1093
450:50-7-2. [NEW] 1093
450:50-7-3. [NEW] 1093
450:50-7-4. [NEW] 1093
450:50-7-5. [NEW] 1093
450:50-9-1. [NEW] 1093
450:55-1-1. [NEW] 1095
450:55-1-2. [NEW] 1095
450:55-1-3. [NEW] 1096
450:55-3-1. [NEW] 1096
450:55-3-2. [NEW] 1096
450:55-3-3. [NEW] 1097
450:55-3-4. [NEW] 1097
450:55-3-5. [NEW] 1097
450:55-3-6. [NEW] 1097
450:55-3-7. [NEW] 1098
450:55-3-8. [NEW] 1098
450:55-3-9. [NEW] 1099
450:55-3-10. [NEW] 1099
450:55-5-1. [NEW] 1101
450:55-5-2. [NEW] 1101
450:55-5-3. [NEW] 1101
450:55-5-4. [NEW] 1101
450:55-5-5. [NEW] 1102
450:55-5-6. [NEW] 1102
450:55-5-7. [NEW] 1102
450:55-5-8. [NEW] 1102
450:55-5-9. [NEW] 1103
450:55-5-10. [NEW] 1103
450:55-5-11. [NEW] 1103
450:55-7-1. [NEW] 1103
450:55-9-1. [NEW] 1104
450:55-9-2. [NEW] 1104
450:55-9-3. [NEW] 1104
450:55-11-1. [NEW] 1104
450:55-11-2. [NEW] 1104
450:55-11-3. [NEW] 1105
450:55-13-1. [NEW] 1105
450:55-13-2. [NEW] 1106
450:55-15-1. [NEW] 1106
450:55-15-2. [NEW] 1106
450:55-17-1. [NEW] 1106
450:55-17-2. [NEW] 1106
450:55-17-3. [NEW] 1107
450:55-19-1. [NEW] 1107
450:55-19-2. [NEW] 1107
450:55-21-1. [NEW] 1108
450:55-23-1. [NEW] 1108
450:55-23-2. [NEW] 1108
490:1-1-2. [AMENDED] 1109
490:10-1-2. [AMENDED] 1110
490:10-1-6. [AMENDED] 1111

490:10-1-7. [NEW] 1112
490:10-5-2. [AMENDED] 1112
490:10-5-3. [AMENDED] 1113
490:10-5-4. [NEW] 1113
490:10-10-1. [AMENDED] 1113
515:3-1-1. [NEW] 1114
515:3-1-2. [NEW] 1114
515:3-3-1. [NEW] 1115
515:3-3-2. [NEW] 1115
515:3-3-3. [NEW] 1115
515:3-3-4. [NEW] 1115
515:3-3-5. [NEW] 1115
515:3-5-1. [NEW] 1115
515:3-5-2. [NEW] 1115
515:3-7-1. [NEW] 1116
515:3-9-1. [NEW] 1116
515:3-11-1. [NEW] 1116
530:10-1-31. [AMENDED] (E) 637
530:10-1-61. [AMENDED] (E) 637
530:10-3-39. [AMENDED] (E) 637
530:10-7-7. [AMENDED] (E) 637
530:10-7-16. [AMENDED] (E) 638
530:10-7-24. [AMENDED] (E) 638
530:10-7-31. [AMENDED] (E) 638
530:10-11-51. [AMENDED] (E) 639
530:10-13-1. [AMENDED] (E) 644
530:10-13-2. [AMENDED] (E) 644
530:10-13-3. [AMENDED] (E) 645
530:10-13-5. [REVOKED] (E) 646
530:10-13-8. [AMENDED] (E) 646
530:10-13-11. [AMENDED] (E) 646
530:10-13-12. [AMENDED] (E) 646
530:10-13-13. [AMENDED] (E) 647
530:10-13-31. [AMENDED] (E) 647
530:10-13-32. [AMENDED] (E) 647
530:10-13-33. [AMENDED] (E) 647
530:10-13-34. [AMENDED] (E) 647
530:10-13-35. [AMENDED] (E) 648
530:10-13-36. [AMENDED] (E) 649
530:10-13-37. [AMENDED] (E) 649
530:10-13-50. [AMENDED] (E) 649
530:10-13-51. [AMENDED] (E) 650
530:10-13-70. [AMENDED] (E) 650
530:10-13-72. [AMENDED] (E) 650
530:10-15-11. [AMENDED] (E) 639
530:10-15-12. [AMENDED] (E) 640
530:10-17-31. [AMENDED] (E) 640
530:10-17-156. [AMENDED] (E) 641
530:10-21-5. [AMENDED] (E) 642
530:10, App. B. [REVOKED] (E) 643
530:10, App. B. [NEW] (E) 643
530:15-1-1. [AMENDED] (E) 651
530:15-1-2. [AMENDED] (E) 651
530:15-3-7.2. [NEW] (E) 652
530:15-3-11. [NEW] (E) 652
530:15-3-14. [NEW] (E) 652
530:15-3-15. [RESERVED] (E) 652
530:15-3-16. [NEW] (E) 652
590:15-1-15. [REVOKED] (E) 39
605:10-15-4. [AMENDED] (E) 40
605:10, App. A. [REVOKED] (E) 41
605:10, App. A. [NEW] (E) 41
610:1-13-1. [NEW] 1116
610:1-13-2. [NEW] 1117
610:1-13-3. [NEW] 1117
675:1-1-1.1. [NEW] (E) 250
675:1-1-3. [AMENDED] (E) 250
675:1-1-4. [AMENDED] (E) 250
675:1-1-5. [REVOKED] (E) 250
675:1-1-8. [AMENDED] (E) 251
675:3-1-1. [NEW] (E) 251
675:3-1-2. [NEW] (E) 251
675:3-1-3. [NEW] (E) 251
675:3-1-4. [NEW] (E) 253
675:10-1-1. [AMENDED] (E) 253
675:10-1-1.1. [NEW] (E) 253
675:10-1-1.2. [NEW] (E) 254
675:10-1-1.3. [NEW] (E) 254
675:10-1-2. [AMENDED] (E) 254
675:10-1-2.1. [NEW] (E) 254
675:10-1-3. [AMENDED] (E) 254
675:10-1-3.1. [NEW] (E) 255
675:10-1-4. [AMENDED] (E) 255
675:10-1-5. [AMENDED] (E) 255
675:10-1-6. [AMENDED] (E) 257
675:10-1-7. [REVOKED] (E) 257
675:10-1-8. [AMENDED] (E) 258
675:10-1-9. [AMENDED] (E) 258
675:10-1-10. [AMENDED] (E) 258
675:10-1-11. [AMENDED] (E) 258
675:10-1-12. [AMENDED] (E) 258
675:10-1-12.1. [NEW] (E) 258
675:10-1-13. [AMENDED] (E) 259
675:10-1-13.1. [REVOKED] (E) 259
675:10-1-14. [REVOKED] (E) 259
675:10-1-15. [AMENDED] (E) 260
675:10-1-16. [AMENDED] (E) 260
675:10-1-16.1. [REVOKED] (E) 260
675:10-1-17. [REVOKED] (E) 261
675:12-1-3.1. [NEW] (E) 265
675:12-1-3.2. [NEW] (E) 265
675:12-1-3.3. [NEW] (E) 265
675:12-1-4. [AMENDED] (E) 265
675:12-1-5. [REVOKED] (E) 265
675:12-1-6. [AMENDED] (E) 266
675:12-1-7. [AMENDED] (E) 266
675:15-1-2. [AMENDED] (E) 267
675:15-1-2.1. [NEW] (E) 267
675:15-1-3. [AMENDED] (E) 267
675:15-1-4. [AMENDED] (E) 268
675:15-1-5. [AMENDED] (E) 269
675:15-1-6. [REVOKED] (E) 270
690:1-3-9. [AMENDED] 1118
690:1-3-10. [AMENDED] 1118
690:5-5-1. [AMENDED] 1119
690:10-3-3. [AMENDED] 1119
690:10-3-8. [AMENDED] 1120
690:10-5-1. [AMENDED] 1121
690:10-5-5. [AMENDED] 1121
690:10-5-8. [AMENDED] 1121
690:10-7-1. [AMENDED] 1121
690:10-9-7. [AMENDED] 1121
690:15-1-3. [AMENDED] 1122
690:15-1-4. [AMENDED] 1123
710:15-2-4. [AMENDED] 1124
710:15-2-9. [AMENDED] 1124
710:15-3-10. [AMENDED] 1125
710:15-3-20. [AMENDED] 1125
710:20-2-4. [AMENDED] 1126
710:20-2-6. [AMENDED] 1126
710:20-2-16. [RESERVED] 1127
710:20-2-17. [RESERVED] 1127
710:20-2-18. [RESERVED] 1127
710:20-2-19. [RESERVED] 1127

710:20-2-20. . . . . [NEW] 1127
710:22-5-9. . . . . [AMENDED] 1128
710:45-9-21. . . . . [AMENDED] 1129
710:45-9-24. . . . . [AMENDED] 1129
710:45-9-28. . . . . [AMENDED] 1129
710:45-9-31. . . . . [AMENDED] 1130
710:45-9-32.1. . . . . [AMENDED] 1131
710:45-9-34. . . . . [AMENDED] 1131
710:45-9-35. . . . . [AMENDED] 1131
710:45-9-40. . . . . [AMENDED] 1131
710:45-9-41. . . . . [AMENDED] 1131
710:45-9-43. . . . . [AMENDED] 1132
710:45-9-51. . . . . [AMENDED] 1133
710:45-9-53. . . . . [AMENDED] 1133
710:45-9-60. . . . . [AMENDED] 1134
710:45-9-62.1. . . . . [AMENDED] 1134
710:45-9-70. . . . . [AMENDED] 1135
710:45-9-71. . . . . [AMENDED] 1135
710:45-9-73. . . . . [AMENDED] 1135
710:45-9-90. . . . . [AMENDED] 1136
710:45-9-92. . . . . [AMENDED] 1136
710:45-9-93. . . . . [AMENDED] 1136
710:50-15-93. . . . . [NEW] (E) 354
710:60-3-12. . . . . [AMENDED] 1138
710:60-3-13. . . . . [AMENDED] 1138
710:60-3-14. . . . . [AMENDED] 1138
710:60-3-20. . . . . [AMENDED] 1138
710:60-3-23. . . . . [AMENDED] 1139
710:60-3-114. . . . . [NEW] 1139
710:60-4-4. . . . . [AMENDED] 1143
710:60-4-6. . . . . [AMENDED] 1143
710:60-4-16. . . . . [AMENDED] 1143
710:60-4-17. . . . . [AMENDED] 1143
710:60-4-20. . . . . [AMENDED] 1144
710:60-5-30. . . . . [AMENDED] 1139
710:60-5-113. . . . . [AMENDED] 1140
710:60-5-116. . . . . [AMENDED] 1141
710:60-7-8. . . . . [AMENDED] 1141
710:60-9-94. . . . . [AMENDED] 1141
710:65-9-8. . . . . [NEW] (E) 44
710:70-2-1. . . . . [NEW] 1145
710:70-2-2. . . . . [NEW] 1145
710:70-2-3. . . . . [NEW] 1146
710:70-2-4. . . . . [NEW] 1146
710:70-2-5. . . . . [NEW] 1146
710:70-2-6. . . . . [NEW] 1146
710:70-2-7. . . . . [NEW] 1147
710:70-2-8. . . . . [NEW] 1147
710:90-3-11. . . . . [NEW] (E) 311
710:95-5-8. . . . . [AMENDED] 1148
710:95-5-14. . . . . [AMENDED] 1148
710:95-5-17. . . . . [AMENDED] 1149
710:95-6-5. . . . . [AMENDED] 1149
710:95-11-1. . . . . [NEW] 1149
710:95-11-2. . . . . [NEW] 1149
710:95-11-3. . . . . [NEW] 1150
710:95-11-4. . . . . [NEW] 1150
710:95-11-5. . . . . [NEW] 1150
725:20-7-10. . . . . [NEW] (E) 271

Agency/Title Index

[Assigned as of 5-3-04]

Agency	Title
Oklahoma **ACCOUNTANCY** Board	10
State **ACCREDITING** Agency	15
AD Valorem Task Force *(abolished 7-1-93)*	20
Oklahoma **AERONAUTICS** Commission	25
Board of Regents for the Oklahoma **AGRICULTURAL** and Mechanical Colleges	30
Oklahoma Department of **AGRICULTURE**, Food, and Forestry	35
Board of Tests for **ALCOHOL** and Drug Influence	40
ALCOHOLIC Beverage Laws Enforcement Commission	45
ANATOMICAL Board of the State of Oklahoma	50
Board of Governors of the Licensed **ARCHITECTS** and Landscape Architects of Oklahoma	55
ARCHIVES and Records Commission	60
Board of Trustees for the **ARDMORE** Higher Education Program	65
Oklahoma **ARTS** Council	70
ATTORNEY General	75
State **AUDITOR** and Inspector	80
State **BANKING** Department	85
Oklahoma State Employees **BENEFITS** Council	87
Council of **BOND** Oversight	90
Oklahoma Professional **BOXING** Commission	92
State **BURIAL** Board *(abolished 7-1-92)*	95
[RESERVED]	100
Oklahoma **CAPITOL** Investment Board	105
Oklahoma **CAPITOL** Improvement Authority	110
State **CAPITOL** Preservation Commission	115
CAPITOL-MEDICAL Center Improvement and Zoning Commission	120
Oklahoma Department of **CAREER** and Technology Education (*Formerly:* Oklahoma Department of **VOCATIONAL** and Technical Education) - See Title 780	
Board of Regents of **CARL** Albert State College	125
Department of **CENTRAL** Services (*Formerly:* Office of **PUBLIC** Affairs) - *See* Title 580	
CEREBRAL Palsy Commission	130
Commission on **CHILDREN** and Youth	135
Board of **CHIROPRACTIC** Examiners	140
Oklahoma Department of **EMERGENCY** Management (*Formerly:* Department of **CIVIL** Emergency Management)	145
Oklahoma Department of **COMMERCE**	150
COMMUNITY Hospitals Authority	152
COMPSOURCE Oklahoma (*Formerly:* State **INSURANCE** Fund) - *See* Title 370	
Oklahoma **CONSERVATION** Commission	155
CONSTRUCTION Industries Board	158
Department of **CONSUMER** Credit	160
CORPORATION Commission	165
Department of **CORRECTIONS**	170
State Board of **COSMETOLOGY**	175
Oklahoma State **CREDIT** Union Board	180
CRIME Victims Compensation Board	185
Joint **CRIMINAL** Justice System Task Force Committee	190
Board of **DENTISTRY**	195
Oklahoma **DEVELOPMENT** Finance Authority	200
Board of Regents of **EASTERN** Oklahoma State College	205
State Department of **EDUCATION**	210
EDUCATION Oversight Board	215
Oklahoma **EDUCATIONAL** Television Authority	220
[RESERVED]	225
State **ELECTION** Board	230
Oklahoma **FUNERAL** Board (*Formerly:* Oklahoma State Board of **EMBALMERS** and Funeral Directors)	235
Oklahoma Department of **EMERGENCY** Management (*Formerly:* Department of **CIVIL** Emergency Management) - *See* Title 145	
Oklahoma **EMPLOYMENT** Security Commission	240
Oklahoma **ENERGY** Resources Board	243
State Board of Registration for Professional **ENGINEERS** and Land Surveyors	245
Board of Trustees for the **ENID** Higher Education Program	250
Department of **ENVIRONMENTAL** Quality	252
State Board of **EQUALIZATION**	255
ETHICS Commission *(Title revoked)*	257
ETHICS Commission	258
Office of State **FINANCE**	260
State **FIRE** Marshal Commission	265
Oklahoma **FIREFIGHTERS** Pension and Retirement System	270
[RESERVED]	275
State Board of Registration for **FORESTERS**	280
FOSTER Care Review Advisory Board	285
Oklahoma **FUNERAL** Board (*Formerly:* Oklahoma State Board of Embalmers and Funeral Directors) - *See* Title 235	
Oklahoma **FUTURES**	290
GOVERNOR	295
GRAND River Dam Authority	300
Group Self-Insurance Association **GUARANTY** Fund Board	302
Individual Self-Insured **GUARANTY** Fund Board	303
STATE Use Committee (*Formerly:* Committee on Purchases of Products and Services of the Severely **HANDICAPPED**)	304
Office of **HANDICAPPED** Concerns	305
Oklahoma State Department of **HEALTH**	310
Oklahoma Basic **HEALTH** Benefits Board *(abolished 11-1-97)*	315
Oklahoma **HEALTH** Care Authority	317
HIGHWAY Construction Materials Technician Certification Board	318
Oklahoma **HISTORICAL** Society	320
Oklahoma **HORSE** Racing Commission	325
Oklahoma **HOUSING** Finance Agency	330
Oklahoma **HUMAN** Rights Commission	335
Department of **HUMAN** Services	340
Committee for **INCENTIVE** Awards for State Employees	345
Oklahoma **INDIAN** Affairs Commission	350
Oklahoma **INDIGENT** Defense System	352
Oklahoma **INDUSTRIAL** Finance Authority	355
Oklahoma State and Education Employees Group **INSURANCE** Board	360
INSURANCE Department	365
COMPSOURCE Oklahoma (*Formerly:* State **INSURANCE** Fund	370

Agency	Title
Oklahoma State Bureau of **INVESTIGATION**	375
Council on **JUDICIAL** Complaints	376
Office of **JUVENILE** Affairs	377
Department of **LABOR**	380
Department of the Commissioners of the **LAND** Office	385
Council on **LAW** Enforcement Education and Training	390
Oklahoma **LAW** Enforcement Retirement System	395
Board on **LEGISLATIVE** Compensation	400
Oklahoma Department of **LIBRARIES**	405
LIEUTENANT Governor	410
Oklahoma **LINKED** Deposit Review Board	415
Oklahoma **LIQUEFIED** Petroleum Gas Board	420
Oklahoma **LIQUEFIED** Petroleum Gas Research, Marketing and Safety Commission	422
LITERACY Initiatives Commission	425
LONG-RANGE Capital Planning Commission	428
Board of Trustees for the **MCCURTAIN** County Higher Education Program	430
Commission on **MARGINALLY** Producing Oil and Gas Wells	432
State Board of **MEDICAL** Licensure and Supervision	435
MEDICAL Technology and Research Authority of Oklahoma	440
Board of **MEDICOLEGAL** Investigations	445
Department of **MENTAL** Health and Substance Abuse Services	450
MERIT Protection Commission	455
MILITARY Planning Commission, Oklahoma Strategic	457
Department of **MINES**	460
Oklahoma **MOTOR** Vehicle Commission	465
Board of Regents of **MURRAY** State College	470
Oklahoma State Bureau of **NARCOTICS** and Dangerous Drugs Control	475
Board of Regents of **NORTHERN** Oklahoma College	480
Oklahoma Board of **NURSING**	485
Oklahoma State Board of Examiners for **NURSING** Home Administrators	490
Board of Regents of **OKLAHOMA** City Community College	495
Board of Regents of **OKLAHOMA** Colleges	500
Board of Examiners in **OPTOMETRY**	505
State Board of **OSTEOPATHIC** Examiners	510
PARDON and Parole Board	515
Oklahoma **PEANUT** Commission	520
Oklahoma State **PENSION** Commission	525
State Board of Examiners of **PERFUSIONISTS**	527
Office of **PERSONNEL** Management	530
Oklahoma State Board of **PHARMACY**	535
PHYSICIAN Manpower Training Commission	540
Board of **PODIATRIC** Medical Examiners	545
Oklahoma **POLICE** Pension and Retirement System	550
State Department of **POLLUTION** Control *(abolished 1-1-93)*	555
POLYGRAPH Examiners Board	560
Oklahoma Board of **PRIVATE** Vocational Schools	565
State Board for **PROPERTY** and Casualty Rates	570
State Board of Examiners of **PSYCHOLOGISTS**	575
Department of **CENTRAL** Services (*Formerly*: Office of **PUBLIC** Affairs)	580
PUBLIC Employees Relations Board	585
Oklahoma **PUBLIC** Employees Retirement System	590
Department of **PUBLIC** Safety	595
REAL Estate Appraiser Board	600
Oklahoma **REAL** Estate Commission	605
Board of Regents of **REDLANDS** Community College	607
State **REGENTS** for Higher Education	610
State Department of **REHABILITATION** Services	612
Board of Regents of **ROGERS** State College	615
Board of Regents of **ROSE** State College	620
Oklahoma **SAVINGS** and Loan Board *(abolished 7-1-93)*	625
SCENIC Rivers Commission	630
Oklahoma Commission on **SCHOOL** and County Funds Management	635
Advisory Task Force on the Sale of **SCHOOL** Lands *(functions concluded 2-92)*	640
The Oklahoma School of **SCIENCE** and Mathematics	645
Oklahoma Center for the Advancement of **SCIENCE** and Technology	650
SECRETARY of State	655
Department of **SECURITIES**	660
Board of Regents of **SEMINOLE** State College	665
SHEEP and Wool Commission	670
State Board of Licensed **SOCIAL** Workers	675
SOUTHERN Growth Policies Board	680
Oklahoma **SOYBEAN** Commission *(abolished 7-1-97)*	685
Board of Examiners for **SPEECH–LANGUAGE** Pathology and Audiology	690
STATE Agency Review Committee	695
STATE Use Committee (*Formerly:* Committee on Purchases of Products and Services of the Severely **HANDICAPPED**) – *See* Title 304	
Oklahoma **STUDENT** Loan Authority	700
TASK Force 2000	705
Oklahoma **TAX** Commission	710
Oklahoma Commission for **TEACHER** Preparation	712
TEACHERS' Retirement System	715
State **TEXTBOOK** Committee	720
Oklahoma **TOURISM** and Recreation Department	725
Department of **TRANSPORTATION**	730
Oklahoma **TRANSPORTATION** Authority	731
State **TREASURER**	735
Board of Regents of **TULSA** Community College	740
Oklahoma **TURNPIKE** Authority *(name changed - see Title 731)*	745
Board of Trustees for the **UNIVERSITY** Center at Tulsa	750
UNIVERSITY Hospitals Authority	752
Board of Regents of the **UNIVERSITY** of Oklahoma	755
Board of Regents of the **UNIVERSITY** of Science and Arts of Oklahoma	760
Oklahoma **USED** Motor Vehicle and Parts Commission	765
Oklahoma Department of **VETERANS** Affairs	770
Board of **VETERINARY** Medical Examiners	775
Oklahoma Department of **CAREER** and Technology Education (*Formerly:* Oklahoma Department of **VOCATIONAL** and Technical Education)	780
Oklahoma **WATER** Resources Board	785
Board of Regents of **WESTERN** Oklahoma State College	790
Oklahoma **WHEAT** Commission	795
Department of **WILDLIFE** Conservation	800
WILL Rogers and J.M. Davis Memorials Commission	805

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register.* In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 300. LABORATORY ACCREDITATION

[OAR Docket #04-599]

RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

Subchapter 21. Categories

252:300-21-1. [AMENDED]

Appendix A. Analytes for Drinking Water Laboratory Categories [REVOKED]

Appendix A. Analytes for Drinking Water Laboratory Categories [NEW]

SUMMARY:

The proposed amendment to Subchapter 21 adds radionuclides to drinking water categories for which laboratories may be accredited.

This action also means a change to appendix A. To amend appendices, the Secretary of State Office of Administrative Rules requires that appendices be totally revoked and re-adopted as new. Therefore, Appendix A is being revoked and re-adopted as new, although the only change is the addition of a new category, Category VII - Radionuclides.

AUTHORITY:

Environmental Quality Board Powers and Duties, 27A O.S. §§ 2-101, 2-2-201 and Article IV., Laboratory Services and Certification, § 2-4-101 *et seq.*

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on June 10, 2004. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by June 4, 2004. Oral comments may be made at the June 10, 2004 hearing and the June 22, 2004 Environmental Quality Board meeting.

PUBLIC HEARING:

Before the Laboratory Services Advisory Council at 1:30 p.m. on Thursday, June 10, 2004, at Department of Environmental Quality, 10th floor conference room, 707 N. Robinson, Oklahoma City, OK.

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, June 22, 2004, at the OSU Student Union Center, Room 280, Stillwater, OK.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

The proposed rules are posted on the DEQ's website at www.deq.state.ok.us under DEQ Board and Councils and are also available from the contact person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person or reviewed on the 10th floor of the DEQ building.

CONTACT PERSON:

Please send written comments to David Caldwell, State Environmental Laboratory, Customer Services Division, Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, 73102. E-mail address: David.Caldwell@deq.state.ok.us Mailing address: P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677. Telephone (405) 702-1000. Fax (405) 702-1001.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Customer Services Division three (3) days in advance at (405) 702-1000.

[OAR Docket #04-599; filed 4-8-04]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #04-531]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Fee Schedules
35:2-3-29. [NEW]
SUBMITTED TO GOVERNOR:
March 26, 2004
SUBMITTED TO HOUSE:
March 26, 2004
SUBMITTED TO SENATE:
March 26, 2004

[OAR Docket #04-531; filed 3-30-04]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 65. OKLAHOMA QUALITY JOBS PROGRAM

[OAR Docket #04-546]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Quality Jobs Program
150:65-1-2. [AMENDED]
150:65-1-12. [AMENDED]
SUBMITTED TO GOVERNOR:
April 1, 2004
SUBMITTED TO HOUSE:
April 1, 2004
SUBMITTED TO SENATE:
April 1, 2004

[OAR Docket #04-546; filed 4-1-04]

TITLE 165. CORPORATION COMMISSION CHAPTER 5. RULES OF PRACTICE

[OAR Docket #04-572]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
Part 1. General
165:5-1-7. Procedure for adoption of rules [AMENDED]
Subchapter 3. Fees
Part 1. General Provisions
165:5-3-2. Fees for the Petroleum Storage Tank Division [AMENDED]
Subchapter 7. Commencement of a cause
Part 3. Oil and Gas
165:5-7-11. Change of operator [AMENDED]
165:5-7-14. Tax exemptions pursuant to OAC 165:10, Subchapter 21 [AMENDED]
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TITLE 165. CORPORATION COMMISSION CHAPTER 10. OIL AND GAS CONSERVATION

[OAR Docket #04-564]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 17. Gas well operations and permitted production
165:10-17-9. Special allocated gas pools [AMENDED]
Subchapter 21. Applications for tax exemptions
Part 6. Production enhancement projects
165:10-21-21. General [AMENDED]
165:10-21-22. Definitions [AMENDED]
165:10-21-24. Rebates - Refund procedure [AMENDED]
Part 7. Re-establishment of production from an inactive well
165:10-21-36. Definitions [AMENDED]
165:10-21-38. Rebates - Refund procedure [AMENDED]
Part 8. Deep wells
165:10-21-45. General [AMENDED]
165:10-21-47.1. Rebates - Refund procedure [AMENDED]
Part 9. New discovery wells
165:10-21-55. General [AMENDED]
165:10-21-58. Rebates - Refund procedure [AMENDED]

Part 11. Horizontally drilled producing wells
165:10-21-66. Definitions [AMENDED]
165:10-21-68. Rebates - Refund procedure [AMENDED]
165:10-21-69. Time periods for exemption from gross production tax levied on horizontally drilled producing wells [AMENDED]
Part 13. Incremental production from enhanced recovery projects
165:10-21-76. Definitions [AMENDED]
165:10-21-78. Recovery of costs allowed as payback factors [AMENDED]
165:10-21-80. Expiration of exemption for incremental production [AMENDED]
Part 14. Production of oil, gas or oil and gas from any well located within boundaries of a three-dimensional seismic shoot
165:10-21-82. General [AMENDED]
165:10-21-82.2. Qualification procedure [AMENDED]
165:10-21-82.3. Rebates - Refund procedure [AMENDED]

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TITLE 165. CORPORATION COMMISSION CHAPTER 15. FUEL INSPECTION

[OAR Docket #04-573]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
165:15-1-6. Fuel Specialists' ~~behavior~~ identification [AMENDED]
165:15-1-8. Fuel Specialists' interpretation of rules [REVOKED]
Subchapter 3. Fuel Specialists, Testing, Accessibility, and Assistance
Part 1. General Authority
165:15-3-1. Authority to enter and/or stop for inspection [AMENDED]
165:15-3-2. Authority to lock or seal for violation [AMENDED]
165:15-3-3. Authority to remove lock or seal after correction of violation [AMENDED]
Part 3. Motor Fuels and Antifreeze
165:15-3-11. Testing methods [AMENDED]
Part 5. Liquid Measuring Devices
165:15-3-15. Fuel Specialist's ~~official~~ duty [AMENDED]
165:15-3-16. Inspection for compliance [AMENDED]
Part 7. Storage Tanks and Ancillary Equipment
165:15-3-20. Water in storage tanks [AMENDED]
165:15-3-21. Containment of petroleum products [AMENDED]
165:15-3-22. Equipment installation [AMENDED]
165:15-3-24.2. Fleet and commercial facility inspections [AMENDED]
165:15-3-24.3. Farm inspections [AMENDED]
Part 11. Accessibility and Assistance
165:15-3-34. Authority to block off [AMENDED]
165:15-3-35. Marina docks [AMENDED]
Subchapter 9. Description Of Motor Fuel
165:15-9-2. Display on pump [AMENDED]
165:15-9-3. Ethyl alcohol [AMENDED]
Subchapter 15. Liquid Measuring Devices
Part 3. Calibration and Tolerances
165:15-15-9. Tolerances [AMENDED]
Subchapter 19. Violations and Contempt
165:15-19-3. Notices of Violation [AMENDED]
165:15-19-4. Re-inspection and Fine Citation [AMENDED]

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TITLE 165. CORPORATION COMMISSION CHAPTER 25. UNDERGROUND STORAGE TANKS

[OAR Docket #04-575]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
Part 1. Purpose
165:25-1-1. Purpose [AMENDED]
Part 3. Definitions
165:25-1-11. Definitions [AMENDED]
Part 6. Administrative Provisions
165:25-1-29. Notices [AMENDED]
Part 7. Codes and Standards [REVOKED]
165:25-1-31. Sources of standards [REVOKED]
165:25-1-32. Incorporated codes and standards [REVOKED]
165:25-1-33. Other standards and regulations [REVOKED]
Part 8. General Requirements for Underground Storage Tank Systems [REVOKED]
165:25-1-34. Approved tanks, tank design [REVOKED]

165:25-1-35. Storage tank spacing [REVOKED]
165:25-1-36. Fill pipe requirements [REVOKED]
165:25-1-37. Spill and overfill protection [REVOKED]
165:25-1-38. Corrosion protection [REVOKED]
165:25-1-39. Underground storage tank piping materials [REVOKED]
165:25-1-40. Electrical equipment [REVOKED]
Part 9. Notification and Reporting Requirements
165:25-1-41. General reporting requirements [AMENDED]
165:25-1-42. New tank systems [AMENDED]
165:25-1-46. Tank removal and closure [REVOKED]
165:25-1-48. Tank and line tightness testing ~~results~~ [AMENDED]
165:25-1-51. Transfer of ownership [AMENDED]
Part 11. Recordkeeping
165:25-1-53. Availability of records [AMENDED]
165:25-1-54. Repair records [AMENDED]
165:25-1-55. Tank installation, closure and removal records [AMENDED]
165:25-1-56. Release detection and cathodic protection records [AMENDED]
Part 13. Fees
165:25-1-64. Fees [AMENDED]
Part 15. Shutdown of Operations [AMENDED]
165:25-1-67. Shutdown of operations [AMENDED]
Subchapter 2. General Requirements for Underground Storage Tank Systems [NEW]
Part 1. Codes and Standards [NEW]
165:25-2-1 Sources of standards [NEW]
165:25-2-2. Incorporated codes and standards [NEW]
165:25-2-3. Other standards and regulations [NEW]
165:25-2-4. Financial responsibility [NEW]
Part 3. Design and Installation [NEW]
165:25-2-31. Underground storage tank installation [NEW]
165:25-2-32. Compatibility [NEW]
165:25-2-33. Approved tanks, tank design [NEW]
165:25-2-34. Compliance with nationally recognized code of practice and manufacturer's instructions [NEW]
165:25-2-35. Pre-installation [NEW]
165:25-2-36. Tank system installation [NEW]
165:25-2-37. Storage tank spacing [NEW]
165:25-2-38. Fill pipe requirements [NEW]
165:25-2-39. Spill and overfill protection [NEW]
165:25-2-40. Tank system testing [NEW]
165:25-2-41. Installation drawing [NEW]
165:25-2-42. Certification of installation [NEW]
Part 5. Protection Against Corrosion [NEW]
165:25-2-51. Corrosion protection [NEW]
165:25-2-52. Compliance with corrosion protection requirements and manufacturer's specifications [NEW]
165:25-2-53. Frequency and criteria of inspections and tests [NEW]
165:25-2-54. Underground storage tank piping materials [NEW]
165:25-2-55. Underground storage tank internal lining requirements [NEW]
Part 7. Dispensers [NEW]
165:25-2-71. Dispensers [NEW]
165:25-2-72. Dispenser hose [NEW]
165:25-2-73. Nozzles [NEW]
165:25-2-75. Required signs [NEW]
165:25-2-76. Sources of ignition [NEW]
165:25-2-77. Electrical equipment [NEW]
Subchapter 3. Release Prevention and Detection Requirements
Part 1. Release Prohibition and Detection Requirements
165:25-3-5.2. Tank system tightness testing with inventory control [AMENDED]
165:25-3-5.3. Testing or monitoring for vapors [AMENDED]
165:25-3-5.4. Testing or monitoring for liquids on the groundwater [AMENDED]
165:25-3-5.6. Automatic tank gauging systems [AMENDED]
165:25-3-5.7. Manual tank gauging [NEW]
165:25-3-6. Monitoring requirements for piping [AMENDED]
Part 3. Release Investigation Requirements
165:25-3-8. Release investigation and confirmation [AMENDED]
Part 5. Spill and Overfill Prevention Requirements [REVOKED]
165:25-3-25. General spill and overfill prevention requirements [REVOKED]
165:25-3-26. Spill and overfill prevention equipment [REVOKED]
Part 7. Compatibility [REVOKED]
165:25-3-31. Compatibility [REVOKED]
Part 9. ~~Installation Of Underground Storage Tank Systems~~ Licensing Of Underground Storage Tank Installers
165:25-3-41. Compliance with nationally recognized code of practice and manufacturer's instructions [REVOKED]
165:25-3-42. Pre-installation [REVOKED]
165:25-3-43. Tank system installation [REVOKED]
165:25-3-44. Tank system testing [REVOKED]
165:25-3-46. Installation drawing [REVOKED]
165:25-3-47. Certification of installation [REVOKED]
165:25-3-48. Licensing of Underground Storage Tank Installers [REVOKED]
165:25-3-49. Underground storage tank installation [REVOKED]
165:25-3-50. Licensing procedure for UST Installers [AMENDED]
165:25-3-52. Licensing procedure for UST Removers [NEW]
165:25-3-53. Licensing procedure for monitoring well technician [NEW]
Part 11. Repairs to Underground Storage Tank Systems
165:25-3-55. Repairs to underground storage tank systems [AMENDED]

Part 13. Removal and Closure of Underground Storage Tank Systems
165:25-3-60. Tank removal and closure [NEW]
165:25-3-62. Temporary removal from service [AMENDED]
165:25-3-64. Permanent closure [AMENDED]
165:25-3-64.1. Underground storage tank removal [AMENDED]
165:25-3-65. Assessing the site at closure or change in service [AMENDED]
165:25-3-66. Applicability to previously closed underground storage tank systems [AMENDED]
Part 17. Requirements for Corrosion Protection Systems [REVOKED]
165:25-3-81. Compliance with corrosion protection requirements and manufacturer's specifications [REVOKED]
165:25-3-82. Frequency and criteria of inspections and tests [REVOKED]
Subchapter 6. Special Requirements for Underground Storage Tank Systems Utilized by Airports Open to the Public
Part 1. General Application and Compliance Provisions
165:25-6-1. Application [AMENDED]
Part 5. Dispenser Requirements
165:25-6-15. Specific requirements for airport dispensers [AMENDED]
165:25-6-17. Emergency controls [NEW]
Subchapter 8. Special Requirements for Underground Storage Tank Systems Utilized by Marinas
Part 1. General Application and Compliance Provisions
165:25-8-1. Application [AMENDED]
Part 3. Piping Requirements
165:25-8-5. Underground piping materials [NEW]
165:25-8-7. Aboveground piping at marinas [AMENDED]
165:25-8-8. Installation and monitoring requirements for piping [NEW]
Part 5. Dispenser Requirements
165:25-8-13. Dispensers [REVOKED]
165:25-8-14. Dispenser hose [AMENDED]
Part 7. Tank Filling Procedures [REVOKED]
165:25-8-23. Tightfill connection requirements [REVOKED]
Part 11. Miscellaneous Safety Requirements
165:25-8-36. Fire extinguishers [AMENDED]
165:25-8-37. Sources of ignition [REVOKED]
Subchapter 10. Special Requirements for Underground Storage Tank Systems Utilized by Retail Facilities [REVOKED]
Part 1. General Application and Compliance Provisions [REVOKED]
165:25-10-1. Application [REVOKED]
Part 3. Dispenser Requirements [REVOKED]
165:25-10-7. Dispensers [REVOKED]
165:25-10-8. Dispenser hose [REVOKED]
165:25-10-9. Nozzles [REVOKED]
Part 5. Tank Filling Procedures [REVOKED]
165:25-10-10. Tightfill connection requirements [REVOKED]
Part 7. Miscellaneous Safety Provisions [REVOKED]
165:25-10-16. Required signs [REVOKED]
165:25-10-17. Sources of ignition [REVOKED]
Subchapter 12. Special Requirements for Underground Storage Tank Systems Utilized at Fleet and Commercial Facilities [REVOKED]
Part 1. General Application and Compliance Provisions [REVOKED]
165:25-12-1. Application [REVOKED]
Part 3. Dispenser Requirements [REVOKED]
165:25-12-7. Dispensers [REVOKED]
Part 5. Tank Filling Procedures [REVOKED]
165:25-12-13. Tightfill connection requirements [REVOKED]
Part 7. Miscellaneous Safety Provisions [REVOKED]
165:25-12-19. Required signs [REVOKED]
165:25-12-20. Sources of ignition [REVOKED]
Subchapter 14. Special Requirements for Underground Storage Tank Systems Utilized by Bulk Plant Facilities
Part 1. General Application and Compliance Provisions
165:25-14-1. Application [AMENDED]
Part 11. Miscellaneous Safety Provisions
165:25-14-34. Sources of ignition [REVOKED]
Subchapter 16. Special Requirements for Underground Storage Tank Systems Utilized by Emergency Backup Generators at Hospitals, and Municipal Water and Sewage Treatment Plants [REVOKED]
Part 1. General Application and Compliance Provisions [REVOKED]
165:25-16-1. Application [REVOKED]
Part 3. Tank Filling Procedures [REVOKED]
165:25-16-7. Tightfill connection requirements [REVOKED]
Part 5. Miscellaneous Safety Provisions [REVOKED]
165:25-16-13. Sources of ignition [REVOKED]
Subchapter 17. Special Requirements for Underground Storage Tank Systems Utilized on Farms [REVOKED]
Part 1. General Application and Compliance Provisions [REVOKED]
165:25-17-1. Application [REVOKED]
Part 3. Storage Tank System Requirements [REVOKED]
165:25-17-7. Storage tank location [REVOKED]
165:25-17-8. Storage tanks no longer in use [REVOKED]
165:25-17-9. Venting requirements [REVOKED]
Part 5. Leak Detection Requirements [REVOKED]
165:25-17-15. Leak detection [REVOKED]
Subchapter 18. Inspections, Notices of Violation, Warning and Fine Citations and Penalties
Part 3. Notices of Violation and Warning and Fine Citations
165:25-18-10. Purpose of Notices of Violation, Warning Citations and Fine Citations [AMENDED]
165:25-18-11. Notices of violation [AMENDED]

165:25-18-12. Re-Inspection and fine citation [AMENDED]
165:25-18-13. Payment of fine or hearing [AMENDED]
Appendix R. Manual Tank Gauging Guide for Farm Tanks [REVOKED]
Appendix S. Fine Citations Table [NEW]

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TITLE 165. CORPORATION COMMISSION CHAPTER 26. ABOVEGROUND STORAGE TANKS

[OAR Docket #04-574]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review

RULES:
Subchapter 1. General Provisions
Part 1. Purpose and Definitions
165:26-1-2. Definitions [AMENDED]
Part 3. Scope of Rules
165:26-1-21. Overview of applicability [AMENDED]
165:26-1-22. Exclusions [AMENDED]
165:26-1-25. Local jurisdiction [NEW]
Part 4. Administrative Provisions
165:26-1-28. Variances [AMENDED]
165:26-1-29. Notices [AMENDED]
165:26-1-30.2. Consultation of petroleum storage tank division [NEW]
165:26-1-30.3. Licensing procedure for aboveground storage tank installers [NEW]
165:26-1-30.4. Fees [NEW]
Part 5. National Standards and Codes
165:26-1-31. Codes and standards [AMENDED]
Part 7. Notification and Reporting Requirements
165:26-1-41. General reporting requirements [AMENDED]
165:26-1-42. New ~~tanks~~ tank systems [AMENDED]
165:26-1-44. Tank closure or change in service [AMENDED]
165:26-1-47. Transfer of ownership [AMENDED]
Subchapter 2. Installation, Repair and Removal [NEW]
Part 1. Tank Design, Construction and Location [NEW]
165:26-2-1. Approved tanks, tank design [NEW]
165:26-2-2. Emergency pressure release [NEW]
165:26-2-3. Aboveground storage tank spacing [NEW]
165:26-2-4. Distance to be kept around tanks [NEW]
165:26-2-5. Requirements on fill pipes [NEW]
165:26-2-6. Vent piping requirements [NEW]
165:26-2-7. Collision barriers [NEW]
Part 3. Secondary Containment [NEW]
165:26-2-31. Double-Walled tanks [NEW]
165:26-2-32. Secondary containment [NEW]
Part 5. Piping [NEW]
165:26-2-51. Piping protection [NEW]
165:26-2-52. Piping and gravity flow [NEW]
165:26-2-53. Valves on piping [NEW]
165:26-2-54. Aboveground storage tank piping materials [NEW]
165:26-2-55. Underground piping materials [NEW]
165:26-2-56. Installation and monitoring requirements for piping [NEW]
165:26-2-57. Commission-Approved alternative methods [NEW]
Part 7. Vault Requirements [NEW]
165:26-2-71. Vaults [NEW]
Part 9. Dispenser Requirements [NEW]
165:26-2-91. Dispensers [NEW]
165:26-2-92. Dispenser hose [NEW]
165:26-2-93. Nozzles [NEW]
Part 11. Tank Filling Procedures [NEW]
165:26-2-111. Tank filling operation [NEW]
Part 13. Miscellaneous Safety Provisions [NEW]
165:26-2-131. Fencing [NEW]
165:26-2-132. Required signs [NEW]
165:26-2-133. Sources of ignition [NEW]
165:26-2-134. Monitoring requirements [NEW]
Part 15. Electrical [NEW]
165:26-2-151. Electrical requirements [NEW]
Part 17. Installation of Aboveground Storage Tank Systems [NEW]
165:26-2-171. Aboveground storage tank system installation [NEW]
165:26-2-172. Compatibility [NEW]
Part 19. Repairs to Aboveground Storage Tank Systems [NEW]
165:26-2-191. Repairs to aboveground tank systems [NEW]
Part 21. Removal and Closure of Aboveground Storage Tank Systems [NEW]
165:26-2-211. Compliance with removal and closure requirements [NEW]
165:26-2-212. Temporary removal from service [NEW]
165:26-2-213. Permanent closure [NEW]
165:26-2-214. Assessing the site at tank closure or change in service [NEW]
165:26-2-215. Requirements for returning to service [NEW]
Subchapter 3. Record Keeping, Release Prevention, ~~and~~ Detection, Investigation and Reporting
Part 3. Recordkeeping [AMENDED]
165:26-3-11. Availability of Records [AMENDED]
165:26-3-13. Tank installation, closure and removal records [AMENDED]

165:26-3-14. Release detection and corrosion protection records [AMENDED]
165:26-3-17. Underground line tightness testing [NEW]
165:26-3-18. Inventory records [NEW]
Part 5. Spill and Overfill Prevention Requirements
165:26-3-21. General spill and overfill prevention requirements [AMENDED]
165:26-3-22. ~~SPCC~~ Spill prevention, control and countermeasure plan [AMENDED]
Part 7. Compatibility [REVOKED]
165:26-3-31. Compatibility [REVOKED]
Part 8. Installation of Aboveground Storage Tank Systems [REVOKED]
165:26-3-53. Aboveground storage tank installation [REVOKED]
165:26-3-54. Licensing procedure for aboveground storage tank installers [REVOKED]
Part 9. Repairs to Aboveground Storage Tank Systems [REVOKED]
165:26-3-55. Repairs to aboveground tank systems [REVOKED]
Part 11. Removal and Closure of Aboveground Storage Tank Systems [REVOKED]
165:26-3-61. Compliance with removal and closure requirements [REVOKED]
165:26-3-62. Temporary removal from service [REVOKED]
165:26-3-63. Permanent closure [REVOKED]
165:26-3-63.1. Assessing the site at tank closure or change in service [REVOKED]
165:26-3-64. Requirements for returning to service [REVOKED]
Part 15. Requirements for Corrosion Protection Systems
165:26-3-80. Corrosion protection [NEW]
165:26-3-81. Compliance with corrosion protection requirements and manufacturer's specifications [AMENDED]
165:26-3-82. Frequency and criteria of inspections and tests [AMENDED]
Part 17. Release Investigation [NEW]
165:26-3-171. Release investigation and confirmation [NEW]
Part 11. Release Reporting Requirements [NEW]
165:26-3-191. Release reporting [NEW]
Subchapter 4. Inspections, Penalties and Field Citations
Part 1. Inspections
165:26-4-6. Exception and variances ~~Common sense~~ [AMENDED]
Part 3. Penalties
165:26-4-10. Penalties [AMENDED]
Part 5. ~~Field Citations~~ Notices of Violation, Warning Citations and Fine Citations
165:26-4-15. ~~Purpose of field citations~~ Notices of violation, warning citations and fine citations [AMENDED]
165:26-4-16. ~~Warning citations and fine citations~~ Notices of violation [AMENDED]
165:26-4-17. Re-Inspection and fine citation [AMENDED]
Subchapter 6. Requirements for Aboveground Storage Tank Systems Utilized by Airports Open to the Public
Part 1. General Application and Compliance Provisions
165:26-6-1. Application [AMENDED]
165:26-6-2. Timeframes for registration and compliance with rules [AMENDED]
165:26-6-4. Local jurisdiction [REVOKED]
165:26-6-5. Consultation of petroleum storage tank division [REVOKED]
Part 3. Tank Design, Construction, Capacity and Location Requirements
165:26-6-9. Approved tanks, tank design [REVOKED]
165:26-6-10. Maximum capacity for tanks [AMENDED]
165:26-6-11. Emergency pressure release venting [REVOKED]
165:26-6-12. Aboveground storage tank spacing [REVOKED]
165:26-6-14. ~~Distance to be kept around tanks~~ Tank distance requirements [AMENDED]
165:26-6-15. Requirements on fill pipes [REVOKED]
165:26-6-16. Collision barriers [REVOKED]
165:26-6-17. Spill and overfill prevention [REVOKED]
165:26-6-18. Corrosion protection [REVOKED]
Part 5. Secondary Containment Requirements [REVOKED]
165:26-6-25. Double-Walled~~walled~~ tanks [REVOKED]
165:26-6-26. Secondary containment [REVOKED]
Part 7. Equipment and Materials [REVOKED]
165:26-6-30. Aboveground storage tank piping materials [REVOKED]
165:26-6-31. Electrical equipment [REVOKED]
Part 9. Piping Requirements
165:26-6-35. Piping protection [REVOKED]
165:26-6-36. Piping and gravity flow [REVOKED]
165:26-6-37. Valves on piping [REVOKED]
165:26-6-38. External piping protection [REVOKED]
165:26-6-39. Underground piping materials [REVOKED]
165:26-6-40. Aboveground piping at airports [AMENDED]
Part 11. Vault Requirements [REVOKED]
165:26-6-45. Vaults [REVOKED]
Part 13. Venting and Venting Specifications [REVOKED]
165:26-6-50. Specific requirements for airport aboveground storage tank vent pipes [REVOKED]
165:26-6-51. Vent piping size [REVOKED]
165:26-6-52. Vent piping height [REVOKED]
Part 15. Dispenser Requirements
165:26-6-60. Dispensers [REVOKED]
165:26-6-61. Dispenser hose [AMENDED]
Part 17. Tank Filling Procedures
165:26-6-70. Tank filling operation [REVOKED]
165:26-6-72. Tightfill connection requirements [REVOKED]
Part 21. Miscellaneous Safety Provisions
165:26-6-85. Fencing [REVOKED]

165:26-6-89. Sources of ignition [REVOKED]
165:26-6-90. Monitoring requirements [REVOKED]
Part 23. Recordkeeping [REVOKED]
165:26-6-95. Inventory records [REVOKED]
165:26-6-96. Spill prevention control and countermeasure plan [REVOKED]
Subchapter 7. Requirements for New Aboveground Storage Tanks Systems [REVOKED]
Part 3. Release Detection [REVOKED]
165:26-7-12. Piping [REVOKED]
165:26-7-13. Methods of release detection for piping [REVOKED]
165:26-7-14. Testing or monitoring for vapors [REVOKED]
165:26-7-15. Testing and monitoring for liquids on the groundwater [REVOKED]
Subchapter 8. Requirements for Aboveground Storage Tank Systems Utilized by Marinas
Part 1. General Application and Compliance Provisions
165:26-8-1. Application [AMENDED]
165:26-8-2. Timeframes for registration and compliance with rules [AMENDED]
165:26-8-3. Codes and standards [REVOKED]
165:26-8-4. Local jurisdiction [REVOKED]
165:26-8-5. Consultation of petroleum storage tank division [REVOKED]
Part 3. Tank Design, Construction, Capacity and Location Requirements
165:26-8-9. Approved tanks, tank design [REVOKED]
165:26-8-10. Maximum capacity for tanks [AMENDED]
165:26-8-11. Emergency pressure release [REVOKED]
165:26-8-12. Aboveground storage tank spacing [REVOKED]
165:26-8-13. Location of aboveground storage tanks at marinas [AMENDED]
165:26-8-14. Distance to be kept around tanks [REVOKED]
165:26-8-15. Requirements on fill pipes [REVOKED]
165:26-8-16. Collision barriers [REVOKED]
165:26-8-17. Spill and overfill prevention [REVOKED]
165:26-8-18. Corrosion protection [REVOKED]
Part 5. Secondary Containment Requirements [REVOKED]
165:26-8-25. Double-Walled~~walled~~ tanks [REVOKED]
165:26-8-26. Secondary containment [REVOKED]
Part 7. Equipment and Materials [REVOKED]
165:26-8-30. Aboveground storage tank piping materials [REVOKED]
165:26-8-31. Electrical equipment [REVOKED]
Part 9. Piping Requirements
165:26-8-35. Piping protection [REVOKED]
165:26-8-36. Piping and gravity flow [REVOKED]
165:26-8-37. Valves on piping [REVOKED]
165:26-8-38. External piping protection [REVOKED]
165:26-8-39. Underground piping materials [REVOKED]
165:26-8-40. Aboveground piping at marinas [AMENDED]
165:26-8-41. Installation and monitoring requirements for piping [NEW]
Part 11. Vault Requirements [REVOKED]
165:26-8-45. Vaults [REVOKED]
Part 13. Venting and Venting Specifications [REVOKED]
165:26-8-51. Vent piping size [REVOKED]
165:26-8-52. Vent piping height [REVOKED]
Part 15. Dispenser Requirements
165:26-8-60. Dispensers [REVOKED]
165:26-8-61. Dispenser hose
Part 17. Tank Filling Procedures [REVOKED]
165:26-8-70. Tank filling operation [REVOKED]
165:26-8-72. Tightfill connection requirements [REVOKED]
Part 21. Miscellaneous Safety Provisions
165:26-8-85. Fencing [REVOKED]
165:26-8-88. Fire extinguishers
165:26-8-89. Sources of ignition [REVOKED]
165:26-8-90. Monitoring requirements [REVOKED]
Part 23. Recordkeeping [REVOKED]
165:26-8-95. Inventory records [REVOKED]
165:26-8-96. Spill prevention control and countermeasure plan [REVOKED]
Subchapter 10. Requirements for Aboveground Storage Tank Systems Utilized by Retail Facilities
Part 1. General Application and Compliance Provisions
165:26-10-1. Application [AMENDED]
165:26-10-2. Timeframes for registration and compliance with rules [AMENDED]
165:26-10-3. Codes and standards [REVOKED]
165:26-10-4. Local jurisdiction [REVOKED]
165:26-10-5. Consultation of petroleum storage tank division [REVOKED]
Part 3. Tank Design, Construction, Capacity and Location Requirements
165:26-10-9. Approved tanks, tank design [REVOKED]
165:26-10-10. Maximum capacity for tanks [AMENDED]
165:26-10-11. Emergency pressure release [REVOKED]
165:26-10-12. Aboveground storage tank spacing [REVOKED]
165:26-10-14. Distance to be kept around tanks [REVOKED]
165:26-10-15. Requirements on fill pipes [REVOKED]
165:26-10-16. Collision barriers [REVOKED]
165:26-10-17. Spill and overfill prevention [REVOKED]
165:26-10-18. Corrosion protection [REVOKED]
Part 5. Secondary Containment Requirements [REVOKED]
165:26-10-25. Double-Walled~~walled~~ tanks [REVOKED]
165:26-10-26. Secondary containment [REVOKED]
Part 7. Equipment and Materials [REVOKED]
165:26-10-30. Aboveground storage tank piping materials [REVOKED]
165:26-10-31. Electrical equipment [REVOKED]

Part 9. Piping Requirements [REVOKED]
165:26-10-35. Piping protection [REVOKED]
165:26-10-36. Piping and gravity flow [REVOKED]
165:26-10-37. Valves on piping [REVOKED]
165:26-10-38. External piping protection [REVOKED]
165:26-10-39. Underground piping materials [REVOKED]
Part 11. Vault Requirements
165:26-10-45. Vaults [REVOKED]
Part 13. Venting and Venting Specifications [REVOKED]
165:26-10-51. Vent piping size [REVOKED]
165:26-10-52. Vent piping height [REVOKED]
Part 15. Dispenser Requirements [REVOKED]
165:26-10-60. Dispensers [REVOKED]
165:26-10-61. Dispenser hose [REVOKED]
165:26-10-62. Nozzles [REVOKED]
Part 17. Tank Filling Procedures [REVOKED]
165:26-10-70. Tank filling operation [REVOKED]
165:26-10-72. Tightfill connection requirements [REVOKED]
Part 21. Miscellaneous Safety Provisions [REVOKED]
165:26-10-85. Fencing [REVOKED]
165:26-10-86. Required signs [REVOKED]
165:26-10-89. Sources of ignition [REVOKED]
165:26-10-90. Monitoring requirements [REVOKED]
Part 23. Recordkeeping [REVOKED]
165:26-10-95. Inventory records [REVOKED]
165:26-10-96. Spill prevention control and countermeasure plan [REVOKED]
Subchapter 12. Requirements for Aboveground Storage Tank Systems Utilized at Fleet and Commercial Facilities
Part 1. General Application and Compliance Provisions
165:26-12-1. Application [AMENDED]
165:26-12-2. Timeframes for registration and compliance with rules [AMENDED]
165:26-12-3. Codes and standards [REVOKED]
165:26-12-4. Local jurisdiction [REVOKED]
165:26-12-5. Consultation of petroleum storage tank division [REVOKED]
Part 3. Tank Design, Construction, Capacity and Location Requirements
165:26-12-9. Approved tanks, tank design [REVOKED]
165:26-12-10. Maximum capacity for tanks [AMENDED]
165:26-12-11. Emergency pressure release [REVOKED]
165:26-12-12. Aboveground storage tank spacing [REVOKED]
165:26-12-14. ~~Distance to be kept around tanks~~ Tank distance requirements [AMENDED]
165:26-12-15. Requirements on fill pipes [REVOKED]
165:26-12-16. Collision barriers [REVOKED]
165:26-12-17. Spill and overfill prevention [REVOKED]
165:26-12-18. Corrosion protection [REVOKED]
Part 5. Secondary Containment Requirements [REVOKED]
165:26-12-25. Double-Walled~~walled~~ tanks [REVOKED]
165:26-12-26. Secondary containment [REVOKED]
Part 7. Equipment and Materials [REVOKED]
165:26-12-30. Aboveground storage tank piping materials [REVOKED]
165:26-12-31. Electrical equipment [REVOKED]
Part 9. Piping Requirements [REVOKED]
165:26-12-35. Piping protection [REVOKED]
165:26-12-36. Piping and gravity flow [REVOKED]
165:26-12-37. Valves on piping [REVOKED]
165:26-12-38. External piping protection [REVOKED]
165:26-12-39. Underground piping materials [REVOKED]
Part 11. Vault Requirements [REVOKED]
165:26-12-45. Vaults [REVOKED]
Part 13. Venting and Venting Specifications [REVOKED]
165:26-12-51. Vent piping size [REVOKED]
165:26-12-52. Vent piping height [REVOKED]
Part 15. Dispenser Requirements [REVOKED]
165:26-12-60. Dispensers [REVOKED]
Part 17. Tank Filling Procedures [REVOKED]
165:26-12-70. Tank filling operation [REVOKED]
165:26-12-72. Tightfill connection requirements [REVOKED]
Part 21. Miscellaneous Safety Provisions [REVOKED]
165:26-12-85. Fencing [REVOKED]
165:26-12-86. Required signs [REVOKED]
165:26-12-89. Sources of ignition [REVOKED]
165:26-12-90. Monitoring requirements [REVOKED]
Part 23. Recordkeeping [REVOKED]
165:26-12-95. Inventory records [REVOKED]
165:26-12-96. Spill prevention control and countermeasure plan [REVOKED]
Subchapter 14. Requirements for Aboveground Storage Tank Systems Utilized by Bulk Plant Facilities
Part 1. General Application and Compliance Provisions
165:26-14-1. Application [AMENDED]
165:26-14-2. Timeframes for registration and compliance with rules [AMENDED]
165:26-14-3. Codes and standards [REVOKED]
165:26-14-4. Local jurisdiction [REVOKED]
165:26-14-5. Consultation of petroleum storage tank division [REVOKED]
Part 3. Tank Design, Construction, Capacity and Location Requirements
165:26-14-9. Approved tanks, tank design [REVOKED]
165:26-14-10. Maximum capacity for tanks [AMENDED]
165:26-14-11. Emergency pressure release [REVOKED]
165:26-14-12. Aboveground storage tank spacing [REVOKED]
165:26-14-14. Distance to be kept around tanks [REVOKED]
165:26-14-15. Requirements on fill pipes [REVOKED]
165:26-14-17. Spill and overfill prevention [REVOKED]
165:26-14-18. Corrosion protection [REVOKED]
Part 5. Secondary Containment Requirements [REVOKED]
165:26-14-25. Double-Walled~~walled~~ tanks [REVOKED]
165:26-14-26. Secondary containment [REVOKED]

Part 7. Equipment and Materials [REVOKED]
165:26-14-30. Aboveground storage tank piping materials [REVOKED]
165:26-14-31. Electrical equipment [REVOKED]
Part 9. Piping Requirements [REVOKED]
165:26-14-35. Piping protection [REVOKED]
165:26-14-36. Piping and gravity flow [REVOKED]
165:26-14-37. Valves on piping [REVOKED]
165:26-14-38. External piping protection [REVOKED]
165:26-14-39. Underground piping materials [REVOKED]
Part 11. Vault Requirements
165:26-14-45. Vaults [REVOKED]
Part 13. Venting and Venting Specifications [REVOKED]
165:26-14-51. Vent piping size [REVOKED]
165:26-14-52. Vent piping height [REVOKED]
Part 15. Dispenser Requirements
165:26-14-60. Dispensers [AMENDED]
Part 21. Miscellaneous Safety Provisions
165:26-14-85. Fencing [REVOKED]
165:26-14-89. Sources of ignition [REVOKED]
165:26-14-90. Monitoring requirements [REVOKED]
Part 23. Recordkeeping [REVOKED]
165:26-14-95. Inventory records [REVOKED]
165:26-14-96. Spill prevention control and countermeasure plan [REVOKED]
Subchapter 16. Requirements for Aboveground Storage Tank Systems Utilized by Emergency~~ Back Up~~ Generators~~ at Hospitals, Municipal Water and Sewage Treatment Plants~~
Part 1. General Application and Compliance Provisions
165:26-16-1. Application [AMENDED]
165:26-16-2. Timeframes for registration and compliance with rules [AMENDED]
165:26-16-3. Codes and Standards [REVOKED]
165:26-16-4. Local jurisdiction [REVOKED]
165:26-16-5. Consultation of petroleum storage tank division [REVOKED]
Part 3. Tank Design, Construction, Capacity and Location Requirements [REVOKED]
165:26-16-9. Approved tanks, tank design [REVOKED]
165:26-16-11. Emergency pressure release [REVOKED]
165:26-16-12. Aboveground storage tank spacing [REVOKED]
165:26-16-14. Distance to be kept around tanks [REVOKED]
165:26-16-15. Requirements on fill pipes [REVOKED]
165:26-16-16. Collision barriers [REVOKED]
165:26-16-17. Spill and overfill prevention [REVOKED]
165:26-16-18. Corrosion protection [REVOKED]
Part 5. Secondary Containment Requirements [REVOKED]
165:26-16-25. Double-Walled~~walled~~ tanks [REVOKED]
165:26-16-26. Secondary containment [REVOKED]
Part 7. Equipment and Materials [REVOKED]
165:26-16-30. Aboveground storage tank piping materials [REVOKED]
165:26-16-31. Electrical equipment [REVOKED]
Part 9. Piping Requirements [REVOKED]
165:26-16-35. Piping protection [REVOKED]
165:26-16-36. Piping and gravity flow [REVOKED]
165:26-16-37. Valves on piping [REVOKED]
165:26-16-38. External piping protection [REVOKED]
165:26-16-39. Underground piping materials [REVOKED]
Part 11. Vault Requirements [REVOKED]
165:26-16-45. Vaults [REVOKED]
Part 13. Venting and Venting Specifications [REVOKED]
165:26-16-51. Vent piping size [REVOKED]
165:26-16-52. Vent piping height [REVOKED]
Part 17. Tank Filling Procedures [REVOKED]
165:26-16-70. Tank filling operation [REVOKED]
165:26-16-72. Tightfill connection requirements [REVOKED]
Part 21. Miscellaneous Safety Provisions [REVOKED]
165:26-16-85. Fencing [REVOKED]
165:26-16-89. Sources of ignition [REVOKED]
165:26-16-90. Monitoring requirements [REVOKED]
Part 23. Recordkeeping [REVOKED]
165:26-16-96. Spill prevention control and countermeasure plan [REVOKED]
Subchapter 18. Financial Responsibility [NEW]
165:26-18-1. Applicability [NEW]
165:26-18-3. Evidence of financial responsibility [NEW]
Appendix G. Warning and Fine Citations Table [NEW]
Appendix J. Table Establishing Permeability Rates for Secondary Containment [REVOKED]
Appendix J. Table Establishing Permeability Rates for Secondary Containment [NEW]

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TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #04-570]

RULEMAKING ACTION:
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RULES:
Subchapter 1. General Provisions
165:35-1-5. Sale or disposal of jurisdictional facilities by utility [AMENDED]
Subchapter 23. Service Requirements
165:35-23-8. Request for service [NEW]
Subchapter 25. ~~Operation Maintenance and Records~~ Operations Requirements For Utilities [AMENDED]

Part 1. Operation Maintenance and Records [NEW]
165:35-25-4. Daily record of generating plants [AMENDED]
Part 3. Reliability of Service and Reliability Program [NEW]
165:35-25-12. Adoption of Standards [NEW]
165:35-25-13. Definitions [NEW]
165:35-25-14. Reliability program [NEW]
165:35-25-15. Vegetation management plan [NEW]
165:35-25-16. Notification for vegetation management activities [NEW]
165:35-25-17. [RESERVED]
165:35-25-18. Performance levels [NEW]
165:35-25-19. Individual circuit reliability [NEW]
165:35-25-20. Annual reliability report [NEW]
Part 5. Utility Scorecard [NEW]
165:35-25-24. Utility performance scorecard [NEW]

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TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #04-571]

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RULES:
Subchapter 1. General Provisions
165:35-1-2. Definitions [AMENDED]
Subchapter 31. Affiliate Transactions and Financial Transactions of Utilities and Affiliates [NEW]
165:35-31-1. Purpose, scope and application of Subchapter [NEW]
165:35-31-2. Determination of confidential information [NEW]
165:35-31-3. Exemption for corporate and shared services [NEW]
165:35-31-4. Request for Information [NEW]
165:35-31-5. [RESERVED]
165:35-31-6. [RESERVED]
165:35-31-7. [RESERVED]
165:35-31-8. [RESERVED]
165:35-31-9. [RESERVED]
165:35-31-10. [RESERVED]
165:35-31-11. [RESERVED]
165:35-31-12. [RESERVED]
165:35-31-13. [RESERVED]
165:35-31-14. [RESERVED]
165:35-31-15. [RESERVED]
165:35-31-16. [RESERVED]
165:35-31-17. [RESERVED]
165:35-31-18. [RESERVED]
165:35-31-19. Standards for transactions between utilities and affiliate(s) [NEW]
165:35-31-20. Sales of services, products, or assets between regulated and unregulated affiliates [NEW]
165:35-31-21. [RESERVED]
165:35-31-22. Financial transactions by utilities or their affiliate(s) [NEW]
165:35-31-23. [RESERVED]
165:35-31-24. [RESERVED]
165:35-31-25. Remedies and enforcement for violation of the standards of conduct [NEW]
165:35-31-26. [RESERVED]
165:35-31-27. [RESERVED]

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TITLE 165. CORPORATION COMMISSION CHAPTER 45. GAS SERVICE UTILITIES

[OAR Docket #04-568]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
165:45-1-2. Definitions [AMENDED]
Subchapter 11. Customer Service
Part 1. Initiation of Service
165:45-11-4. Consumer information [AMENDED]
Subchapter 17. Competitive Bidding ~~of~~ and Affiliate Transaction Rules for the provision of Natural Gas Services of Gas Supply, Gathering, Transmission and Storage of Natural Gas Utilities Upstream of the Citygate
165:45-17-2. Scope of Subchapter [NEW]
165:45-17-3. Application of Subchapter [AMENDED]
165:45-17-6. Exemption for corporate and shared services [NEW]
165:45-17-23. Standards of conduct between utilities and affiliate(s) [AMENDED]
165:45-17-24. Sales of services, products, assets between regulated and unregulated affiliates [NEW]
165:45-17-24.1. Financial transactions by utilities or their affiliate(s) [NEW]
165:45-17-27. Remedies and enforcement for ~~Violation~~ violation of the standards of conduct [AMENDED]

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TITLE 165. CORPORATION COMMISSION CHAPTER 55. TELECOMMUNICATIONS SERVICES

[OAR Docket #04-569]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
165:55-1-4. Definitions [AMENDED]
Subchapter 3. Certificates, Reports, and Records
Part 1. Certificates of Convenience and Necessity
165:55-3-1. Certificate of Convenience and Necessity [AMENDED]
Subchapter 5. Rates and Tariffs
Part 3. Approval and Notice Requirements
165:55-5-10. Tariff approval and revisions to tariffs [AMENDED]
165:55-5-10.1. Competitive services [AMENDED]
165:55-5-11. Type of notices [AMENDED]
Part 7. Miscellaneous Tariff Requirements
165:55-5-34. ~~Data and information on proposed tariff revisions~~ Cost support required [AMENDED]
Subchapter 9. Customer Billing and Deposits
Part 1. Billing and Payment Requirements
165:55-9-3. Due date and penalty [AMENDED]
Subchapter 13. Operating and Maintenance Requirements
Part 3. Service Standards
165:55-13-12. Extension of facilities [AMENDED]
Subchapter 19. Unlawful Practices
Part 1. Slamming
165:55-19-1.7. Preferred carrier freezes [AMENDED]
Subchapter 23. Wireless Eligible Telecommunications Carrier [NEW]
Part 1. General Provisions [NEW]
165:55-23-1. Requirements [NEW]
165:55-23-2. [RESERVED]
165:55-23-3. Records to be provided to the Commission [NEW]
165:55-23-4. [RESERVED]
165:55-23-5. Emergency service reporting requirements [NEW]
165:55-23-6. [RESERVED]
165:55-23-7. Content of bills [NEW]
165:55-23-8. [RESERVED]
165:55-23-9. Billing disputes [NEW]
165:55-23-10. [RESERVED]
165:55-23-11. Minimum service standards [NEW]
165:55-23-12. [RESERVED]
165:55-23-13. Extension of facilities [NEW]
165:55-23-14. [RESERVED]
165:55-23-15. Lifeline program [NEW]
165:55-23-16. [RESERVED]
165:55-23-17. Link-up program [NEW]
165:55-23-18. [RESERVED]
165:55-23-19. Responsibility for adequate and safe service [NEW]
165:55-23-20. [RESERVED]
165:55-23-21. Emergencies [NEW]
165:55-23-22. [RESERVED]
165:55-23-23. Response to customer complaint inquiries [NEW]
Part 2. Transmission Objections [NEW]
165:55-23-50. Service standards; sufficient operating and maintenance force [NEW]
165:55-23-51. [RESERVED]
165:55-23-52. Records of trouble reports [NEW]
165:55-23-53. [RESERVED]
165:55-23-54. Notice of service interruptions [NEW]
165:55-23-55. [RESERVED]
165:55-23-56. Restoration of service plan [NEW]
165:55-23-57. [RESERVED]
165:55-23-58. Customer choice [NEW]
Appendix A. Telecommunications Complaint Report Form [REVOKED]
Appendix C. Wireless ETC Customer Complaint Codes [NEW]
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TITLE 165. CORPORATION COMMISSION CHAPTER 56. RESELLERS OF INTEREXCHANGE TELECOMMUNICATION SERVICES

[OAR Docket #04-567]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 3. Certificates, Reports, and Records
165:56-3-1. Certificate of Convenience and Necessity [AMENDED]
Subchapter 5. Tariffs

165:56-5-5. Revisions to tariffs [AMENDED]
165:56-5-5.2. Competitive services [REVOKED]
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TITLE 165. CORPORATION COMMISSION CHAPTER 57. OPERATOR SERVICE PROVIDERS TELECOMMUNICATIONS SERVICES

[OAR Docket #04-566]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Certificates, Reports, and Records
Part 1. Certificates of Convenience and Necessity
165:57-5-1. Certificate of Convenience and Necessity [AMENDED]
165:57-5-2. Notice of hearing for Certificate of Convenience and Necessity [AMENDED]
Subchapter 7. Tariffs
165:57-7-5. Revisions to tariffs [AMENDED]
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TITLE 165. CORPORATION COMMISSION CHAPTER 58. FACILITATION AND PROVISIONING OF PAYPHONE SERVICE

[OAR Docket #04-565]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 3. Certificates, Reports, and Records
Part 1. Certificate of Convenience and Necessity
165:58-3-1. Certificate of Convenience and Necessity [AMENDED]
165:58-3-2. Expansion of service territory [NEW]
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TITLE 300. GRAND RIVER DAM AUTHORITY CHAPTER 10. PUBLIC PURPOSE SUPPORT AND ASSISTANCE

[OAR Docket #04-499]

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RULES:
300:10-1-1. through 300:10-1-2. [NEW]
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TITLE 300. GRAND RIVER DAM AUTHORITY CHAPTER 20. PURCHASING POLICY

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RULES:
300:20-1-1. through 300:20-1-13. [NEW]
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TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 205. ALARM INDUSTRY

[OAR Docket #04-504]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

PROPOSED RULES:
Subchapter 1. General Provisions
310:205-1-2. [AMENDED]
310:205-1-3.1. [NEW]
Subchapter 3. License Requirements
310:205-3-2. [AMENDED]
310:205-3-3. [AMENDED]
310:205-3-4. [AMENDED]
310:205-3-7. [AMENDED]
Subchapter 5. Special Provisions [NEW]
310:205-5-1. [NEW]
310:205-5-2. [NEW]
Subchapter 7. Enforcement [NEW]
310:205-7-1. [NEW]
310:205-7-2. [NEW]
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TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 256. FOOD SERVICE ESTABLISHMENTS

[OAR Docket #04-505]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions [AMENDED]
310:256-1-2. [AMENDED]
310:256-1-3. [AMENDED]
310:256-1-4. [AMENDED]
Subchapter 5. Food
310:256-5-45. [AMENDED]
Subchapter 15. Compliance and Enforcement
310:256-15-35. [AMENDED]
310:256-15-37. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-505; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 265. HEARING AID DEALERS AND FITTERS ~~REGULATIONS~~

[OAR Docket #04-506]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:265-1-2. [AMENDED]
310:265-1-3. [AMENDED]
Subchapter 3. Examinations
310:265-3-1. [AMENDED]
Subchapter 5. License Requirements
310:265-5-3. [AMENDED]
310:265-5-4. [AMENDED]
310:265-5-6. [AMENDED]
Subchapter 7. Regulatory Enforcement
310:265-7-1. [AMENDED]
310:265-7-2. [AMENDED]
310:265-7-3. [NEW]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
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[OAR Docket #04-506; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 276. HOME INSPECTION INDUSTRY

[OAR Docket #04-507]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:276-1-2. [AMENDED]
Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, and Continuing Education Reciprocity
310:276-9-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004

SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-507; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 400. LICENSED MARITAL AND FAMILY THERAPISTS

[OAR Docket #04-508]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. Rules of Professional Conduct
310:400-5-3. [AMENDED]
Subchapter 7. Application for Licensure
310:400-7-2.1. [NEW]
Subchapter 17. Enforcement
310:400-17-4.1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-508; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 403. LICENSED BEHAVIORAL PRACTITIONERS

[OAR Docket #04-509]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 7. Rules of Professional Conduct
310:403-7-6. [AMENDED]
Subchapter 11. Application Procedures
310:403-11-7. [NEW]
310:403-11-8. [NEW]
310:403-11-9. [NEW]
310:403-11-10. [NEW]
310:403-11-11. [NEW]
Subchapter 13. Academic Requirements
310:403-13-2. [AMENDED]
Subchapter 31. Enforcement
310:403-31-4. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-509; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 405. LICENSED PROFESSIONAL COUNSELORS

[OAR Docket #04-510]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Rules of Professional Conduct
310:405-3-4. [AMENDED]
Subchapter 7. Application Procedures
310:405-7-8. [NEW]
Subchapter 31. Enforcement
310:405-31-4. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-510; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 530. FAMILY PLANNING CENTERS

[OAR Docket #04-511]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
310:530-1-1. [AMENDED]
310:530-1-2. [AMENDED]
310:530-1-4. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
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March 29, 2004

[OAR Docket #04-511; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 535. IMMUNIZATIONS

[OAR Docket #04-512]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Adult Immunizations
310:535-3-1. [AMENDED]
310:535-3-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
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SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-512; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 605. ADULT DAY CARE CENTERS

[OAR Docket #04-513]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 15. Physical facility
310:605-15-2. Buildings and grounds ~~(refer to ADA standards)~~ [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-513; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 641. EMERGENCY MEDICAL SERVICES

[OAR Docket #04-514]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Chapter 641. Emergency Medical Services [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-514; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 659. HEALTH MAINTENANCE ORGANIZATIONS

[OAR Docket #04-515]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions [NEW]
659:1-1. [NEW]
659:1-2. [NEW]
659:1-3. [NEW]
659:1-4. [NEW]
659:1-5. [NEW]
659:1-6. [NEW]
659:1-7. [NEW]
Subchapter 3. Examinations [NEW]
659:3-1. [NEW]
659:3-2. [NEW]
659:3-3. [NEW]
659:3-4. [NEW]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-515; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 663. CONTINUUM OF CARE AND ASSISTED LIVING

[OAR Docket #04-516]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 7. Physical plant design
310:663-7-1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004

SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-516; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 667. HOSPITAL STANDARDS

[OAR Docket #04-517]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:667-1-3. [AMENDED]
Subchapter 19. Medical Records Department
310:667-19-10. [AMENDED]
Subchapter 23. Diagnostic and Treatment Services
310:667-23-2. [AMENDED]
Subchapter 39. Critical Access Hospital
310:667-39-11. [AMENDED]
Subchapter 40. .Emergency Hospital
310:667-40-11. [AMENDED]
Subchapter 51. Rehabilitation Hospital and Rehabilitation Unit Construction Requirements
310:667-51-15. [AMENDED]
Subchapter 59. Classification of Hospital Emergency Services
310:667-59-3. [AMENDED]
310:667-59-9. [AMENDED]
Appendix D. Filter Efficiencies For Central Ventilation And Air Conditioning Systems In General Hospitals [REVOKED AND REENACTED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-517; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

[OAR Docket #04-518]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Licenses
310:675-3-1.1. [AMENDED]
310:675-3-4. [NEW]
310:675-3-4.1. [AMENDED]
310:675-3-5. [AMENDED]
310:675-3-5.1. [AMENDED]
310:675-3-8. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #04-518; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION

[OAR Docket #04-519]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:677-1-3. [AMENDED]
Subchapter 3. Nurse aide training and competency examination program
310:677-3-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-519; filed 3-29-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 680. RESIDENTIAL CARE HOMES

[OAR Docket #04-520]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. Construction Requirements and Physical Plant
310:680-5-1. [AMENDED]

SUBMITTED TO GOVERNOR:
March 29, 2004
SUBMITTED TO HOUSE:
March 29, 2004
SUBMITTED TO SENATE:
March 29, 2004

[OAR Docket #04-520; filed 3-29-04]

TITLE 380. DEPARTMENT OF LABOR
CHAPTER 30. PROTECTION OF LABOR

[OAR Docket #04-558]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
380:30-1-2. Definitions [AMENDED]
Subchapter 3. Wage Claim Procedures
380:30-3-6. Burdens of proof [AMENDED]
SUBMITTED TO GOVERNOR:
April1, 2004
SUBMITTED TO HOUSE:
April 1, 2004
SUBMITTED TO SENATE:
April 1, 2004

[OAR Docket #04-558; filed 4-5-04]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT
CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

[OAR Docket #04-545]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [AMENDED]
Subchapter 3. Affirmative Action and Equal Employment Opportunity [AMENDED]
Subchapter 7. Salary and Payroll [AMENDED]
Subchapter 9. Recruitment and Selection [AMENDED}
Subchapter 11. Employee Actions [AMENDED]
Subchapter 13. Reduction-in-Force [AMENDED]
Subchapter 15. Time and Leave [AMENDED]
Subchapter 17. Employee Performance Management System and Career Enhancement Programs [AMENDED]
Subchapter 21. Employee Assistance Programs [AMENDED]
Appendix B. Schedule of Annual and Sick Leave Accrual Rates and Accumulation Limits [REVOKED]
Appendix B. Schedule of Annual and Sick Leave Accumulation Limits and Yearly Accruals [NEW]
SUBMITTED TO GOVERNOR:
March 31, 2004
SUBMITTED TO HOUSE:
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March 31, 2004

[OAR Docket #04-545; filed 3-31-04]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT
CHAPTER 15. VOLUNTARY PAYROLL DEDUCTION RULES

[OAR Docket #04-544]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
530:15-1-1. [AMENDED]
530:15-1-2. [AMENDED]
Subchapter 3. Administrative Provisions
530:15-3-7.2. [NEW]
530:15-3-11. [NEW]
530:15-3-14. [NEW]
530:15-3-15. [RESERVED]
530:15-3-16. [NEW]
SUBMITTED TO GOVERNOR:
March 31, 2004
SUBMITTED TO HOUSE:
March 31, 2004
SUBMITTED TO SENATE:
March 31, 2004

[OAR Docket #04-544; filed 3-31-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 10. AD VALOREM

[OAR Docket #04-543]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Subchapter 8. Exemption for Certain Oil and Gas Property upon which Oklahoma Gross Production Tax is Paid [NEW]
710:10-8-1. General provisions [NEW]
710:10-8-2. Exempt properties [NEW]
SUBMITTED TO GOVERNOR:
March 31, 2004

SUBMITTED TO HOUSE:
March 31, 2004
SUBMITTED TO SENATE:
March 31, 2004

[OAR Docket #04-543; filed 3-31-04]

TITLE 715. TEACHERS' RETIREMENT SYSTEM
CHAPTER 10. GENERAL OPERATIONS

[OAR Docket #04-501]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Membership Provisions
715:10-1-4. [AMENDED]
Subchapter 7. Membership Vesting and Termination
715:10-7-1. [AMENDED]
715:10-7-3. [AMENDED]
715:10-7-4. [AMENDED]
Subchapter 11. Withdrawal from Membership and Refund of Deposits
715:10-11-1. [AMENDED]
Subchapter 15. Service Retirement
715:10-15-10.2. [NEW]
715:10-15-10.3. [NEW]
715:10-15-15. [AMENDED]
Subchapter 17. Post-Retirement Employment
715:10-17-6. [AMENDED]
715:10-17-13. [AMENDED]
Subchapter 23. State and Education Employees Group Health and Dental Insurance Program
715:10-23-1. [AMENDED]
715:10-23-2. [AMENDED]
715:10-23-3. [AMENDED]
SUBMITTED TO GOVERNOR:
March 25, 2004
SUBMITTED TO HOUSE:
March 25, 2004
SUBMITTED TO SENATE:
March 25, 2004

[OAR Docket #04-501; filed 3-29-04]

TITLE 730. DEPARTMENT OF TRANSPORTATION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-556]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. Department of Transportation
730:1-5-5. [NEW]
SUBMITTED TO GOVERNOR:
April 5, 2004
SUBMITTED TO HOUSE:
April 5, 2004
SUBMITTED TO SENATE:
April 5, 2004

[OAR Docket #04-556; filed 4-5-04]

TITLE 735. STATE TREASURER
CHAPTER 80. UNCLAIMED PROPERTY ADMINISTRATION

[OAR Docket #04-547]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 80. Unclaimed Property Administration [AMENDED]
SUBMITTED TO GOVERNOR:
April 1, 2004
SUBMITTED TO HOUSE:
April 1, 2004
SUBMITTED TO SENATE:
April 1, 2004

[OAR Docket #04-547; filed 4-1-04]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION
CHAPTER 1. GENERAL

[OAR Docket #04-608]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Operating Policies
780:1-3-2. [NEW]
780:1-3-3. [NEW]
Subchapter 13. Printing and Publications
780:1-13-1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2004
SUBMITTED TO HOUSE:
March 31, 2004
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March 31, 2004

[OAR Docket #04-608; filed 4-9-04]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 10. ADMINISTRATION AND SUPERVISION

[OAR Docket #04-609]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. State Technical Assistance, Supervision, and Services
780:10-3-2. [AMENDED]
780:10-3-3. [AMENDED]
780:10-3-8. [AMENDED]
780:10-3-10. [AMENDED]
780:10-3-12. [AMENDED]
Subchapter 5. Finance
780:10-5-4. [AMENDED]
Subchapter 7. Local Programs: Application; Student Accounting; Evaluation
780:10-7-1. [AMENDED]
780:10-7-3. [AMENDED]
Subchapter 9. Service Contracts and Equipment Guidelines
780:10-9-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2004
SUBMITTED TO HOUSE:
March 31, 2004
SUBMITTED TO SENATE:
March 31, 2004

[OAR Docket #04-609; filed 4-9-04]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. ~~AREA VOCATIONAL-TECHNICAL SCHOOLS~~ TECHNOLOGY CENTERS

[OAR Docket #04-610]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
780:15-1-1. [AMENDED]
Subchapter 3. ~~Area Vocational-Technical~~ Technology Center Education
780:15-3-1. [AMENDED]
780:15-3-2. [AMENDED]
780:15-3-3. [AMENDED]
780:15-3-4. [AMENDED]
780:15-3-5. [AMENDED]
780:15-3-6. [AMENDED]
780:15-3-7. [AMENDED]
780:15-3-8. [NEW]
SUBMITTED TO GOVERNOR:
March 31, 2004
SUBMITTED TO HOUSE:
March 31, 2004
SUBMITTED TO SENATE:
March 31, 2004

[OAR Docket #04-610; filed 4-9-04]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 20. PROGRAMS AND SERVICES

[OAR Docket #04-611]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Secondary, Full-time and Short-term Adult CareerTech Programs
780:20-3-1. [AMENDED]
780:20-3-2. [AMENDED]
780:20-3-3. [AMENDED]
780:20-3-4. [AMENDED]
780:20-3-5. [AMENDED]
Subchapter 5. Programs, Services, and Activities Funded through P.L. 105-332 Carl D. Perkins Vocational and Technical Education Act of 1998
780:20-5-1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2004
SUBMITTED TO HOUSE:
March 31, 2004
SUBMITTED TO SENATE:
March 31, 2004

[OAR Docket #04-611; filed 4-9-04]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 25. BUSINESS AND INDUSTRY SERVICES

[OAR Docket #04-612]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Adult Training and Development Programs [NEW]
780:25-3-1. [NEW]
Subchapter 5. Business and Industry Development
780:25-5-1. [AMENDED]
Subchapter 11. Business and Industry Services Programs

780:25-11-1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2004
SUBMITTED TO HOUSE:
March 31, 2004
SUBMITTED TO SENATE:
March 31, 2004

[OAR Docket #04-612; filed 4-9-04]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 30. SKILLS CENTERS

[OAR Docket #04-613]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 3. Skills Centers Programs
780:30-3-2. [AMENDED]
780:30-3-3. [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2004
SUBMITTED TO HOUSE:
March 31, 2004
SUBMITTED TO SENATE:
March 31, 2004

[OAR Docket #04-613; filed 4-9-04]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register.*

For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

TITLE 175. STATE BOARD OF COSMETOLOGY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-534]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Board Structure and Agency Administration
175:1-3-1. [AMENDED]
175:1-3-2. [AMENDED]
Subchapter 5. Rules of Practice
175:1-5-1. [AMENDED]
175:1-5-4. [AMENDED]
175:1-5-5. [AMENDED]
175:1-5-6. [AMENDED]
175:1-5-7. [AMENDED]
175:1-5-9. [AMENDED]
175:1-5-10. [AMENDED]
175:1-5-11. [AMENDED]
175:1-5-13. [AMENDED]
Subchapter 7. Board Records and Forms
175:1-7-2. [AMENDED]
175:1-7-3. [AMENDED]
GUBERNATORIAL APPROVAL:
March 25, 2004

[OAR Docket #04-534; filed 3-31-04]

TITLE 175. STATE BOARD OF COSMETOLOGY CHAPTER 10. LICENSURE OF COSMETOLOGISTS, SCHOOLS AND RELATED ESTABLISHMENTS

[OAR Docket #04-535]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Licensure of Cosmetology Schools
Part 1. Initial School Licensing
175:10-3-1. [AMENDED]
175:10-3-2. [AMENDED]
175:10-3-3. [AMENDED]
175:10-3-5. [AMENDED]
Part 3. Student Registration and Entrance Requirements
175:10-3-15. [REVOKED]
175:10-3-16. [AMENDED]
Part 5. Equipment and Curriculum Requirements
175:10-3-30. [AMENDED]
175:10-3-31. [AMENDED]
175:10-3-32. [REVOKED]
175:10-3-34. [AMENDED]
175:10-3-37. [AMENDED]
175:10-3-38. [AMENDED]
175:10-3-39. [AMENDED]
175:10-3-40. [AMENDED]
175:10-3-42. [AMENDED]
175:10-3-44. [AMENDED]
Part 7. General Operations and Licensing Requirements
175:10-3-51. [AMENDED]
175:10-3-52. [AMENDED]
175:10-3-53. [AMENDED]
175:10-3-55. [AMENDED]
175:10-3-60. [AMENDED]
175:10-3-61. [AMENDED]
175:10-3-62. [AMENDED]
175:10-3-63. [AMENDED]
175:10-3-64. [AMENDED]
175:10-3-67. [AMENDED]
175:10-3-69. [REVOKED]
175:10-3-70. [REVOKED]
175:10-3-71. [AMENDED]
175:10-3-72. [REVOKED]
175:10-3-73. [AMENDED]
175:10-3-75. [AMENDED]
175-10-3-77. [AMENDED]
175:10-3-78. [AMENDED]
Subchapter 5. Licensure of Cosmetology Establishments
175:10-5-1. [AMENDED]
175:10-5-2. [AMENDED]
175:10-5-4. [NEW]
Subchapter 7. Sanitation and Safety Standards for Cosmetology Establishments, Salons and Schools
175:10-7-1. [AMENDED]
175:10-7-3. [AMENDED]
175:10-7-4. [AMENDED]
175:10-7-5. [AMENDED]
175:10-7-6. [AMENDED]
175:10-7-7. [AMENDED]
175:10-7-9. [REVOKED]
175:10-7-10. [REVOKED]
175:10-7-11. [AMENDED]
175:10-7-12. [AMENDED]
175:10-7-13. [AMENDED]
175:10-7-14. [AMENDED]
175:10-7-15. [AMENDED]
175:10-7-17. [AMENDED]
175:10-7-18. [AMENDED]

175:10-7-19. [AMENDED]
175:10-7-20. [AMENDED]
175:10-7-21. [REVOKED]
175:10-7-24. [REVOKED]
175:10-7-25. [AMENDED]
Subchapter 9. Licensure of Cosmetologists and Related Occupations
Part 1. Apprenticeship
175:10-9-1. [AMENDED]
175:10-9-2. [AMENDED]
175:10-9-3. [AMENDED]
175:10-9-4. [AMENDED]
175:10-9-5. [AMENDED]
175:10-9-6. [REVOKED]
175:10-9-7. [AMENDED]
Part 3. State Board Examination
175:10-9-25. [AMENDED]
175:10-9-26. [AMENDED]
175:10-9-27. [REVOKED]
175:10-9-28. [AMENDED]
175:10-9-29. [AMENDED]
175:10-9-30. [AMENDED]
175:10-9-31. [AMENDED]
175:10-9-32. [AMENDED]
175:10-9-33. [AMENDED]
Part 5. Demonstrators; Cosmetic Studios; Trade Shows; Guest Artists; Wig Dressing
175:10-9-50. [AMENDED]
175:10-9-52. [AMENDED]
175:10-9-53. [AMENDED]
175:10-9-54. [AMENDED]
Subchapter 11. License Renewal, Fees and Penalties
175:10-11-1. [AMENDED]
175:10-11-2. [AMENDED]
Subchapter 13. Reciprocal and Crossover Licensing
175:10-13-2. [AMENDED]
Subchapter 15. Inspections, Violations and Enforcement
175:20-15-1. [AMENDED]
175:10-15-2. [AMENDED]
175:10-15-4. [REVOKED]
Subchapter 17. Emergency Cosmetology Service
175:10-17-1. [AMENDED]
175:10-17-2. [REVOKED]

GUBERNATORIAL APPROVAL:
March 25, 2004

[OAR Docket #04-535; filed 3-31-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 285. LODGING ESTABLISHMENTS

[OAR Docket #04-589]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 3. Facility Maintenance
310:285-3-14. [AMENDED]

GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-589; filed 4-8-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 546. FEE SCHEDULE FOR PUBLIC HEALTH LABORATORY SERVICE

[OAR Docket #04-590]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
310:546-1-2. [AMENDED]

GUBERNATORIAL APPROVAL:
April 1, 2004

[OAR Docket #04-590; filed 4-8-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 550. NEWBORN ~~METABOLIC DISORDER~~ SCREENING PROGRAM ~~REGULATIONS~~

[OAR Docket #04-591]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions
310:550-1-1. [AMENDED]
310:550-1-2. [AMENDED]
Subchapter 3. Testing of Newborns
310:550-3-1. [AMENDED]
Subchapter 5. Specimen Collection
310:550-5-1. [AMENDED]
310:550-5-2. [AMENDED]
Subchapter 7. Hospital Recording
310:550-7-1. [AMENDED]

Subchapter 9. Standard for Certified Laboratories [REVOKED]
310:550-9-1. [REVOKED]
Subchapter 11. Advisory Committee
310:550-11-1. [AMENDED]
Subchapter 13. Parent and Health Care Provider Education
310:550-13-1. [AMENDED]
Subchapter 15. Follow-up for Certified Laboratories [REVOKED]
310:550-15-1. [REVOKED]
Subchapter 17. Follow-up for Physicians
310:550-17-1. [AMENDED]
Subchapter 19. Reporting
310:550-19-1. [AMENDED]
Subchapter 21. Information
310:550-21-1. [AMENDED]
Subchapter 23. Procedures
310:550-23-1. [AMENDED]
Appendix A. Instructions for Filter Paper Sample Collections [REVOKED AND REENACTED]
Appendix B. Reports Forms [REVOKED AND REENACTED]
Appendix C. Refusal of the Newborn Screening Blood Test - Religious Tenets and Practices Refusal [NEW]

GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-591; filed 4-8-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 661. HOSPICE ~~REGULATIONS~~

[OAR Docket #04-592]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions
310:661-1-2. [AMENDED]
Subchapter 2. Licenses
310:661-2-1. [AMENDED]
310:661-2-4. [AMENDED]
310:661-2-6. [AMENDED]
310:661-2-7. [NEW]
Subchapter 5. Minimum Standards
310:661-5-4. [AMENDED]
Subchapter 6. Hospice Inpatient Service Requirements [NEW]
310:661-6-1. [NEW]
310:661-6-2. [NEW]
310:661-6-3. [NEW]
310:661-6-4. [NEW]
310:661-6-5. [NEW]
310:661-6-6. [NEW]
310:661-6-7. [NEW]
Subchapter 7. Infractions
310:661-7-1. [AMENDED]
310:661-7-2. [AMENDED]
Subchapter 8. Hospice Inpatient Facility Physical Plant [NEW]
310:661-8-1. [NEW]
310:661-8-2. [NEW]
310:661-8-3. [NEW]
310:661-8-4. [NEW]
310:661-8-5. [NEW]
310:661-8-6. [NEW]
310:661-8-7. [NEW]
310:661-8-8. [NEW]
310:661-8-9. [NEW]
310:661-8-10. [NEW]
310:661-8-11. [NEW]
310:661-8-12. [NEW]
310:661-8-13. [NEW]
310:661-8-14. [NEW]
Appendix A. Filter Efficiencies for Central Ventilation and Air Conditioning Systems in Hospices [NEW]

GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-592; filed 4-8-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

[OAR Docket #04-593]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 13. Staff Requirements
310:675-13-14. [NEW]

GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-593; filed 4-8-04]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-601]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 7. Procedures Pertaining to Individual Proceedings
465:1-7-2. [AMENDED]
465:1-7-3. [AMENDED]
GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-601; filed 4-9-04]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION CHAPTER 10. LICENSE

[OAR Docket #04-602]

RULEMAKING ACTION:
Gubernatorial approval
RULE:
Subchapter 3. License Identification and Changes
465:10-3-4. [AMENDED]
GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-602; filed 4-9-04]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION CHAPTER 15. ADVERTISING

[OAR Docket #04-603]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. General Provisions
465:15-1-2. [AMENDED]
Subchapter 3. Specific Advertising Regulations
465:15-3-2. [AMENDED]
465:15-3-14. [AMENDED]
GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-603; filed 4-9-04]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-561]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Organization of Board
550:1-3-2. [AMENDED]
550:1-3-4. [AMENDED]
Subchapter 5. Petition Procedures
550:1-5-4. [AMENDED]
Subchapter 7. Collections and Disbursements
550:1-7-1. [AMENDED]
550:1-7-4. [AMENDED]
550:1-7-5. [AMENDED]
GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-561; filed 4-6-04]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM

[OAR Docket #04-562]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
550:10-1-1. [AMENDED]
550:10-1-4. [REVOKED]
550:10-1-5. [NEW]
GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-562; filed 4-6-04]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 15. OKLAHOMA POLICE DEFERRED OPTION PLAN

[OAR Docket #04-563]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
550:15-1-1. [AMENDED]
550:15-1-2. [AMENDED]
550:15-1-3. [NEW]
GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-563; filed 4-6-04]

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-559]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 9. Regents Education Program [REVOKED]
610:1-9-1. Purpose [REVOKED]
610:1-9-2. Definitions [REVOKED]
610:1-9-3. Administration of program [REVOKED]
610:1-9-4. Participants in program [REVOKED]
610:1-9-5. Delivery of courses [REVOKED]
610:1-9-6. Program curriculum [REVOKED]
610:1-9-7. Class schedule [REVOKED]
610:1-9-8. Notification; certification [REVOKED]
610:1-9-9. Cost of program [REVOKED]
610:1-9-10. Contracting for assistance [REVOKED]
610:1-9-11. Effective date [REVOKED]
GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-559; filed 4-5-04]

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

[OAR Docket #04-560]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 23. Oklahoma Higher Learning Access Program (OHLAP)
610:25-23-2. Eligibility of participants [AMENDED]
610:25-23-3. Applications [AMENDED]
610:25-23-4. Program requirements [AMENDED]
610:25-23-5. Securing OHLAP benefits [AMENDED]
610:25-23-7. Payment of awards; policies and limitations [AMENDED]
Subchapter 31. Oklahoma Tuition Equalization Grant [NEW]
610:25-31-1. Purpose [NEW]
610:25-31-2. Definitions [NEW]
610:25-31-3. Eligibility Requirements [NEW]
610:25-31-4. Fiscal Policies [NEW]
Subchapter 33. Regional University Baccalaureate Scholarship Program [NEW]
610:25-33-1. Purpose [NEW]
610:25-33-2. Definitions [NEW]
610:25-33-3. General Provision [NEW]
610:25-33-4. Eligibility Requirements [NEW]
610:25-33-5. Criteria for Continued Eligibility [NEW]
610:25-33-6. Fiscal Policies [NEW]
GUBERNATORIAL APPROVAL:
March 30, 2004

[OAR Docket #04-560; filed 4-5-04]

TITLE 690. BOARD OF EXAMIERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-536]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Board Organization and Proceedings
690:1-3-9. [AMENDED]
690:1-3-10. [AMENDED]
GUBERNATORIAL APPROVAL:
March 17, 2004

[OAR Docket #04-536; filed 3-31-04]

TITLE 690. BOARD OF EXAMIERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 5. RULES OF PRACTICE

[OAR Docket #04-537]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 5. Individual Proceedings
690:5-5-1. [AMENDED]
GUBERNATORIAL APPROVAL:
March 17, 2004

[OAR Docket #04-537; filed 3-31-04]

TITLE 690. BOARD OF EXAMIERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 10. LICENSURE AND FEES

[OAR Docket #04-538]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 3. Licensure of Speech-language Pathology and Audiology
690:10-3-3. [AMENDED]
690:10-3-8. [AMENDED]
Subchapter 5. Licensure of Clinical Experience Interns
690:10-5-1. [AMENDED]
690:10-5-5. [AMENDED]
690:10-5-8. [AMENDED]
Subchapter 7. Authorization of Assistants
690:10-7-1. [AMENDED]
Subchapter 9. Fees
690:10-9-7. [AMENDED]
GUBERNATORIAL APPROVAL:
March 17, 2004

[OAR Docket #04-538; filed 3-31-04]

TITLE 690. BOARD OF EXAMIERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 15. PROFESSIONAL CODE OF ETHICS

[OAR Docket #04-539]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
690:15-1-3. [AMENDED]
690:15-1-4. [AMENDED]
GUBERNATORIAL APPROVAL:
March 17, 2004

[OAR Docket #04-539; filed 3-31-04]

Gubernatorial Disapprovals

Upon notification of disapproval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial disapproval for publication in the *Register.*

For additional information on gubernatorial disapprovals, see 75 O.S., Section 303.2

TITLE 690. BOARD OF EXAMIERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-540]

RULEMAKING ACTION:
Gubernatorial disapproval
RULES:
Subchapter 3. Board Organization and Proceedings
690:1-3-1. [AMENDED]
GUBERNATORIAL DISAPPROVAL:
March 17, 2004

[OAR Docket #04-540; filed 3-31-04]

TITLE 690. BOARD OF EXAMIERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 10. LICENSURE AND FEES

[OAR Docket #04-541]

RULEMAKING ACTION:
Gubernatorial disapproval
RULES:
Subchapter 9. Fees
690:10-9-2. [AMENDED]
GUBERNATORIAL DISAPPROVAL:
March 17, 2004

[OAR Docket #04-541; filed 3-31-04]

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to final adoption (approval by Governor/Legislature) by notifying the Governor and the Legislature and by publishing a notice in the *Register* of such a withdrawal.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. The withdrawal notice is not published in the *Register*, however, unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the EMERGENCY rules.

For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.

TITLE 690. BOARD OF EXAMIERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 10. LICENSURE AND FEES

[OAR Docket #04-542]

RULEMAKING ACTION:
Withdrawal of PERMANENT rulemaking

WITHDRAWN RULES:
Subchapter 3. Licensure of Speech-language Pathology and Audiology
690:10-3-4. [AMENDED]
690:10-3-5. [AMENDED]
690:10-3-6. [AMENDED]

DATES:

Adoption:
January 30, 2004

Submitted to Governor:
February 5, 2004

Submitted to House:
February 5, 2004

Submitted to Senate:
February 5, 2004

Gubernatorial approval:
March 17, 2004

Withdrawn:
Governor - March 16, 2004
Senate - March 16, 2004
House - March 16, 2004

[OAR Docket #04-542; filed 3-31-04]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] . . . . [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

[OAR Docket #04-588]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 13. Staff Requirements
310:675-13-14. [NEW]
AUTHORITY:
Oklahoma State Board of Health; 63 O.S. Sections 1-1901 et seq.
DATES:
Public Hearing:
February 12, 2004
Adoption:
February 12, 2004
Approved by Governor:
March 30, 2004
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2004, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
"n/a"
INCORPORATIONS BY REFERENCE:
Incorporated Standards:
42 Code of Federal Regulations, Section 483.430
Incorporated Rules:
310:675-13-14
Availability:
8:00 a.m. to 5:00 p.m., Monday through Friday at Long Term Care Survey Division, Room 1000, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299. Phone 405-271-6868
FINDING OF EMERGENCY:
The State Board of Health finds a compelling public interest to adopt these rules on an emergency basis in order that the agency's rules are consistent with the statutory timeframe defined in O.S. §63:1-1925.2(B)(5)(a): On and after January 1, 2004, a facility that has been determined by the State Department of Health to have been in compliance with the provisions of paragraph 3 of this subsection since the implementation date of this subsection, may implement flexible staff scheduling.
ANALYSIS:
The proposal creates a new section in Subchapter 13, Staff Requirements, titled, "Flexible staff-scheduling." The new section implements the flexible staff-scheduling provisions of 63:1-1925.2(B)(5) in House Bill 2218. This bill provided that effective Jan 1, 2004, qualifying facilities may implement flexible staff scheduling. The law stipulates that facilities may implement flexible staff scheduling if they have met the direct-care staff to resident ratios in 63:1-1925.2(B)(3). This section of law provided for increased direct-care staff to resident ratios beginning September 1, 2003 subject to the availability of funds. These funds were not provided. The proposed rule allows facilities to voluntarily meet the increased direct-care staff to resident ratios in 63:1-1925.2(B)(3) and thereby qualify for flexible staff-scheduling which was not subject to the availability of funds.

The propose rules specify the coordinated implementation of the flexible staff-scheduling program with the Oklahoma Health Care Authority. The rules provide that a request to participate in the program must be submitted to the Department in writing; the criteria, pursuant to the statute, the department will use in determining eligibility; the method for submitting monthly staffing reports to the Oklahoma Health Care Authority; the criteria, pursuant to the statute, the Department will use in determining re-establishment of eligibility; and, the notification requirements of the department in determinations of eligibility.

The proposed rules provide for shift-based, staff-to-resident ratios for non-compliant facilities consistent with incremental increases to the flexible staff-scheduling ratio.

The rule allows certain long term care facilities subject to the Nursing Home Care Act the ability to be flexible in staffing the facility to meet the needs of resident programs and needs while meeting certain minimum staffing requirements.
CONTACT PERSON:
James Joslin, Director, Long Term Care Survey Division, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-6868; electronic mail: james@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 13. STAFF REQUIREMENTS

310:675-13-14. Flexible staff-scheduling

(a) **Implementing flexible staff-scheduling.** Each facility seeking to implement the flexible staff-scheduling provisions of 63:1-1925.2(B)(5) shall request in writing a determination from the Department that the facility is in compliance with the staffing requirements of 63:1-1925.2(B)(3).

(b) **Requirements for eligibility.** Determination of flexible staff-scheduling privileges shall be based on compliance with the requirements at 63:1-1925.2(B)(6) and review of the staffing hours reported to the Oklahoma Health Care Authority. Reports shall be submitted to the Oklahoma Health Care Authority either though electronic mail or three and one-quarter inch diskette in an electronic format approved by that agency. The reviewed hours shall be for the previous

three (3) calendar months from the date the request for determination is received.

(c) **Determination of compliance.** A determination of compliance with the requirements at 63:1-1925.2(B)(6)(a)(2)-(4) will be based on staffing reports and surveys for the three (3) months preceding the date the request for determination is received by the Department. For intermediate care facilities for the mentally retarded loss of eligibility shall include findings of non-compliance with the Condition of Participation at 42 CFR 483.430, Facility Staffing.

(d) **Failure to meet the direct care service rate.** Facilities that have been granted flexible staff-scheduling privileges and receive a determination they have not met the direct care service rate shall lose their flexible staff-scheduling privileges until the facility re-establishes their eligibility under the requirements at 63:1-1925.2(B)(6)(b) and (c). *Facilities shall have the right to appeal and to the informal dispute resolution process with regard to penalties and sanctions imposed due to staffing noncompliance.* [63:1-1925.2(E)].

(e) **Loss of eligibility based on surveys or fraud.** Facilities seeking to re-establish flexible staff-scheduling privileges after a loss of eligibility under 63:1-1925.2(B)(7) shall be subject to the requirements at OAC 310:675-13-14(a), (b) and (c). For intermediate care facilities for the mentally retarded loss of eligibility shall include findings of non-compliance with the Condition of Participation at 42 CFR 483.430, Facility Staffing.

(f) **Minimum staff in flexible staffing.** A facility failing to meet the flexible staff-scheduling requirement at 63:1-1925.2(B)(5)(b) shall be ineligible for flexible staff-scheduling privileges until the facility re-establishes their eligibility under the requirements at 63:1-1925.2(B)(6)(b) and (c).

(g) **Notification requirements.** The Department shall notify the facility and Oklahoma Health Care Authority on all decisions of eligibility.

(h) **Re-establishing eligibility.** A facility seeking to re-establish eligibility shall submit a written request to the Department. A request to re-establish eligibility is subject to the requirements at OAC 310:675-13-14(b).

(i) **Shift-based ratios for noncompliant facilities.** This paragraph implements 63:1-1925.2(F)(4).

(1) When the provisions of 63:1-1925.2(F)(1) are in effect, pursuant to 63:1-1925.2(B)(7), the following minimum direct-care-staff-to-resident ratios for non-compliant facilities shall apply in addition to other state and federal requirements related to the staffing of nursing facilities:

(A) From 7:00 a.m. to 3:00 p.m., one direct-care staff to every five residents,

(B) From 3:00 p.m. to 11:00 p.m., one direct-care staff to every seven residents, and

(C) From 11:00 p.m. to 7:00 a.m., one direct-care staff to every thirteen residents.

(2) When the provisions of 63:1-1925.2(F)(2) are in effect, pursuant to 63:1-1925.2(B)(7), the following minimum direct-care-staff-to-resident ratios for non-compliant facilities shall apply in addition to other state and federal requirements related to the staffing of nursing facilities:

(A) From 7:00 a.m. to 3:00 p.m., one direct-care staff to every five residents,

(B) From 3:00 p.m. to 11:00 p.m., one direct-care staff to every six residents, and

(C) From 11:00 p.m. to 7:00 a.m., one direct-care staff to every eleven residents.

(3) When the provisions of 63:1-1925.2(F)(3) are in effect, pursuant to 63:1-1925.2(B)(7), the following minimum direct-care-staff-to-resident ratios for non-compliant facilities shall apply in addition to other state and federal requirements related to the staffing of nursing facilities:

(A) From 7:00 a.m. to 3:00 p.m., one direct-care staff to every four residents,

(B) From 3:00 p.m. to 11:00 p.m., one direct-care staff to every six residents, and

(C) From 11:00 p.m. to 7:00 a.m., one direct-care staff to every eleven residents.

[OAR Docket #04-588; filed 4-8-04]

Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register.*

Permanent rules are effective ten days after publication in the *Register*, or on a later date specified by the agency in the preamble of the permanent rule document.

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that references the *Register* publication of the permanent action.

For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-616]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 5. Formal and Informal Procedures
87:1-5-10. [AMENDED]
AUTHORITY:
Oklahoma State Employees Benefits Council; Employees Benefits Act, 74 O.S. §1361 et seq.
DATES:
Comment period:
Beginning December 15, 2003 and ending January 22, 2004.
Public hearing:
January 23, 2004
Adoption:
January 27, 2004
Submitted to Governor:
January 30, 2004
Submitted to House:
January 30, 2004
Submitted to Senate:
January 30, 2004
Gubernatorial approval:
March 10, 2004
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004.
Final adoption:
March 24, 2004
Effective:
May 13, 2004
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed changes to Chapter 1 institute changes in the rules to conform them to legislative changes. Senate Bill 636 enacted July 1, 2003, alters the procedure by which a participant in the Flexible Benefits Plan can petition the Council to consider a claim. Senate Bill 636 allows a participant to make such a claim only for the flexible spending account benefits plans. Currently, the Employees Benefits Council administers two types of flexible spending account benefits plans: the Health Care Reimbursement Account and the Dependent Care Reimbursement Account. The proposed revisions to Chapter 1 change the text to allow the rules to conform to the statutory changes. These changes will limit the types of claims submitted to the Council for review to only those dealing with claims for benefits under the flexible spending account benefits plans.
CONTACT PERSON:
Russell Nash, (405) 232-1190 ext. 103, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 5. FORMAL AND INFORMAL PROCEDURES

87:1-5-10. Claims Procedure

~~(a) The Council shall determine the rights of any participant or beneficiary under the Basic Plan or any other plan offered by the Council, except to the extent that a benefit plan provides to the contrary~~.

(a~~b~~) The Board has written rules in Title 360 of the Oklahoma Administrative Code which define the Board's benefits and grievance procedure;

(1) OAC 360:10-1, Employees Health, Life, and Dental Plans;

(2) OAC 360:15-1, The Disability Program; and

(3) OAC 360:1-5, Hearings Procedures.

(b~~c~~) Participants covered by the plans of the Board shall use the Board's grievance procedure.

(c~~d~~) The Council may contract with one or more health maintenance organizations, insurance companies, or other agencies to provide benefits to a participant. If a benefit plan provides for a specific grievance process, the procedure for that benefit plan shall be used.

(d~~e~~) The Council shall make the final determination as to whether provider plans are being administered consistently with the provisions of the Council's Basic Plan or as otherwise contracted. Upon its determination that any benefit provider is not satisfying the requirements of the Basic Plan or the terms of its contract, the Council may order corrective action as needed.

(e) The Council shall only have authority to determine the rights of any participant or beneficiary in a Health Care Reimbursement Account Option or a Dependent Care Reimbursement Account Option.

(f) ~~All providers of any benefits offered by the Council shall process claims promptly.~~ If any claim for benefits under a Health Care Reimbursement Account Option or a Dependent CareReimbursement Account Option ~~the Flexible Benefits Plan~~ is wholly or partially denied, the claimant shall be given notice in writing no later than forty-five (45) days after the claim is filed. The notice shall include the following information:

(1) The specific reason for the denial;

(2) Specific reference to the ~~Flexible Benefits Plan~~ provisions used as the basis for the denial;

(3) A description of any additional materials or information necessary for the claimant to perfect the claim and an explanation why such material or information is necessary;

(4) An explanation that a full and fair review of the decision denying the claim may be requested in writing within ninety (90) days and with whom such request shall be filed; and

(5) If such request is filed, the claimant or authorized representative may review pertinent documents and submit issues and comments in writing anytime during the ninety (90) days after notice of denial but before filing the request for hearing.

(g) The request for a review of ~~from~~ a denial of a claim for benefits under a Health Care Reimbursement Account Option or a Dependent Care Reimbursement Account Option ~~by a plan provider or for original review by the Council~~ shall be mailed or delivered to the Executive Director at the address given in subchapter 3 of this chapter.

~~(h) In the event a denial by a plan provide is appealed to the Council, the plan provider shall promptly forward all materials and information used in its review to the Council. A review of a denial by a plan provider with an internal grievance procedure shall be reviewed by the Council based on the record of the plan provider grievance procedure.~~

(h~~i~~) The Council may contract with a claims administrator to process participant claims against health care spending accounts and dependent care spending accounts. The Council and its claims administrator, if any, shall process claims according to subsection (f) of this section.

(i~~j~~) All hearings for review of the Council or its hearing examiner conducted under this section shall be conducted no later than sixty (60) days after the Council receives a request for a hearing. Upon notice of special circumstances by any party, the Council may postpone the hearing but the hearing must be conducted within 120 days of the request for hearing.

[OAR Docket #04-616; filed 4-9-04]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 10. FLEXIBLE BENEFITS PLAN

[OAR Docket #04-617]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 3. Flexible Benefits Plan Provisions
87:10-3-2. [AMENDED]
Subchapter 17. Benefit Plan Election
87:10-17-3. [AMENDED]
87:10-17-4. [AMENDED]
87:10-17-5. [NEW]
Subchapter 19. Benefit Allowance
87:10-19-1. [AMENDED]
AUTHORITY:
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Subchapter 3. Flexible Benefits Plan Provisions
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87:10-17-3 [AMENDED]
87:10-17-4 [AMENDED]
Subchapter 19. Benefit Allowance
87:10-19-1 [AMENDED]
Gubernatorial approval:
August 12, 2003
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20 Ok Reg 2847
Docket number:
03-3039
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed changes to Chapter 10 memorialize statutory changes instituted by the enactment of Senate Bill 194 signed into law on June 6, 2003. Senate Bill 194 allows certain persons who have retired from a branch of the United States military to decline participation in the Flexible Benefits Plan administered by EBC. The proposed changes to Chapter 10 also insert language requiring proof of legal representation for any individual who is signing a document on behalf of an employee. These changes will allow certain retired military retirees to opt out of the flexible benefits plans and require certain individuals to show certain types of proof when desiring to sign forms on behalf of an employee.
CONTACT PERSON:
Russell Nash, (405) 232-1190 ext. 103, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 3. FLEXIBLE BENEFITS PLAN PROVISIONS

87:10-3-2. Benefit plans offered as part of the Flexible Benefits Plan

(a) The basic plan shall be the minimum level of benefits an employee is required to purchase and shall include the basic medical plan, the basic dental plan, the basic life plan, and the basic disability plan as referenced in 74 O.S.Supp.1999, § 1371 unless an employee opts not to choose any benefits pursuant to 74 O.S.Supp.2003 § 1370(A). The Plan Administrator shall establish all the terms, conditions, and details necessary to communicate and administer these plans. The Board shall offer the basic medical plan of benefits as an indemnity plan. All benefits plans, whether offered by the Board, a health maintenance organization or others shall at least meet the minimum requirements of the basic plan. The Plan Administrator shall evaluate all benefit plans to determine if this requirement has been satisfied.

(b) Only those benefit plans officially offered by the Plan Administrator shall be considered a part of the Flexible Benefits Plan. In addition to the basic plan the Plan Administrator may elect to offer other optional benefit plans. The Plan Administrator shall evaluate and select optional plans for inclusion in the Flexible Benefits Plan.

(c) Each year the Plan Administrator shall contract with each insurance provider other than the Board. In lieu of a contract, the Plan Administrator shall deliver a letter of understanding each year to the Board outlining the basic plan to allow the Board to administer the Board's offered benefit plans adopted as part of the basic plan. The Board shall provide the Plan Administrator a complete description of any enhanced benefit plans the Board elects to offer. The Plan Administrator shall determine that these elected plans meet the minimum benefit levels of the basic plan. All insurance providers shall provide claims and other financial information as the Plan Administrator may require.

SUBCHAPTER 17. BENEFIT PLAN ELECTION

87:10-17-3. Employee election of benefit plans

(a) Choices of benefit plans shall be made by a new eligible employee within thirty (30) days after date of employment. This thirty (30) day period shall be known as the employee's enrollment period. Each new employee failing to make such a valid election will be deemed to have elected employee-only coverage under the basic State health plan, basic State dental plan, basic State life plan, and basic State disability plan.

(b) Choices of benefit plans shall be made on a Plan Year basis by the eligible employees during the enrollment period as set by the Plan Administrator. The Plan Administrator will establish eligibility requirements for all benefit plan options each year.

(c) Eligible employees are required to elect medical, dental, life and disability plans except as provided in the following paragraphs. Employees who fail to make a valid election during each designated enrollment period will be deemed to have elected the same plans elected during the most recent enrollment period during which a valid election was made. Where the plan(s) will no longer be available for the upcoming Plan Year, employees will be deemed to have elected HealthChoice High Option health plan and/or HealthChoice Dental.

(1) An eligible employee who has retired from a branch of the United States military and has been provided with health coverage through a federal plan can elect not to participate in the Flexible Benefits Plan only if the following conditions are met prior to the close of each annual enrollment period beginning with the enrollment period for Plan Year 2004:

(A) The employee must provide proof that he or she is retired from a branch of the United States military; and

(B) The employee must provide proof of health coverage through a federal plan; and

(C) The employee must make a proper election not to participate in the Flexible Benefits Plan.

(2) The Council has the authority to determine the type of information that satisfies the requirements of this subsection.

(3) An eligible employee making an election not to participate under paragraph (1) of this subsection must make such an election each Plan Year.

(A) An employee who is eligible to make an election not to participate under paragraph (1) of this subsection and has never previously made an election not to participate under paragraph (1) of this subsection, may, during the enrollment period, enroll in the Flexible Benefits Plan or may make an election not to participate under paragraph (1) of this subsection. If the employee who is eligible to, but has never previously made an election not to participate under paragraph (1) of this subsection, fails to enroll in the Flexible Benefits Plan and fails to make an election not to participate under paragraph (1) of this subsection, the employee will be deemed to have elected coverage that was in effect during the previous Plan Year. Where the plan(s) will no longer be available for the upcoming Plan Year, employees will be deemed to have elected HealthChoice High Option health plan and/or HealthChoice Dental.

(B) An employee who is eligible to make an election not to participate under paragraph (1) of this subsection and has previously made an election not to participate under paragraph (1) of this subsection, may, during the enrollment period, enroll in the Flexible Benefits Plan, or may make an election not to participate under paragraph (1) of this subsection. If an employee who has previously made an election not to participate under paragraph (1) of this subsection fails to enroll in the Flexible Benefits Plan and fails to make an election not to participate under paragraph (1) of this subsection during the annual enrollment period, the employee will be deemed to have elected employee-only coverage under the HealthChoice High Option health plan, the HealthChoice dental plan, the basic State life plan, and the basic State disability plan.

(4) Except as provided by the applicable provisions of OAC 87:10-17-4, an eligible employee making an election not to participate under paragraph (1) of this subsection is prohibited from participating in any health plan, dental plan, life plan, supplemental life plan, dependent life plan, and disability plan at any time during the Plan Year for which he or she made the election. Upon re-entry into the state benefits package either through an acceptable midyear event or at the annual Option Period enrollment, benefit options which were declined through the opt-out election by retired military state employees will not automatically be reinstated. The retired military employee must reapply for and be approved through satisfactory evidence of coverage (EOI) before any amounts of Supplemental Life Insurance will again be issued. Only the Basic Life amount (20,000) will be automatically reinstated upon such re-entry. No Guaranteed Issue levels of Supplemental Life will be available. Furthermore, if no proof is submitted showing previous dental coverage, then the $250 limit of benefits for HealthChoice Dental will be applied for the first year following reenrollment.

(5) Except as provided by the applicable provisions of OAC 87:10-17-4, an eligible employee making an election not to participate under paragraph (1) of this subsection is prohibited from electing coverage for his or her dependents under any health plan, dental plan, life plan, supplemental life plan, dependent life plan, and disability plan prior to or at any time during the Plan Year for which he or she made the election.

(6) An eligible employee making an election not to participate under paragraph (1) of this section may continue participation in any of the following:

(A) Benefit plans available under the Flexible Benefit Plan other than a health plan, dental plan, life plan, supplemental life plan, dependent life plan, and a disability plan;

(B) Health Care Reimbursement Account Option;

(C) Dependent Care Reimbursement Account Option; and the

(D) Insurance Premium Conversion Option.

(d) Each employee who meets the eligibility requirements but fails to make a proper election under the Flexible Benefits Plan shall be deemed a participant in the Flexible Benefits Plan.

(e) Coverage shall be effective for a new participant beginning on the first day of the month following the participant's first day in an active pay status.

(f) Primary participants electing coverage for eligible dependents cannot enroll the dependents in a benefit plan or a coverage that differs from the benefit plan or coverage chosen by the primary participant.

(g) An affirmative election of a vision plan is required for each Plan Year.

87:10-17-4. Changes to benefit elections

(a) A participant may change an election only in accordance with the provisions of this Plan. This Section does not remove the requirement that every employee must enroll in at least the basic plan of coverage except for those employees declining participation pursuant to 87:10-17-3(c)(1).

(b) All requests for changes submitted to the Plan Administrator must be in a format as determined by the Plan Administrator.

(c) Provided that all other eligibility requirements are met, and written or electronic notice is provided to the Plan Administrator within thirty (30) days of a qualifying event, including receipt of a Qualified Medical Child Support Order, the effective date of such change of benefits coverage will be the first of the month following receipt of acceptable notice as determined by the Plan Administrator as long as the correct premium is paid. All enrollments and elections are for the entire Plan Year and are irrevocable during same Plan Year unless a change is requested based on one of the following permitted exceptions to the irrevocability rule. A change must comply with the IRS consistency rule as found in Treasury Regulations 1.125-4 as may be amended. Only the permitted exceptions provided for in this chapter shall be allowed as changes to benefits elections unless those changes are prohibited under the Premium Conversion Option, the Dependent Care Reimbursement Account Option or the Health Care Reimbursement Account Option as provided for in subchapters 23, 25, and 27 respectively. All changes shall become effective on a prospective basis and not earlier than the first day of the month following receipt of acceptable notice of the requested change which must be on account of and corresponding with the event. Permitted exceptions to the irrevocability rule as allowed within Plan guidelines are as follows:

(1) HIPAA Special Enrollment Rights (marriage, birth, adoption or placement for adoption, loss of other coverage including exhaustion of COBRA coverage)

(2) Change in Employee's Legal Marital Status

(3) Change in the Number of Employee's Dependents

(4) Change in Employment Status of Employee, Spouse or Dependent that affects eligibility

(5) Event Causing Employee's Dependent to satisfy or cease to satisfy Eligibility Requirements

(6) Change in Place of Residence of Employee, Spouse or Dependent

(7) Commencement or Termination of Adoption Proceedings

(8) Judgments, Decrees or Orders (changes allowed only to Health, Health Care Reimbursement Account and Dental)

(9) Medicare or Medicaid (changes allowed only to Health and Health Care Reimbursement Account)

(10) Significant Change in Cost or a Change in Coverage (changes allowed only to Dependent Care Reimbursement Account)

(11) Changes in Coverage of Spouse or Dependent under Other Employer's Plan

(12) FMLA Leave

(13) Such other events, which may permit such modification or election under the IRS consistency rule as found in Treasury Regulations 1.125-4 and in accordance with other applicable and prevailing Internal Revenue Code

regulations promulgated thereunder, and in accordance with this chapter.

(d) The following are the only permitted exceptions that may become effective on a retroactive basis beginning the first day of the event month. Such events require receipt of acceptable notice by the Plan Administrator or its designee within thirty (30) days of the event:

(1) Newborn children who may be covered from the first of the birth month provided the proper documentation is submitted within thirty (30) days of the birth event and provided that the full monthly premium is paid.

(2) Adopted eligible dependent children, those placed for adoption, and eligible children for whom guardianship has been newly granted to the insured or to the insured's spouse and for whom coverage may begin from the first day of physical custody even though a full month's premium must be paid; or at the insured's option may be covered beginning the first of the month following placement.

(e) Termination of coverage for a spouse and/or dependents who have ceased to satisfy eligibility as a result of divorce, death or attaining a specified age shall become effective on the first of the month following the date of the event.

(f) The Plan Administrator reserves the right to make any corrections necessary if an error was made regarding the effective date.

87:10-17-5. Authorized member signature

A signature other than that of the employee will not be accepted on any enrollment form or application unless the individual signing presents a power of attorney, papers of guardianship, conservatorship, or a legal court order.

SUBCHAPTER 19. BENEFIT ALLOWANCE

87:10-19-1. Flexible benefit allowance

(a) Each participating employer shall credit to each of its participating employees the specified amount as determined by law, as a flexible benefits allowance. Each participant must use a portion or all of their flexible benefit allowance to purchase at least the basic plan.

(b) An eligible employee making an election not to participate under OAC 87:10-17-3(c)(1) will not be eligible for or credited with any amount of the employee or dependent flexible benefit allowance.

[OAR Docket #04-617; filed 4-9-04]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 15. COMPETITIVE BIDDING CRITERIA AND PROCEDURES FOR CONTRACTS AWARDED FOR FLEXIBLE BENEFITS PLANS

[OAR Docket #04-618]

RULEMAKING ACTION:
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RULES:
87:15-1-2. [AMENDED]
87:15-1-4. [AMENDED]
87:15-1-14. [NEW]
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Oklahoma State Employees Benefits Council; Employees Benefits Act, 74 O.S. §1361 et seq.
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ANALYSIS:
The proposed changes to Chapter 15 institute procedures that provide guidance to any Vision Plan vendor who wishes to participate in the Flexible Benefits Plan administered by the Employees Benefits Council. The proposed changes also clarify the point at which a vendor is qualified to be added to the Bidder's List for Flexible Benefits Plans. Theses changes memorialize a practice of Vision plan participation notification and bidder registration.
CONTACT PERSON:
Russell Nash, (405) 232-1190 ext. 103, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

87:15-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Audit Clause" means in accepting any contract with the Oklahoma State Employees Benefits Council, the Bidder must

agree to an audit clause which provides that books, records, documents, accounting procedures, practices or any other items of the service provider relevant to the contract are subject to examination by the Council, State Auditor and Inspector, or other designated entities.

"Award" or "Contract award" means when the Council votes to approve the acceptance of a proposal from a qualified Bidder meeting all requirements of the procurement as determined by the Council.

"Bidder" means any entity submitting a competitive proposal in response to a solicitation for flexible benefit plans issued under this Chapter.

"Bidder's List" means the list maintained by the Contracts Administrator setting out the names and addresses of qualified suppliers of flexible benefit plans from whom proposals can be solicited.

"Business Day" means any day except Saturday, Sunday, or a legal holiday for State employees as proclaimed by the Governor.

"Competitive Negotiation" means the method by which the Council may contract with qualified Bidders for flexible benefits plans through best and final offer (BFO) process.

"Confidential Information" means information clearly designated in the RFP as being proprietary information and which shall be retained as confidential. All information included in or with a Bidder's proposal lacking such a designation shall be subject to the Oklahoma Open Records Act (51 O.S.2001, § 24(A)(1) et seq.).

"Contract" means when a Bidder submits a proposal, the proposal is submitted as a legal offer and any proposal, when accepted by the Council constitutes a contract (See Award).

"Contracts Administrator" means the Contracts Administrator employed by the Council.

"Council" means the Oklahoma State Employees Benefits Council.

"EEOC" means Equal Employment Opportunity Commission.

"Executive Director" means the Executive Director employed by the Council.

"Formal Proposal" means a proposal which must be submitted in a sealed envelope or container and in conformance with a prescribed format, to be opened at a specified time and specified place. (See also, Proposal.)

"HEDIS" means Health Plan Employer Data and Information Set.

"Ineligible Bidder" means a prospective service provider who, by reason of financial instability, unsatisfactory performance as documented by the Council or other deficiency, does not meet the qualifications for placement on the bidder list.

"Late Bid" or **"Late Proposal"** means a bid or proposal received at the place specified in the RFP after the date and time designated for all proposals to be received.

"Proposal" means the executed document submitted by a Bidder in response to a Request for Proposal (RFP) issued by the Council.

"Readiness Reviews" means the process by which the contracting authority makes scheduled on-site visits to the service provider for purposes of testing the readiness of the provider.

"Request for Proposal" or **"RFP"** means the solicitation document used for competitive sealed bidding.

"State" means the State of Oklahoma, acting by and through the Council or its/their designee.

"Vision Plan" means a company, organization, group, or person who owns, operates, and provides a health care benefit plan designed for the care of the eye or the correction or enhancement of one's eyesight.

87:15-1-4. Bidder registration

(a) Any Bidder which seeks to contract to provide flexible benefit plans to the Council must be on the Bidder's list prior to the public release of an RFP solicitation. A Bidder desiring to be on the Bidder List must register with the Contracts Administrator to receive copies of RFP solicitations. Only those Bidders qualified under Oklahoma law to perform the services requested by the Council and who meet the Bidder registration requirements contained herein will be added to the Bidder's List.

(b) A Bidder has the burden of demonstrating that it has the capability to responsibly do business with the State of Oklahoma. In the interest of providing the highest level of quality to statewide active State employees and their eligible dependents for flexible benefit choices, Bidders seeking Bidder registration with the Council to provide flexible benefit choices in response to a benefit choice RFP solicitation must provide:

(1) Proof that the benefit provider has been operational (licensed where applicable) and enrolling members within the State of Oklahoma for a period of not less than eighteen (18) months prior to the date proposals are due.

(2) Audited financial statements for the most recent two (2) full years, and

(3) Disclosure of all State and Federal regulatory actions taken against the Bidder in the preceding eighteen (18) months. The Council can make exception to any of the aforementioned requirements in this subparagraph at its discretion when the Council determines doing so is in the best interest of the State and members.

(c) Bidders wishing to be added to the Bidder List must request in writing to receive a Bidder registration packet. Written requests must be addressed to: Oklahoma State Employees Benefits Council, Park Harvey Center, 200 North Harvey, Suite 1200, Oklahoma City, Oklahoma 73102-4003, Attention Contracts Administrator. Bidders shall be provided a packet with registration information and submission forms. All Bidders must renew registrations annually on a plan year basis.

(d) The Bidder shall complete the information requested in the Bidder registration packet and return the forms to the Contracts Administrator. The Bidder registration forms must be received by the Contracts Administrator not less than seven (7) business days before the issuance of the RFP. Upon receipt, Council shall review the Bidder registration forms for completeness and qualification and determine prior to the public release of an RFP solicitation whether or not the Bidder shall be added to the Bidder's List. The Council shall return the Bidder registration forms in the event the forms have not been

properly completed, and shall deny the registration where the form is incomplete and/or the applicant Bidder is not qualified to perform the flexible benefits plan requested in the RFP. Entities not registered as a bidder may receive copies of RFPs pursuant to the Open Records Act.

(e) The Oklahoma State and Education Employees Group Insurance Board is exempt from the Bidder registration requirement herein.

87:15-1-14. Vision Plan Participation

(a) A Vision Plan must notify the Council of its intention to participate in the flexible benefits plan no later than 4:45 p.m., Central Standard Time on the first day of July prior to the beginning of each Plan Year. Such notification must conform to the requirements this section. If the first day of July is a weekend day or other day when the offices of the Council are closed, notification of Vision Plan participation is due by 4:45 p.m., Central Time, on the next day the Council's offices are open.

(b) Notice of a vision plan's intent to participate in the flexible benefits plan is properly provided upon submission of all of the following:

(1) A statement from the Vision Plan indicating Vision Plan's intent to participate;

(2) A list of the providers in Vision Plan's network;

(3) A document(s) indicating Vision Plan has operated in Oklahoma for at least five (5) years;

(4) Either a license issued by the Oklahoma State Insurance Department, or a certificate issued by the Oklahoma State Department of Health;

(5) A list of the rates the Vision Plan will charge during the subsequent Plan Year. Rates must be listed independently for the following categories:

(A) Employee Only,

(B) Spouse Only,

(C) One Child, and

(D) Two or More Children;

(6) Accurate product information in a format not to exceed two pages.

(c) The Council may create forms to standardize and simply the information required by 74 O.S. § 1374 and subsection (b) of this section. If a form(s) have been created, a Vision Plan must complete the form(s) to provide proper notification.

(d) The Council may require a Vision Plan to submit information in addition to that required in subsection (b) of this section from time to time if the Council deems such information is essential to ensure statutory compliance.

(e) Information a Vision Plan submits to the Council pursuant to 74 O.S. § 1374 shall be retained as confidential if such information is clearly designated as confidential when submitted.

(f) Vision Plans not eligible to be offered on a pretax basis as a part of an Internal Revenue Code Section 125 Cafeteria Plan must indicate so when the Vision Plan notifies the Council of its desire to participate in the Flexible Benefits Plan.

(g) Vision Plans which submit notification of intent to participate in the flexible benefits plan that conform to subsection (a) of this Section and the requirements of 74 O.S. § 1374 are obligated to:

(1) Enroll employees and eligible dependents in their benefit plan, and

(2) Offer their benefit plan during the entire subsequent plan year period as that period is defined by the Council.

(h) The Council may remove a Vision Plan from the Flexible Benefits Plan at any time if it fails to comply or remain in compliance with 74 O.S. § 1374.

[OAR Docket #04-618; filed 4-9-04]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 85. EMERGENCY SHELTER GRANT PROGRAM

[OAR Docket #04-521]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
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150:85-1-7. [AMENDED]
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150:85-1-9. [AMENDED]
150:85-1-10. [AMENDED]
150:85-1-12. [AMENDED]

AUTHORITY:
The authority for this program is authorized by Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), approved July 1, 1987 and the subsequent designation by the Governor or his designee and the legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq.

DATES:
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N/A

ANALYSIS:
The amendments provide clarification to potential applicants of the Emergency Shelter Block Grant Program.

CONTACT PERSON:
Donald R. Hackler, Jr. (405) 815-5359

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

150:85-1-6. Eligible

(a) Eligible applicants for the Emergency Shelter Grant Program are Units of General Local Government of the State or Community Action Agencies. ~~Other non-profit organizations or shelter~~Shelter operators must seek sponsorship from either a Unit of General Local Government or the Community Action Agencies operating in that jurisdiction, in order to submit an application. ~~Units of General Local Government or Community Action Agencies may distribute all or part of their grant amounts to nonprofit recipients to be used for Emergency Shelter Grant activities or carry out such activities themselves.~~ Units of General Local Government or Community Action Agencies may retain prevention or administrative funds to carry out these activities. All funds not used by the Unit of General Local Government or Community Action Agency for prevention or administrative activities must be used by the shelter. Emergency Shelters that are owned and/or operated by a unit of local government or a Community Action Agency must submit their request for funding through their owner.

(b) Oklahoma Department of Commerce funds only those Emergency Shelter Grant applicants located in and serving non-formula areas.

(c) Distribution of funding to Community Action Agencies is permitted only when the Unit of General Local Government, in which the assisted project is to be located, certifies that it approves the proposed project. If the Community Action Agency intends to provide homeless assistance in a number of jurisdictions, a certification of approval must be submitted by each of the Units of General Local Government in which the project(s) are to be located.

150:85-1-7. Eligible activities

Emergency Shelter Grant amounts may be used for one or more of the following activities relating to emergency shelter for the homeless, including transitional housing~~, activities for the homeless~~. The Emergency Shelter Grant Program Guidance and Application issued each fiscal year shall set forth the specific activity guidelines.

(1) Renovation, major rehabilitation or conversion of buildings for use as emergency shelters, including transitional housing, for the homeless.

(2) Payment of operation, rent, food for feeding the homeless, security, fuels, insurance, and utilities.

(3) Payment of equipment and furnishings, including but not limited to beds or cots; blankets, towels and like items; and office equipment.

(4) Provision of essential services including, but not limited to: services concerned with employment, medical and mental health treatment, substance abuse, education, or nutrition, and assistance in obtaining permanent housing.

(5) ~~Developing~~ Development and ~~implementing~~ implementation of homeless prevention activities.

(6) The provision of transitional housing, in coordination with the necessary supportive services.

(7) Costs of administration to Units of General Local Government and Community Action Agencies.

150:85-1-8. Threshold and selection criteria

For the purpose of selecting Emergency Shelter Grant project proposals eligible for funding, the Oklahoma Department of Commerce will subject all ~~project proposals to specific minimum threshold requirements~~ applications to specific application requirements and selection factors. Both the ~~threshold~~ application requirements and selection factors shall be set out annually in the Program Guidance and Application prepared by the Oklahoma Department of Commerce.

150:85-1-9. ~~Grantee~~ Unit of General Local Government or Community Action Agency Responsibilities

(a) The ~~grantee~~ Unit of General Local Government or Community Action Agency of an Emergency Shelter Grant shall be responsible for the following:

(1) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall be responsible for taking all action necessary to enforce the terms of the grant agreement against any private or public participant that fails to comply with applicable provisions of the grant agreement or any contract or documents resulting from it, and to recover on behalf of the State any liabilities that may arise as the result of the breach of the grant agreement by any participant. Nothing in this subsection shall restrict the State's rights to enforce independently the terms of any grant agreement or any contracts or documents resulting from it or to recover any sums that may become due as the result of a breach of such contract.

(2) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with Treasury Circular 1075 and the Oklahoma Department of Commerce requirements regarding cash management of federal funds as set out in the Department's Emergency Shelter Grant Contractors Policy and a Procedure Manual.

(3) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with 24 CPR Part 85, Uniform Administrative Requirements for Grants and cooperative Agreements to State and Local Governments, OMB Circular A-87, Cost Principles for State and Local Governments, and OMB A-122 Cost Principles for Non-Profit Organizations, OMB A-I02 Grants and Cooperative Agreements with State and Local Governments except as directed otherwise by the Oklahoma Department of Commerce, as they relate to the application, acceptance and use of federal funds, and with the Oklahoma Department of Commerce requirements pursuant thereto.

(4) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall maintain records and accounts, including, but not limited to, property, personnel

and financial records, that properly document and account for all project funds. The Department may require specific types and forms of records. All such records and accounts shall be made available upon demand by the Department for purposes of inspection and use in carrying out its responsibilities for administration of the funds.

(5) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall furnish the Department with narrative and financial reports related to the elements of a contract in the forms and at such times as may be required by the Department.

(6) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall retain all books, documents, papers, records, and other materials involving all activities and transactions related to its contract for at least three (3) years from the date of submission of the final expenditure report or until any audit findings have been resolved, whichever is later. The Grantee shall, as often as deemed necessary by the Department, permit authorized representatives of the Department, the U.S. Department of Housing and Urban Development and the Comptroller General to have full access to and the right to fully examine all such materials.

(7) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall promptly return to the Department any funds received under its contract that are not obligated as of the final date of the period funded. Funds shall be considered obligated only if goods and services have been received as of the final date of the period funded.

(8) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with the Department's audit policy including the single Audit Act of 1984 (P.L. 98-502,31 U.S.C., 7501 et seq.), as applicable to governmental grantees.

(9) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall provide the Department timely copies of reports on any audits that include funds received from the Department.

(A) Audits shall be performed by a certified public accountant or firm or by a public accountant or public accounting firm licensed no later than December 31, 1970

(B) The audit shall be performed in accordance with Government Auditing Standards; Compliance Supplement for Single Audits or State and Local Governments; generally accepted auditing standards established by the American Institute of Certified Public Accounts; and the Department's requirements.

(10) ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C., 2000d et seq.), prohibiting discrimination on the basis of race, color or national origin under any program receiving federal funds.

(11) ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with Title VIll of the Civil Rights Act of 1968 (P.L. 90-284, 42 U.S.C., 3601 et seq.) regarding fair housing.

(12) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with Executive Order 11063 (1962) as amended by Executive Order 12259 regarding equal opportunity in housing.

(13) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with Section 109 of the Housing and Community Development Act of 1974, prohibiting discrimination on the basis of race, color, national origin or sex in connection with funds made available pursuant to the Act.

(14) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with Section 109 of the Housing and Community Development Act of 1974 prohibiting discrimination on the basis of age and handicap as provided in the Age Discrimination Act of 1975 (42 U.S.C., 6101 et seq.); and, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C., 794).

(15) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C., 1701u) regarding opportunities for training and employment for low-income persons in project areas and awarding of contracts for program work to businesses in or owned in substantial part by residents of project areas.

(16) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with Executive Order 11246 (1965) prohibiting discrimination on the basis of race, color, religion, sex or national origin and requiring affirmative action in connection with federally assisted construction contracts.

(17) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with the Copeland Act (18 U.S.C., 40 U.S.C., 176c) regarding prohibitions against kickbacks.

(18) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with the Contract Work House and Safety Standards Act (40 U.S.C., 327 et seq.) regarding overtime compensation.

(19) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with the National Environmental Policy Act of 1969 (P.L. 91- 190, 42 U.S.C., 4231 et seq.) and accepts jurisdiction of the state and federal courts for the purpose of enforcement responsibilities as such an official.

(20) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646).

(21) The ~~Grantee~~ Unit of General Local Government or Community Action Agency shall comply with Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C., 4831 et seq.) regarding the prohibition against the use of lead-based paint in residences receiving federal assistance.

(b) Additional ~~grantee~~ Unit of General Local Government or Community Action Agency requirements may be set forth

in the annual Emergency Shelter Grant Program Guidance and Application

150:85-1-10. Partial funding

The State reserves the right within its discretionary authority to adjust Emergency Shelter Grant funding request amounts to ~~amounts~~ less than original application funding request ~~amounts~~ based on the most efficient and equitable utilization of the State's allocated funds and practicability.

150:85-1-12. Program violations

Under any of the following circumstances, the State shall consider a violation of Emergency Shelter Grant Program policies and procedures to have occurred:

(1) Notice by the Oklahoma Department of Commerce that violations have resulted in substantial non-compliance or non-conformance with regard to unmet benefit to low and moderate income persons as set out in the project application and/or other failures to meet National Program objectives; or,

(2) Notice by the Oklahoma Department of Commerce that there has been the provision of false information in proposed project applications and/or project reports; or,

(3) Notice by the Oklahoma Department of Commerce that requirements of federal statute, federal regulations or the rules of the Department have not been met or have been violated; or,

(4) Notice by the Oklahoma Department of Commerce that there is a significant deviation from the grant agreement; or,

(5) Notice by the Oklahoma Department of Commerce ~~that~~ finding that significant corrective actions are necessary to protect the integrity of the project funds, and those corrective actions are not or cannot be effected, in the judgment of Department staff within a reasonable time; or,

(6) Notice by the Oklahoma Department of Commerce that there has been a finding of fraud; waste or mismanagement of any current or prior State or federally funded project; or,

(7) Notice by the Oklahoma Department of Commerce that one or more of the project activities have not begun within six (6) months after a grant award unless significant justification for the delay exists is fully documented in a timely manner, and in such a form and terms as requested by the Department.

[OAR Docket #04-521; filed 3-30-04]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 90. COMMUNITY SERVICES BLOCK GRANT PROGRAM

[OAR Docket #04-522]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
150:90-1-7. [AMENDED]
150:90-1-9. [AMENDED]

AUTHORITY:
The authority is given to the Oklahoma Department of Commerce pursuant to 74 O.S. Sections 5003.6, 5017, 5017.1, 5035, 5036, 5037, 5038, 5039, and 5040.

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INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The amendments provide clarification to applicants to the Community Services Block Grant Program.

CONTACT PERSON:
Donald R. Hackler, Jr. (405) 815-5359

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

150:90-1-7. Application process

(a) For purposes of selecting contractors, the Department will submit a request for qualification statement to eligible entities. The request for qualifications will identify minimum qualification requirements and other selection factors that will be used to review and evaluate potential contractors.

(b) The Department will forward request for qualifications forms and guidelines to eligible entities by direct mailing upon notice of availability of funds from ~~DHHS~~ the U. S. Department of Health and Human Services. The guidelines will include all criteria, specific data requirements, and other pertinent instructions for the applicant to prepare a complete application for financial assistance.

(c) The Department shall establish annually a deadline for application for financial assistance under this part.

150:90-1-9. Grantee responsibilities

(a) Grantee shall be responsible for taking actions necessary to enforce the terms and conditions of funding agreement against any private or public participant that fails to comply

with the provisions of the funding agreement or any contract or document resulting from it, and to recover on behalf of the Department any liabilities that may arise from a breach of the funding agreement.

(b) Grantee shall comply with all laws, rules, and guidelines, federal and state, and general program guidance provided in the Contractors Implementation Manual which is hereby incorporated.

(c) Grantee shall develop procedures for processing complaints from citizens who feel ~~that~~ they have been denied participation in program services or activities described in the grantees work plan. Citizens who feel their complaint cannot be resolved through contractor's procedures may appeal the contractor's determination to the Department. Appeals to the Department shall be in accordance with General Rules of Practice and Procedures for the Department.

[OAR Docket #04-522; filed 3-30-04]

TITLE 175. STATE BOARD OF COSMETOLOGY
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-614]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Board Structure and Agency Administration
175:1-3-1. [AMENDED]
175:1-3-2. [AMENDED]
Subchapter 5. Rules of Practice
175:1-5-1. [AMENDED]
175:1-5-4. [AMENDED]
175:1-5-5. [AMENDED]
175:1-5-6. [AMENDED]
175:1-5-7. [AMENDED]
175:1-5-9. [AMENDED]
175:1-5-10. [AMENDED]
175:1-5-11. [AMENDED]
175:1-5-13 [AMENDED]
Subchapter 7. Board Records and Forms
175:1-7-2. [AMENDED]
175:1-7-3. [AMENDED]
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n/a
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n/a
ANALYSIS:
The adopted rules are appropriate and necessary to further the purposes of the Cosmetology Act. The amendments provide for general clean-up of rules and clarification of current Board policy and procedures. The amendments move specific sub-sections of rules to where they more appropriately fit the subject matter.
CONTACT PERSONS:
Betty Moore, Director, Oklahoma State Board of Cosmetology, 2401 NW 23rd Street, Suite 84, Oklahoma City, OK 73107, 405-521-2441 and Jennifer McRee, Principal Assistant, Oklahoma State Board of Cosmetology, 2401 NW 23rd Street, Suite 84, Oklahoma City, OK 73107, 405-521-2441.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 3. BOARD STRUCTURE AND AGENCY ADMINISTRATION

175:1-3-1. Composition, powers and duties of Board

(a) The Board is composed of nine (9) members appointed by the Governor to four (4) year staggered terms. Six (6) members are appointed, one (1) from each of six (6) congressional districts of the state. One (1) member is appointed to represent public schools, one (1) to represent privately owned schools and one (1) is appointed as a lay/public member.

(b) The Board shall employ an Executive Director who shall be in charge of the Board office.

(1) The Executive Director shall devote entire time to the duties of the agency.

(2) The Executive Director shall hold a current Oklahoma Master Instructor license.

(3) The Executive Director must be qualified by education and experience.

(c) The Board elects a chair and vice chair from its membership in July each year.

(1) The chair presides over all Board meetings.

(2) The chair has the authority to call meetings if the need arises.

(d) An Assistant Attorney General is assigned to the agency as liaison and serves as the Board's legal advisor.

(e) In order to safeguard and protect the health and general welfare of the people of the State of Oklahoma, the Board has the power and duty to carry out the provisions of the Cosmetology Act 59 O.S. Section 199.1 et. seq. and to make and enforce all reasonable and necessary rules and regulations for that purpose. In addition to the general powers, the Board shall have the following powers and duties:

(1) The Board shall promulgate rules relating to the standards of sanitation which shall be observed and practiced by all cosmetology school and salons.

(2) Conduct examinations for licensure at such times and places determined by the Board.

(f) The Board may exercise its official powers at any location in the State of Oklahoma.

175:1-3-2. Agency administration; description of agency

(a) The State Board of Cosmetology shall create positions, make appointments and fix salaries of officials and employees necessary to carry out the purposes of the Cosmetology Act [59 O.S. Sections 199.1 et. seq] and the administration thereof.

(b) The Board's Executive Director is in charge of the office and directly supervises all employees.

(c) The office of the State Board of Cosmetology is located at 2401 N.W. 23rd Street, Suite 84, (Shepherd Mall) ~~2200 Classen Boulevard, Suite 1530 (Citizen's Tower Building)~~ in Oklahoma City, Oklahoma 73107 ~~73106~~. Phone number (405) 521-2441. Fax number (405) 521-2440.

(d) Board office hours are from 7:30 a.m. to 4:00 p.m. Monday through Friday inclusive except legal holidays established by statute or proclamation by the Governor. With Board ~~board~~ approval, office hours are subject to change.

(e) All application and other forms and instructions which pertain to a permit or license, shall be available at the Board's ~~board's~~ principal office during regular business hours.

~~(f) Access to public records of the board not privileged by the disclosure of law shall be available as provided by the Oklahoma Open Records Act [Title 59 O.S. Section 24 A.1 - 24A.2].~~

~~(g) If a copy of any record is requested from and provided to the Board a reasonable cost and/or search fee of $1.00 for the first page and .10 cents for each additional page may be charged by the board for copy.~~

(f~~h~~) All Board meetings are conducted at the Board's office location. Rule making and disciplinary hearings may be held in other locations if additional space is needed or if considered necessary for other legal valid reasons.

SUBCHAPTER 5. RULES OF PRACTICE

175:1-5-1. Setting hearings; hearing officer; Attorney General assistance

(a) The State Board of Cosmetology may hold a hearing on any alleged violations of the Cosmetology Act [59 O.S. Section 199.1 et seq]. All hearings shall be conducted pursuant to the Administrative Procedures [75 O.S. 250 et seq.]. ~~The chair of the board shall conduct hearings, but shall withdraw from any proceeding in which he cannot afford a fair and impartial hearing on consideration of the matter. Any party may request disqualification, promptly upon discovery of possible reason for disqualification, by stating verbally or in writing the particular grounds for objection. Another person shall be assigned by the remainder of the board to conduct the hearing. The board may request the Assistant Attorney General assigned to the agency, to take such part in hearing procedures as the board deems necessary. The State Board of Cosmetology may hold a hearing on any alleged violations of the Cosmetology Act [59 O.S. Section 199.1 et. seq].~~

(b) The Chair of the Board shall preside at all hearings and shall rule on all motions. If the chair is unable to participate in the hearing, then the Vice-Chair shall preside. If the Vice-Chair is unable to participate in the hearing, the Board shall elect from its membership an acting Chair solely for the purpose of conducting the hearing.

(c) The Board may request the Assistant Attorney General assigned to the Board to take part in the hearing proceedings as the Board deems necessary.

175:1-5-4. Board sanctions

(a) If it is proven that violations of the Oklahoma Cosmetology Act and Board ~~board~~ rules and regulations have occurred, sanctions available to the Board ~~board~~ are:

(1) Revocation of license; or

(2) Suspension of license; or

(3) Refusal ~~Refuse~~ to issue license; or ~~.~~

(4) Placing licensee on probation.

(b) Such matters of violation may be referred to the District Attorney or to the Attorney General for injunctive or other relief.

175:1-5-5. Complaint procedures; forms

(a) Complaint against any licensee and/or non-licensed person alleged to be practicing cosmetology shall be ~~verified and~~ signed by person or persons making complaint or allegation ~~and shall be notarized~~. Complaint forms are available from the office of the Board ~~board~~. Complaint shall include the following information:

(1) Name and address of person(s) against whom complaint is filed.

(2) Detailed explanation of offense committed.

(3) Name and address of person(s) filing complaint.

(b) All or portions of the information in complaints may in fact be privileged information.

(c) Board staff may investigate anonymous complaints to the extent required to protect public health and safety. ~~Anonymous complaints may not receive response from or other action by the Board.~~

(d) Members of the public may obtain a consumer complaint form from the Board upon request.

175:1-5-6. Investigation of alleged violation

(a) Alleged violations ~~violation circumstances~~ are investigated by State Cosmetology Inspector/Examiners and findings are confirmed by written reports and depositions and other records. One or more Inspector/Examiners may be assigned to complete the investigatory process.

(b) All investigative files shall be confidential pursuant to 51 O.S. Sec 24A.12. However, the Board may provide information in the files to the following:

(1) Any Board of Cosmetology or other Board of any state which exercises authority and licensing over those persons involved in the teaching or practicing of cosmetology.

(2) Any law enforcement agency which makes a proper showing that such information is necessary to conduct a pending investigation.

(3) Any person who has filed a complaint against a licensee, registrant, or other person may be notified of the final disposition of the matter upon request.

(c~~b~~) Reports are reviewed by the agency attorney and Executive Director. The Executive Director shall determine, ~~determines~~ in accordance with pertinent cosmetology law and Board ~~board~~ rules and regulations, whether ~~or not~~ sufficient evidence exists to issue a formal Complaint and call for a ~~formal~~ disciplinary hearing before the Board.

(d~~c~~) It is the Board's responsibility to attempt an informal resolution of the matter, or terminate the investigation ~~when and~~ if it is determined that a violation ~~violations~~ of the Cosmetology Act [Title 59 O.S. Section 199.1 et. seq] or the Board's rules has not occurred, or if ~~and when~~ there is insufficient evidence to support the allegations in the complaint.

175:1-5-7. Disciplinary hearing

(a) Notice in writing of disciplinary hearing date, including statement of allegations, shall be ~~is~~ mailed to the person charged ~~by certified mail~~ at least five (5) days before public hearing. Notice shall contain the following information:

(1) Date, time and place of hearing;~~.~~

(2) Description of alleged violations ~~Statement of matters to be considered;~~.

(3) Statement of legal authority and jurisdiction under which the hearing is to be held;~~.~~

~~(4) A short statement of asserted matters.~~

(4~~5~~) Reference to the particular section of the statutes or rules allegedly violated ~~identified in alleged violation notice~~.

(b) The notice of hearing shall be sent to the last known address of the party involved by certified or registered mail with return receipt requested or delivered by personal service.

~~(c) All official orders and notice of complaint are prepared and sent by the agency's legal advisor from the office of the Attorney General.~~

(c~~d~~) The Board ~~board~~ shall have the power to subpoena witnesses and administer oaths or to subpoena documentary evidence in any case before it as provided for in the Administrative Procedures Act. ~~All subpoenas shall be served in the manner as if issued for the District Court from the office of the Attorney General.~~

~~(e) All work products of an investigatory process are considered and may in fact be work products of privileged information. The files of the board in disciplinary matters shall be confidential and private, except the board shall be permitted to provide information in the files to the following:~~

~~(1) Any Board of Cosmetology or other board of any state which exercises authority and licensing over those persons involved in the teaching or practicing of cosmetology.~~

~~(2) Any law enforcement agency which makes a proper showing that such information is necessary to conduct a pending investigation.~~

~~(3) Any person who has filed a complaint against a licensee, registrant, or other person may be notified of the final disposition of the matter upon request.~~

(d~~f~~) All final orders of the Board ~~board~~ shall be ~~duly entered into and shall be matters of~~ public records ~~record~~.

(e~~g~~) All respondents ~~Any person affected by the hearing~~ shall be notified of ~~that he shall have~~ the right to appear in person~~,~~ and to be represented by counsel. All respondents shall have the right to call and examine witnesses. Any person notified to appear will have the opportunity to appear and if no appearance is made, the proceedings may be held in his absence.

(f~~h~~) All hearings shall be open to the public in accordance with the State's ~~state's~~ Open Meeting Act [12 ~~59~~ O.S. Section 301-314].

175:1-5-9. Appeals~~; licensee rights; rules of evidence~~

~~(a)~~ Appeals from orders/actions of the State Board of Cosmetology may be taken pursuant to the provisions of Section 199.3 (a) (b) (H) of 59 O.S., the Cosmetology Act, and the State's Administrative Procedures Act and other applicable law.

~~(b) At any hearing the licensee or other party charged and affected shall enjoy the rights;~~

~~(1) against self-incrimination;~~

~~(2) of confidential communication;~~

~~(3) of cross-examination; and~~

~~(4) the right of counsel.~~

~~(c) The Oklahoma rules of evidence will be followed as will provisions of the Administration Procedures Act [Title 59 O.S., 1971, Section 251-257 and Sections 301-325]. Evidence may be received/accepted in the form of copies if originals are not readily available~~.

175:1-5-10. Findings of fact; license reinstatement

(a) All findings of fact shall be based on the evidence presented and on matter officially noticed. All final orders shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in the statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. ~~Upon request,~~ A ~~a~~ copy of the order shall be delivered to each party involved and his attorney.

~~(b) Findings of fact of hearing which show evidence that violation(s) have occurred will be referred to the District Attorney in the county where offense is committed and/or the Board may opt to other sanctions available under the provisions of cosmetology law.~~

(b~~c~~) Any person whose license or registration has been suspended or revoked, may after thirty (30) days, make application to the Board ~~of Cosmetology~~ requesting reinstatement of the license or registration. Reinstatement of any such license or registration shall rest in the sound discretion of the Board.

SUBCHAPTER 5. RULES OF PRACTICE

175:1-5-11. State Board examination [REVOKED]

~~(a) A reader will be provided for a cosmetologist, manicurist, cosmetician, hairbraiding technician, facialist examination application requesting an oral examination upon request made by the applicant's instructor in writing. Other accommodations will be made as necessary in accordance with the American Disabilities Act. Reason for request and affidavit reflecting credentials of person identifying disability must be provided. Request should be made as far in advance of course completion and examination as possible to accommodate scheduling.~~

~~(b) State Board examination grades/scores will not be released to anyone other than the specified examination applicant except that the student, by his signature, may authorize release of grades to his instructor or school. Instructor or other school official must submit an affidavit stating student release agreement is on file at the school. Grade release reports are compiled and may be provided at least twice a year. Grades will be provided upon receipt of request and appropriately signed release form (signed copy of examination registration which contains th students release signature). The request must be signed by the student's instructor or other school official. The providing of grades can be accomplished only as available time and staff allows.~~

175:1-5-13. Agency rulemaking

~~(a)~~ All rules shall be promulgated and submitted for ~~the~~ gubernatorial and legislative approval in accordance with the Administrative Procedures Act ~~A.P.A.~~ and rules established for agency rulemaking. Adopted rules shall be filed with the Office of Administrative Rules in compliance with the applicable rule and law.

~~(b) Any interested person may petition the board to set a hearing to be conducted within a reasonable time to promulgate, amend or repeal any established rule by submitting pertinent information in writing to the board. A petition form may be obtained from the board.~~

SUBCHAPTER 7. BOARD RECORDS AND FORMS

175:1-7-2. License records and records of proceedings; open records; procedures for public access

(a) Records not confidential or privileged will be available for inspection and/or copying during regular business hours pursuant to the Open Records Act [Title 59 O.S. Section 24 A.1 - 24A.2]. ~~The board shall keep a record of all its proceedings, and a record of each applicant for registration, certificate or license.~~

(b) Members of the public wishing to inspect records must schedule time with Board staff. ~~Review of records of the Board of Cosmetology shall be in accordance with state and federal laws and those rules of the board.~~

~~(c) The board's administrator shall establish reasonable procedures which allow public access to open records kept and/or maintained by the Board of Cosmetology. All open records may be inspected during regular business hours of the board. Access and review of said records shall be in accordance with procedures prescribed by the Board of Cosmetology, and the procedures shall be designed to protect the integrity and organization of board records and prevent disruption of its essential functions.~~

(c~~d~~) The Board may charge a ~~A~~ reasonable copy and/or search fee of $1.00 for the first page and .10 cents for each additional page for copies of open records ~~may be charged by the board for copies of open records and the request for copies shall be in writing, and shall state purpose of the copies~~.

~~(e) Review and inspection of records shall not include those records which constitute confidential or other investigative matters not considered to be open records, and which review may be considered to be an invasion of privacy of an individual and required by state and federal law to be confidential to the individual and the Board of Cosmetology.~~

175:1-7-3. Forms available from the Board ~~board~~

All official Board forms have been adopted in accordance with the Administrative Procedures Act. Interested persons may contact the Board in order to obtain a form from the Board. ~~Please check with office of the Board for information as to pertains to form(s) which may be copied and used.~~

[OAR Docket #04-614; filed 4-9-04]

TITLE 175. STATE BOARD OF COSMETOLOGY
CHAPTER 10. LICENSURE OF COSMETOLOGISTS, SCHOOLS AND RELATED ESTABLISHMENTS

[OAR Docket #04-615]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Licensure of Cosmetology Schools
Part 1. Initial School Licensing
175:10-3-1 [AMENDED]
175:10-3-2 [AMENDED]
175:10-3-3 [AMENDED]
175:10-3-5 [AMENDED]
Part 3. Student Registration and Entrance Requirements
175:10-3-15 [REVOKED]
175:10-3-16 [AMENDED]
Part 5. Equipment and Curriculum Requirements
175:10-3-30 [AMENDED]
175:10-3-31 [AMENDED]
175:10-3-32 [REVOKED]
175:10-3-34 [AMENDED]
175:10-3-37 [AMENDED]
175:10-3-38 [AMENDED]
175:10-3-39 [AMENDED]
175:10-3-40 [AMENDED]
175:10-3-42 [AMENDED]
175:10-3-44 [AMENDED]
Part 7. General Operations and Licensing Requirements

175:10-3-51 [AMENDED]
175:10-3-52 [AMENDED]
175:10-3-53 [AMENDED]
175:10-3-55 [AMENDED]
175:10-3-60 [AMENDED]
175:10-3-61 [AMENDED]
175:10-3-62 [AMENDED]
175:10-3-63 [AMENDED]
175:10-3-64 [AMENDED]
175:10-3-67 [AMENDED]
175:10-3-69 [REVOKED]
175:10-3-70 [REVOKED]
175:10-3-71 [AMENDED]
175:10-3-72 [REVOKED]
175:10-3-73 [AMENDED]
175:10-3-75 [AMENDED]
175-10-3-77 [AMENDED]
175:10-3-78 [AMENDED]
Subchapter 5. Licensure of Cosmetology Establishments
175:10-5-1 [AMENDED]
175:10-5-2 [AMENDED]
175:10-5-4 [NEW]
Subchapter 7. Sanitation and Safety Standards for Cosmetology Establishments, Salons and Schools
175:10-7-1 [AMENDED]
175:10-7-3 [AMENDED]
175:10-7-4 [AMENDED]
175:10-7-5 [AMENDED]
175:10-7-6 [AMENDED]
175:10-7-7 [AMENDED]
175:10-7-9 [REVOKED]
175:10-7-10 [REVOKED]
175:10-7-11 [AMENDED]
175:10-7-12 [AMENDED]
175:10-7-13 [AMENDED]
175:10-7-14 [AMENDED]
175:10-7-15 [AMENDED]
175:10-7-17 [AMENDED]
175:10-7-18 [AMENDED]
175:10-7-19 [AMENDED]
175:10-7-20 [AMENDED]
175:10-7-21 [REVOKED]
175:10-7-24 [REVOKED]
175:10-7-25 [AMENDED]
Subchapter 9. Licensure of Cosmetologists and Related Occupations
Part 1. Apprenticeship
175:10-9-1 [AMENDED]
175:10-9-2 [AMENDED]
175:10-9-3 [AMENDED]
175:10-9-4 [AMENDED]
175:10-9-5 [AMENDED]
175:10-9-6 [REVOKED]
175:10-9-7 [AMENDED]
Part 3. State Board Examination
175:10-9-25 [AMENDED]
175:10-9-26 [AMENDED]
175:10-9-27 [REVOKED]
175:10-9-28 [AMENDED]
175:10-9-29 [AMENDED]
175:10-9-30 [AMENDED]
175:10-9-31 [AMENDED]
175:10-9-32 [AMENDED]
175:10-9-33 [AMENDED]
Part 5. Demonstrators; Cosmetic Studios; Trade Shows; Guest Artists; Wig Dressing
175:10-9-50 [AMENDED]
175:10-9-52 [AMENDED]
175:10-9-53 [AMENDED]
175:10-9-54 [AMENDED]
Subchapter 11. License Renewal, Fees and Penalties
175:10-11-1 [AMENDED]
175:10-11-2 [AMENDED]
Subchapter 13. Reciprocal and Crossover Licensing
175:10-13-2 [AMENDED]
Subchapter 15. Inspections, Violations and Enforcement
175:20-15-1 [AMENDED]
175:10-15-2 [AMENDED]
175:10-15-4 [REVOKED]
Subchapter 17. Emergency Cosmetology Service
175:10-17-1 [AMENDED]
175:10-17-2 [REVOKED]

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59 O.S., 1991, Section 199.3 (A); State Board of Cosmetology

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n/a

ANALYSIS:
The adopted rules are appropriate and necessary to further the purposes of the Cosmetology Act. The amendments implement House Bill 1150 which provides for conversion of clock hours to credit hours in cosmetology courses taught in Oklahoma cosmetology schools. The amended rules also provide for general clean-up of the rules and clarification of current Board policy and procedures. It moves specific sub-sections of the rules to where they more appropriately fit the subject matter.

CONTACT PERSONS:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 3. LICENSURE OF COSMETOLOGY SCHOOLS

PART 1. INITIAL SCHOOL LICENSING

175:10-3-1. Application for initial ~~(new)~~ and renewal of school license

In order to be in compliance with current Cosmetology Act as pertains to public and privately owned cosmetology school and license issuance to ~~said~~ cosmetology schools, the

application procedures for an initial (new) cosmetology school are as follows:

(1) **Privately owned schools.** Any person, corporation or ~~person(s)/corporation~~, company, ~~etc.~~ who ~~or which~~ proposes to provide cosmetology training courses designed to qualify persons who complete ~~said~~ courses for a professional license to practice cosmetology, shall be required to obtain a license for the school from the Board ~~board~~.

(A) **Letter of intent.** The applicant shall first submit a letter of intent to the Board of Cosmetology and shall request Cosmetology School license application forms from the Board ~~board.~~, ~~intent~~ The letter of intent shall state at least the full name, address and phone number of the applicant and the city ~~and county~~ where the proposed school is ~~proposed~~ to be located. If the applicant proposes to assume ownership of an existing cosmetology school, the letter of intent shall specify the name and address of ~~said~~ the existing cosmetology school~~, rather than the city and county of the proposed school~~.

(B) **Application form.** The license application form shall be completed and returned to the Board ~~board~~ and shall contain the following information:

(i) A bona fide list of the names and addresses of no less than twenty-three (23) students who fully intend to enroll and attend cosmetology classes in the proposed cosmetology school at such time as ~~said~~ school is appropriately licensed ~~to conduct the classes~~. The Board ~~board~~ may require that the list be ~~is~~ accompanied by a signed and notarized affidavit stating ~~which shall state~~ that the prospective student fully intends to enroll in, sign student contract with and regularly attend cosmetology classes in the proposed cosmetology school. ~~Also,~~ The ~~said~~ affidavit shall also state that the student fully intends to appropriately register with the State Board of Cosmetology prior to attending classes and that the student ~~he/she~~ fully intends to complete the course requirements ~~in which he/she enrolled and registered~~. Any advertisement for recruitment of students ~~student(s)~~ must state school is proposed to be open and shall not contain deceptive or misleading language and shall state that school has applied for licensure.

(ii) Proposed name and location (city, street and number~~; city and county~~), and a brief description of the building.

(iii) Name, address and phone number of the proposed owner(s). If a corporation, the name, ~~and~~ address and phone number(s) of the officers and principal stockholders are required to be submitted.

(iv) Names ~~Name(s)~~, ~~address(es), phone number(s) and the~~ Oklahoma cosmetology license held and the file numbers of the persons ~~person(s) proposed~~ to be the instructors of the proposed school and that of the manager, if other than the owner ~~owner(s)~~ or instructor ~~instructor(s)~~.

(C) **Initial license fee; expiration date.** Each initial public and privately owned cosmetology school shall be required to pay to the Board, ~~board~~ the initial license fee of $400.00 ~~in accordance with the fee schedule set forth in the Oklahoma Cosmetology Act.~~ Each public and ~~and/or~~ privately owned cosmetology school shall also ~~be requiredto~~ pay the annual license renewal fee of $125.00. Each cosmetology school license shall expire annually on June 30th ~~of each year~~. No provision is made for pro rata of any cosmetology license fee.

(D) **Surety bond.** A surety bond in the amount of two thousand dollars ($2,000.00) for the first instructor and one thousand dollars ($1,000.00) for each additional instructor is required to be submitted ~~by each applicant~~ for cosmetology school license. The bond ~~submitted to the board~~ shall be in an amount sufficient to meet bonding requirements for ~~each and~~ all ~~on~~ staff instructors and for each substitute instructor for the specific school in which license application is made.

(E) **Financial statement.** A current financial statement of the license applicant, ~~(proposed owner) which shall be~~ prepared by a Public Accountant or a Certified Public Accountant, is required to be submitted to the Board ~~board~~. The ~~Said~~ financial statement shall be prepared in accordance with generally accepted accounting principles and shall reflect the ~~said~~ applicant's ~~(proposed owner's)~~ total property inventory, assets and liabilities which shall show a net worth of at least one hundred thousand dollars ($100,000.00) for each cosmetology school owned. ~~Intangible assets will not be considered in net worth.~~ This ~~Said~~ amount must ~~is considered to~~ be sufficient to insure the safe and adequate training of the minimum number of twenty-three (23) students. Intangible assets will not be considered in net worth.

(F) **Proof of building lease or ownership.** Applicant must obtain a lease of at least one year or be owner of building in which school is proposed to operate. Month to Month lease is not acceptable. Applicant must submit a copy of lease agreement. ~~Proof of at least one (1) year lease on the building in which the proposed cosmetology school will be operating (or proof that applicant for Cosmetology School license is the owner of said building) must be submitted.~~

~~(i) Proof of one (1) year lease or ownership of school building is also required to be submitted for annual school license renewal.~~

~~(ii) A month to month lease is not acceptable to the board for a cosmetology school operation. For initial school license application only, a notarized lease agreement, signed by involved appropriate persons, may be acceptable pending approval for~~

~~license by the board. A notarized copy of the actual lease per agreement must be submitted to the board before a license may be issued.~~

~~(G) **Personal survey form.** A completed Personal Survey form (for proposed owner(s) and managing instructor) shall be submitted and shall provide previous business, cosmetology school ownership and/or management, teaching and other related experience which shall indicate to the board the license applicant's qualifications to conduct cosmetology courses of training and education designed to qualify students completing said courses for board examinations for licensing.~~

~~(H) **Character affidavits.** At least three (3) Character Affidavits for each proposed owner, manager and/or managing instructor shall be submitted to the board with initial school license application.~~

(2) **Public schools.** Any public school wherein administrator or other authorized person proposed to provide course(s) in cosmetology training and education designed to qualify a person who shall complete the ~~said~~ course(s) for examination and licensure, shall follow instructions for license application procedures in (1) of this Section as may ~~possibly~~ be applicable in requesting cosmetology school license application and approval from the Board ~~of Cosmetology~~.

(A) Names, ~~and~~ address and phone number(s) of Public School Administrator and other supervisory person (Principal, Assistant Principal, Coordinator or Counselor), of ~~who may be~~ school/department and of each ~~managing, substitute or other~~ instructor proposed to teach in the ~~said~~ cosmetology school shall be submitted to the Board ~~board~~. Cosmetology file number of the instructor(s) shall be submitted.

(B) Applicant shall ~~also~~ provide to the Board ~~board~~ a notarized affidavit stating source of sufficient bond coverage and that building wherein the cosmetology school is proposed to be conducted is publicly owned.

(C) Applicant shall ~~also~~ provide ~~to the board~~ phone numbers of public school main campus and cosmetology school facility and a brief general description of the facility location within campus and other building training sections and parking areas.

(3) **Privately owned school license renewal.** A privately owned cosmetology school license shall expire annually on June 30th. Renewal must be received by June 30th each year.

(A) Private school license renewal application, forms and instructions are mailed annually to schools by the Board. Forms include a surety bond renewal form, power- of-attorney and verification form.

(B) Fee of $125.00 is required for school license renewal.

(4) **Public school license renewal.** A public school license shall expire annually on June 30th. Renewal must be received by June 30th each year.

(A) Public school license renewal application and invoice is mailed annually to schools.

(B) Fee of $125.00 is required for school license renewal.

175:10-3-2. Initial inspection

(a) **Request for initial inspection.** Applicant must submit a written request for an initial Board ~~board~~ consultation and inspection for approval of the location, building, parking, electrical facilities, ~~and~~ plumbing facilities, construction and building codes for the proposed school. Applicant must ~~is to~~ provide city inspection certificate, fire department, electrical and plumbing certificates as applicable for the city or county where proposed school is located and ~~and/or~~ other applicable zoning or construction documents the Board may require for approval.

(b) **Interview.** At the time of initial inspection consultation, the proposed owner(s) or the person(s) proposed to instruct and/or other person(s) who may be designated to manage the proposed cosmetology school will be interviewed. The ~~Said~~ person(s) will be requested to respond in writing to interview questionnaire for evaluation by the Board's ~~board's~~ authorized representative. Interview questionnaire will pertain to State Board of Cosmetology rules ~~Rules~~, ~~and~~ regulations ~~Regulations~~ and Cosmetology law regarding school operations and record ~~records~~ keeping. Response to the questionnaire and the personal interview is used by the Board ~~board~~ as one indicator for determination regarding qualifications of the individual(s) to manage and/or teach cosmetology courses of study as prescribed in the Oklahoma Cosmetology Act and Board ~~board~~ regulations.

(c) **Space/building requirements.** At the initial inspection, the Board's ~~board's~~ representative will consult with the proposed owner(s), instructor(s) and other person(s) designated by the license applicant as responsible ~~or co-responsible~~ for ~~and/or in charge of~~ the proposed cosmetology school regarding the requirements necessary to the physical arrangements of the proposed building and space.

(1) **Lighting, ventilation, floors, available parking requirements.** Adequate lighting and ventilation; cleanable floor surfaces ~~hard impervious surface floor covering (in shampoo and styling work areas)~~; parking facilities, and other building appointments as ~~are~~ applicable in the specific plans and location, will be addressed in the initial consultation.

(2) **State and federal fire and safety codes compliance.** The proposed cosmetology school space must meet federal, state ~~and federal/state~~ and local construction, electrical, plumbing, fire and safety codes. Proposed owner must ~~be able to~~ show the Inspector ~~inspector~~ proof of certification of compliance with applicable ~~said~~ codes upon request. At least two point of ingress/egress for the building are required. In the event of multiple stories or building levels, fire escape(s) must be approved and appropriate exit signs must be posted for safe exit from the building.

(3) **Minimum building and student work space.**

(A) The proposed cosmetology school building space must contain a minimum of twenty-two hundred (2,200) square feet of floor space. The Board

~~board~~ considers a working are of 5' X 8' (40 square ~~sq.~~ feet ~~ft.~~) per student as necessary and adequate for the safe operation of the required minimum equipment approved for the conducting of cosmetology courses of training. Space allotted to reception area, restrooms, ~~rest rooms~~ lockers, vending machines, cosmetic and wig displays, supply and storage and break room(s) are not included in the 5' X 8' work area required for each student.

(B) The proposed building space plans shall contain separate classroom setting large enough to accommodate at least fifteen (15) students in one group, one (1) mannequin table, one (1) chalk or marker board ~~blackboard~~, three (3) manicure tables or one (1) narrow (18 inch) folding table satisfactory for manicure practice.

(C) The proposed cosmetology school plans shall contain a facial and skin care room designed to provide maximum sanitation methods and privacy to patrons. The space plans must include dressing rooms, student lounge and locker space (one locker per ~~each~~ student) and separate restroom ~~rest room~~ facilities for male and female students.

(4) **Dispensary, drinking fountain, school reception area, wall and floor covering requirements.**

(A) A ~~clean~~ sanitary drinking fountain shall be provided, ~~and shall be~~ maintained and in good repair at all times.

(B) Each cosmetology school shall have a dispensary room equipped with a sink plumbed with hot and cold water.

(C) A school shall provide space for a reception area with seating capacity of no less than ten (10) persons.

(D) Interiors of schools shall be maintained in a clean, sanitary condition, and in good repair ~~at all times~~.

(i) Floors in work areas (shampoo and styling areas) shall be covered with hard, cleanable ~~scrubbable~~ surface~~,~~ of (vinyl, linoleum or other impervious floor covering). Carpet is prohibited for use in cosmetology school work areas ~~area(s)~~.

(ii) Walls and woodwork to a height of five (5) feet shall be painted or ~~and/or~~ covered with easily cleaned and washable material.

175:10-3-3. Second inspection

(a) A second Board ~~board~~ inspection is in order once:

(1) the name of the school, location and space are approved.

(2) the prospective school owner(s), instructor(s) and/or other person(s), as ~~is~~ applicable, have appropriately and satisfactorily responded to the inspector's interview and questionnaire as pertains to the State Board of Cosmetology law ~~Law~~, rules ~~Rules~~ and regulations ~~Regulations~~.

(b) The second inspection set forth in (a) of this Section will be conducted at such time as the Board ~~board~~ is notified in writing that:

(1) the school has all equipment including student kits equipped with required minimum tools for ~~cosmetology~~ training;

(2) approved textbooks and library reference materials are obtained;

(3) the minimum equipment is installed and operable; and

(4) the school license applicant is prepared to begin classes in compliance with Board ~~board~~ rules, regulations and law.

(c) Student kits shall be prepared and ready for approval at the second inspection.

(d) All enrolled students shall be present and in appropriate uniform at time of second inspection and if all ~~said~~ student registrations are complete, students may ~~and~~ accumulate ~~credit~~ hours for the ~~said~~ date of inspection provided all other license requirements are met.

175:10-3-5. Records submitted are property of Board ~~board~~

All records, reports and documents submitted to the Board ~~board~~ shall become property of the Board ~~board~~.

PART 3. STUDENT REGISTRATION AND ENTRANCE REQUIREMENTS

175:10-3-15. Student registration; prerequisites [REVOKED]

~~(a) Each student enrolled shall b registered with the board before attending classes. Student training for credit hours toward examination and license shall be counted/credited from the date of the student registration receipt issued by the board. The postmark date will determine the issuance date on the student registration receipt provided that all forms and affidavits required by the board are completed and accurate in accordance with board rules and cosmetology law.~~

~~(b) Each student must have a completely equipped kit with minimum with minimum required contents before commencing practical practice/clinic training.~~

~~(c) Each student shall be provided an approved textbook for the course in which he is registered before attending classes.~~

175:10-3-16. Student entrance requirements

Student entrance requirements for the Basic Cosmetologist, Manicurist/Nail Technician, Cosmetician, Hairbraiding Technician and Esthetician/Facialist/Facial Operator courses are as follows:

(1) The student must:

(A) be at least 16 years of age by November 1st of the current year.

(B) submit completed student registration application accompanied by a fee of $5.00 before attending classes.

(C) submit a ~~an appropriate~~ copy of the completed student/school ~~student~~ contract with the student registration application. The contract shall state cost of

kit and how and when it is considered paid for and becomes the sole property of the student. If kit provision is a rental-depreciation or other agreement, contract will provide details of the ~~said~~ agreement.

(D) submit proof of at least eighth grade education or equivalency or submit proof of having satisfactorily passed an ability to benefit exam ~~(8th grade diploma or transcript) or the applicant shall satisfactorily pass an 8th grade equivalency test administered by the board or the board may accept a statement from a school official that upon interview with said applicant, the applicant has demonstrated the equivalency of at least 8th grade potential and ability to learn~~.

(E) submit, if under 18 years of age, a photocopy of birth certificate or other legal proof of age.

~~(F) be mentally competent and able to benefit from instruction. A student may be required to pass a test of competence or learning capability and potential before student registration application is accepted by the board (test administered and/or approved by the board).~~

(2) Each student shall be registered with the State Board of Cosmetology before attending school.

(3) Each student must be provided a ~~completely equipped~~ kit with ~~(~~minimum content requirements~~)~~ before commencing clinic ~~practical practice~~ training.

~~(4) If an applicant appears to be unable to read, write or speak English, such applicant shall be required to demonstrate minimum proficiency in the English language by achieving a minimum score of 60 percent on the English Language Proficiency evaluation Test administered by the ELS Language Center in Norman, Oklahoma, or other ELS Language Center as my be established in the state of Oklahoma, or by other examinations or affidavits approved by the board.~~

(4~~5~~) All applicants who register with the Board ~~board~~ as students or who apply for a cosmetology license will be considered without regard to race, sex, creed, color, religion, or national origin provided they have met all requirements of cosmetology law and rules of the Board ~~board~~. All students shall be considered for enrollment in a cosmetology school. Admission to public schools is governed by applicable state and federal laws.

PART 5. EQUIPMENT AND CURRICULUM REQUIREMENTS

175:10-3-30. Required library copies of cosmetology law/rules

(a) At least six (6) copies of the Oklahoma Cosmetology Law and Board rule book must be maintained in library of each cosmetology school and available to students. The books will be provided by the Board at a current cost of printing and delivery to each cosmetology school.

(b) Reference manuals or other material shall be kept current by replacement or supplement as pertains to all areas of the curriculum ~~salesmanship, public relations, shop management, permanent waves, hair color and other rapidly advancing product development, chemistry and application~~. Other library and reference ~~library/reference~~ books shall include a Collegiate Dictionary and an American Medical Dictionary. Each school shall maintain a quality reference library addressing various major subjects as pertain to the total field of cosmetology.

175:10-3-31. Training equipment requirements.

(a) The following minimum equipment is considered by the Board ~~board~~ to be adequate for the appropriate and safe training of no more than thirty-seven (37) students. The ~~Said~~ minimum equipment shall be required for one (1) to and including thirty-seven (37) students.

(1) One (1) school ~~School~~ seal ~~Seal~~

(2) One (1) Chart of Anatomy to include:

(A) bones

(B) muscles

(C) nerves

(D) circulatory system

(E) skin

(3) One (1) blackboard

(4) Three (3) large wet sanitizers (pan-type with covers)

(5) One (1) large dry sanitizer with airtight cabinet (without fumigant) ~~in which~~ to keep instruments, combs, and brushes after they have been taken from wet sanitzer

(6) One (1) small dry sanitizer for each student (closed dry cabinet, drawer or other covered box-type container)

(7) One (1) container with cover for each student to store ~~place in and keep~~ soiled brushes/combs etc. until such time as all ~~said~~ items shall be cleaned and sanitized according to ~~per~~ approved rules and methods.

(8) Four (4) shampoo basins equipped with shampoo sprays and connected with ~~both~~ hot and cold ~~running~~ water ~~to be installed in a manner to permit the use of all basins at the same time~~ (one shampoo basin for each additional 15 students or major fraction thereof)

(9) Four (4) shampoo chairs (one for each additional 15 students or major fraction thereof)

(10) Two (2) facial chairs, considered adequate for patron service; reclining, styling or shampoo chairs are acceptable for student practice (one for each additional 15 students or major fraction thereof)

(11) One (1) facial supply cabinet (one for each additional 15 students or major fraction thereof)

(12) One (1) therapeutic lamp with red lights installed for ~~so that student may have~~ free use of ~~his or her~~ hands.

(13) Four (4) ~~Eight (8)~~ hair dryers - chair type (one for each additional 15 students or major fraction thereof)

(14) Twelve (12) blow-dryers (one for each additional 15 students or major fraction thereof)

(15) Twelve (12) curling irons (one for each additional 15 students or major fraction thereof)

(16) Fifteen (15) mannequins (one for each additional 3 students) ~~at option of school a mannequin may be provided in each student kit~~

(17) Four hundred (400) permanent ~~cold~~ wave rods and other permanent ~~cold~~ wave supplies as necessary

(18) Twenty (20) work/styling stations with mirrors (one for each additional 5 students)
(19) Twenty (20) styling chairs (one for each additional 5 students)
(20) Five (5) covered waste receptacles
~~(21) One (1) air-tight container in which to keep sanitized instruments~~
(21~~22~~) One (1) large closed cabinet for clean towels
(22~~23~~) Four (4) large covered receptacles for soiled towels (one for each additional 15 students or major fraction thereof)
(23~~24~~) One (1) large dispensary cabinet
(24~~25~~) Four (4) manicure tables and chairs considered adequate for patron service. A long narrow (18") folding table is acceptable for student practice
(25~~26~~) One (1) covered hair pin or clippie container for each student
(26~~27~~) Subscriptions to at least three (3) professional cosmetology related periodicals
(27~~28~~) Four (4) heaters and irons
(28~~29~~) Five (5) head forms
(29~~30~~) Five (5) wefts

(b) Other additional equipment shall be required if ~~in the event~~ the Board's ~~board's~~ Inspector ~~inspector~~ shall show evidence that the need for additional equipment is necessary to the appropriate and safe training in all phases of cosmetology to each student enrolled in the school.

~~(c) At the board's discretion, certain equipment may be deleted from the equipment list in (a) of this section at any regularly scheduled board meeting upon approval of a majority of board members.~~

175:10-3-32. Minimum student kit contents [REVOKED]

~~(a) A Basic Cosmetology student kit minimum equipment is required as follows:~~
~~(1) One (1) approved text on theory of cosmetology.~~
~~(2) One (1) razor-type hair shaper and shaper blades or razor one.~~
~~(3) One (1) pair each hair cutting shears and thinning shears.~~
~~(4) One (1) cuticle nipper for finger nails and one (1) nipper for toe nails.~~
~~(5) One (1) cuticle scissors.~~
~~(6) One (1) cuticle pusher.~~
~~(7) One (1) nail brush.~~
~~(8) One (1) nail file or package of emery boards.~~
~~(9) One (1) tweezer.~~
~~(10) Twelve (12) hair brushes.~~
~~(11) Twelve (12) hard rubber combs or other good quality combs (shall include rat-tail, color, regular and/or barber-type).~~
~~(12) Two (2) boxes of curl clips (100 per box).~~
~~(13) One (1) shampoo cape.~~
~~(14) Twelve (12) dozen hair styling rollers.~~
~~(15) One (1) kit or tray to contain student personal training equipment.~~

~~(b) In addition to the list of equipment in (a) of this Section the school shall immediately have available for student training:~~
~~(1) Appropriately sanitized set of manicuring implements for student training use on each patron~~
~~(2) toe nail clipper~~
~~(3) permanent wave rods~~
~~(4) other hair restructuring supplies~~
~~(5) An adequate supply of applicator bottles~~
~~(6) An adequate supply of protective gloves (disposable)~~
~~(7) An adequate supply of neck strips~~
~~(8) An adequate supply of hair clippers~~
~~(9) An adequately supplied products dispensary to appropriately training students in cosmetology classes.~~
~~(10) Visual aid equipment in addition to the blackboard.~~

~~(c) When a student buys a kit or equipment and pays for it in accordance with the student/school contract, the kit or equipment becomes the property of the student and cannot be retained by the school owner or instructor.~~

~~(d) No student shall be permitted to remove his kit or any equipment (other than textbook and Board Rules and Regulations book) from a cosmetology school during the period of training except the instructor may permit student to remove the student kit for student contacts, etc.~~

175:10-3-34. Basic Cosmetologist course curriculum for privately owned and public schools

(a) **Privately owned cosmetology school.** The 1500 clock hour or 50 credit hour curriculum (pure cosmetology) is prescribed as follows:
(1) Theory (must be coordinated with each practical practice subject as is appropriate throughout the course of training)
(A) Clock hours - 150
(B) Credit hours - 5
(2) Manicuring and pedicuring (including sculptured nails and tips and other artificial nail application procedures and care)
(A) Clock hours - 90
(B) Credit hours - 3
(3) Facials (skin care training includes make-up, waxing and/or other methods for permanent hair removal)
(A) Clock hours - 30
(B) Credit hours - 1
(4) Scalp treatments
(A) Clock hours - 30
(B) Credit hours - 1
(5) Shampooing/conditioning rinses
(A) Clock hours - 60
(B) Credit hours - 2
(6) Hairstyling, including finger waving, the dressing of wigs, thermal and blow drying
(A) Clock hours - 390
(B) Credit hours - 13
(7) Hair color tints and bleaching and other color treatments
(A) Clock hours - 120

(B) Credit hours - 4

(8) Hair cutting and hair shaping with shears and thinning shears (scissors) razor and clipper (includes beard)

(A) Clock hours - 180

(B) Credit hours - 6

(9) Lash and brow tinting and arching

(A) Clock hours - 30

(B) Credit hours - 1

(10) Personality, shop management and unassigned hours for review, examinations, etc.

(A) Clock hours - 180

(B) Credit hours - 6

(11) Hair restructuring/permanent waving and chemical hair relaxing

(A) Clock hours - 240

(B) Credit hours - 8

(12) Total cosmetology hours

(A) Clock hours - 1500

(B) Credit hours - 50

(b) **Public cosmetology school.** The 1500 clock hour or 50 credit hour curriculum (1000 hours pure cosmetology plus 500 hours of cosmetology related high school subjects) is prescribed for public school students only. Students shall qualify by completing 1000 clock hours or 33 ~~34~~ credit hours in a Basic cosmetology course and 500 hours of approved related subjects. The official high school transcript shall serve as documentation for the 500 hours of related instruction. The transcript must show passing grades in related subjects and completion of at least the first semester of the twelfth (12th) grade. Related subjects shall run concurrently with and ~~and/or~~ shall be in no instance ~~be~~ older than three (3) years at time of enrollment in a cosmetology school course. The ~~Said~~ curriculum as follows has a recommended completion time of two (2) school years ~~(3 hours per day - 5 days per week for 36 weeks)~~.

(1) Theory (must be coordinated with each practical practice subject as is appropriate throughout the course of training)

(A) Clock hours - 150

(B) Credit hours - 5

(2) manicuring and pedicuring (including sculptured nails and tips and other artificial nail application procedures and care)

(A) Clock hours - 60

(B) Credit hours - 2

(3) Facials (skin care training includes make-up, waxing and/or other methods for permanent hair removal)

(A) Clock hours - 30

(B) Credit hours - 1

(4) Scalp treatments

(A) Clock hours - 30

(B) Credit hours - 1

(5) Shampooing/conditioning rinses

(A) Clock hours - 30

(B) Credit hours - 1

(6) Hairstyling, including finger waving, the dressing of wigs, thermal and blow drying

(A) Clock hours - 180

(B) Credit hours - 6

(7) Hair color tints and bleaching and other color treatments

(A) Clock hours - 90

(B) Credit hours - 3

(8) Hair cutting and hair shaping with shears and thinning shears (scissors) razor and clipper (includes beard ~~trimming/grooming~~)

(A) Clock hours - 120

(B) Credit hours - 4

(9) Lash and brow tinting and arching

(A) Clock hours - 30

(B) Credit hours - 1

(10) Personality, shop management and unassigned hours for review, examinations, etc.

(A) Clock hours - 100

(B) Credit hours - 3

(11) Hair restructuring/permanent waving and chemical hair relaxing

(A) Clock hours - 180

(B) Credit hours - 6

(12) Cosmetology related subjects

(A) Clock hours - 500

(B) Credit hours - 17

(13) Total cosmetology hours

(A) Clock hours - 1500

(B) Credit hours - 50

(c) **Minimum student kit contents for private and public schools.**

(1) A Basic Cosmetology student kit minimum equipment is required as follows:

(A) one (1) approved text on theory of cosmetology

(B) one (1) razor-type hair shaper and shaper blades or razor hone

(C) one (1) pair each hair cutting shears and thinning shears

(D) one (1) cuticle nipper for finger nails and one (1) nipper for toe nails

(E) one (1) cuticle scissors

(F) one (1) nail brush

(G) one (1) nail file or package of emery boards

(H) one (1) tweezer

(I) twelve (12) hair brushes

(J) twelve (12) hard rubber combs or other good quality combs (shall include rat-tail, color, regular and/or barber-type)

(K) two (2) boxes of curl clips (100 per box)

(L) one (1) shampoo cape

(M) twelve (12) dozen hair styling rollers

(N) one (1) kit or tray to contain student personal training equipment

(2) In addition to the list of equipment in (1) of this Section the school shall immediately have available for student training:

(A) appropriately sanitized set of manicuring implements for student training use on each patron

(B) toe nail clipper

(C) permanent wave rods

(D) other hair restructuring supplies

(E) an adequate supply of applicator bottles
(F) an adequate supply of protective gloves (disposable)
(G) an adequate supply of neck strips
(H) an adequate supply of hair clippers
(I) an adequately supplied products dispensary to appropriately train students in cosmetology classes
(J) visual aid equipment in addition to the chalk or marker board

175:10-3-37. Master instructor course entrance and curriculum requirements

(a) **Entrance requirements.**

(1) Student registered in the master instructor course must:

(A) hold an Oklahoma Cosmetologist license or be registered for the Basic Cosmetologist examination. If any person enrolled prior to examination shall fail to appear or fail to pass Basic Cosmetologist, he/she shall immediately cease master instructor training until such time as he shall again register for and show proof of achieving a passing score on the cosmetologist examination.

(B) hold a High School Diploma or General Education Development Certificate.

(C) file registration application for master instructor course including fee of $5.00 with the Board.

(2) Each student shall be provided with an approved textbook or manual before commencing training.

(b) **Curriculum requirements.**

~~(1)~~ The 1000 clock hour or 33 ~~32~~ credit hour Master Instructor course curriculum is prescribed as follows:

(1 ~~i~~) Orientation ~~and review of the cosmetology curricula~~

(A ~~i~~) Clock hours - 60 ~~150~~
(B ~~ii~~) Credit hours - 2 ~~5~~

(2) Introduction to teaching and curriculum

(A ~~i~~) Clock hours - 120 ~~60~~
(B ~~ii~~) Credit hours - 4 ~~2~~

(3) Course outlining and development; lesson planning; teaching techniques; teaching aids; developing and administering and grading examinations

(A ~~i~~) Clock hours - 330
(B ~~ii~~) Credit hours - 11

(4) Cosmetology Law, cosmetology school management and record keeping

(A ~~i~~) Clock hours - 90 ~~60~~
(B ~~ii~~) Credit hours - 3 ~~2~~

(5) Teaching - assisting in the classroom and clinic

(A~~i~~) Clock hours - 150
(B ~~ii~~) Credit hours - 5

(6) Practice teaching - classroom and clinic

(A~~i~~) Clock hours - 250
(B~~ii~~) Credit hours - 8 ~~7~~

(7) Total hours

(A ~~i~~) Clock hours - 1000
(B ~~ii~~) Credit hours - 33 ~~32~~

(b~~2~~) Master Instructor students are assigned practice in classes actually scheduled by the school. Practice teaching by master instructor students will be in the Basic, Manicurist/Nail Technician, Cosmetician, Hairbraiding Technician and/or Esthetician/Facialist/Facial Operator course. Practice teaching must be supervised by a licensed master instructor.

(c~~3~~) A master instructor student is not allowed to perform patron services ~~services/practice~~. The master instructor student shall only demonstrate for or otherwise assist student under his supervision.

(d) **Minimum student kit contents.** A master instructor minimum kit equipment is required as follows:

(1) textbook or manual
(2) workbook

175:10-3-38. Manicurist/Nail Technician course entrance and curriculum requirements

(a) **Entrance requirements.** Manicurist/nail technician course entrance requirements are the same as for a Basic course student.

(1) Each student shall be provided an approved textbook before commencing classroom training.

(2) A manicurist/nail technician student shall not be allowed to perform patron services until such time as he/she has received at least 80 clock hours or 2 credit hours of practice and classroom instruction under the direct supervision of a licensed instructor. ~~Kit is required on or before completion of 80 hours of practice.~~

(3) Kit is required on or before completion of classroom training. ~~If a licensed manicurist/nail technician registers for the Basic 1500 hour course, credit of 112 hours is allowed.~~

(4) If a licensed manicurist/nail technician registers for the Basic course, credit of 224 clock hours or 8 credit hours is allowed. ~~A manicurist/nail technician student shall have performed no less than 120 manicuring/pedicuring practices before being eligible to sit for the Manicurist examination for license.~~

(b) **Curriculum requirements.** The 600 clock hour or 20 credit hour curriculum is prescribed as follows ~~with a recommended completion time of 15 weeks (40 hours per week)~~:

(1) Bacteriology, sterilization and sanitation

(A) Clock hours - 40
(B) Credit hours - 1

(2) Nail structure, composition, disorders and diseases

(A) Clock hours - 60
(B) Credit hours - 2

(3) Manicuring and pedicuring (includes waxing or other non-permanent hair removal)

(A) Clock hours - 160
(B) Credit hours - 6

(4) Artificial nails

(A) Clock hours - 160
(B) Credit hours - 6

(5) Nail art

(A) Clock hours - 60
(B) Credit hours - 2

(6) Salon development (includes business administration and law; insurance; professional ethics; record keeping; business telephone techniques; salesmanship; displays and advertising; hygiene and public health)
(A) Clock hours - 80
(B) Credit hours - 2
(7) Cosmetology law, rules and regulations
(A) Clock hours - 40
(B) Credit hours - 1
(8) Total hours
(A) Clock hours - 600
(B) Credit hours - 20

~~SUBJECT~~	~~HOURS~~
~~Bacteriology, sterilization and sanitization~~	~~40~~
~~Nail structure, composition, disorders and diseases~~	~~60~~
~~Manicuring and pedicuring (includes related waxing or other non-permanent hair removal)~~	~~160~~
~~Artificial nails~~	~~160~~
~~Nail art~~	~~60~~
~~Salon development: (includes business administration and law; insurance; professional ethics; record keeping; business telephone techniques; salesmanship; displays and advertising; hygiene and public health)~~	~~40~~
~~Cosmetology law, rules and regulations~~	~~40~~
~~Total hours~~	~~600~~

(c) **Minimum student kit contents.**
(1) A Manicurist/nail technician minimum kit equipment is required as follows:
(A) one (1) textbook or manual
(B) one (1) cuticle nipper for finger nails and one (1) nipper for toe nails
(C) one (1) cuticle scissor
(D) one (1) cuticle pusher
(E) one (1) nail brush
(F) one (1) nail file or package of emery boards
(G) one (1) kit or tray to contain student personal training equipment
(2) In addition to the list of equipment in (1) of this subsection, the school shall have immediately available for student training:
(A) appropriately sanitized set of manicuring implements for student use on each patron
(B) an adequate supply of protective gloves (disposable)
(C) visual aid equipment in addition to the chalk or marker board

175:10-3-39. Esthetician/Facialist/Facial Operator course entrance and curriculum requirements

(a) **Entrance requirements.** Esthetician/Facialist/Facial Operator course entrance requirements are the same as for a basic course student.
(1) Each student shall be provided an approved textbook before commencing classroom training ~~in the course~~.
(2) An esthetician/facialist/facial operator student shall not be allowed to perform patron services until such time as he/she ~~he~~ has received at least 80 clock hours or 2 credit hours of ~~classroom~~ practice and classroom instruction under the direct supervision of a licensed instructor ~~instruction. (Kit required on or before completion of 80 hours of practice).~~
(3) Kit is required on or before completion of classroom training. ~~If a licensed esthetician/facialist/facial operator registers for th Basic 1500 hour course, credit of 112 hours is allowed. Therefore the student must complete an additional 1388 hours in order to register for the Basic Cosmetologist examination.~~
(4) If a licensed esthetician/facialist/facial operator registers for the basic cosmetologist course, credit of 224 clock hours or 8 credit hours is allowed. ~~An esthetician/facialist/facial operator student shall have performed no less than 120 practices before being eligible to sit for the Facialist examination for license.~~

(b) **Curriculum requirements.** The 600 clock hour or 20 credit hour curriculum is prescribed as follows ~~with a recommended completion time of 15 weeks (40 hours per week)~~:
(1) Bacteriology, sterilization, sanitation and safety
(A) Clock hours - 80
(B) Credit hours - 3
(2) Sciences: Histology, dermatology and physiology of the skin (includes structure and function of skin and glands; color and morphology)
(A) Clock hours - 180
(B) Credit hours - 6
(3) Facials: (includes draping, manipulations, cleaning and toning; chemistry and light therapy and make-up
(A) Clock hours - 200
(B) Credit hours - 7
(4) Non-permanent hair removal: (includes methods and procedures and arching)
(A) Clock hours - 40
(B) Credit hours - 1
(5) Salon development: (includes business administration and law; insurance; professional ethics; record keeping; business telephone techniques; salesmanship; displays and advertising; hygiene and public health)
(A) Clock hours - 60
(B) Credit hours - 2
(6) Cosmetology law, rules and regulations
(A) Clock hours - 40
(B) Credit hours - 1

(7) Total hours
(A) Clock hours - 600
(B) Credit hours - 20

~~SUBJECT~~	~~HOURS~~
~~Bacteriology, sterilization, sanitation and safety~~	~~80~~
~~Sciences: Histology, dermatology and physiology of the skin (includes structure and function of skin and glands: color and morphology)~~	~~180~~
~~Facials: (includes draping, manipulations, cleaning and toning; chemistry and light therapy and make-up)~~	~~200~~
~~Non-permanent hair removal: (includes methods and procedures and arching)~~	~~40~~
~~Salon development: (includes business administration and law; insurance; professional ethics; record keeping; business telephone techniques; salesmanship; displays and advertising; hygiene and public health)~~	~~60~~
~~Cosmetology law, rules and regulations~~	~~40~~
~~Total hours~~	~~600~~

(c) **Minimum student kit contents.**
(1) An esthetician/facialist/facial operator kit equipment is required as follows:
(A) one (1) textbook or manual
(B) make-up with disposable applicators
(C) one (1) set of five (5) make-up brushes
(D) one (1) comb-out cape
(E) one (1) tweezer
(F) one (1) kit or tray to contain student personal training equipment
(2) In addition to the list of equipment in (1) of this subsection, the school shall have immediately available for student training:
(A) an adequate supply of protective gloves (disposable)
(B) an adequately supplied dispensary with skin care products
(C) visual aid equipment in addition to the chalk or marker board

175:10-3-40. Curriculum and training requirements for all courses

(a) Curriculum training shall include the study of electricity, safety measures and chemistry and must be carried through all classes in which it is used. Mannequin practice must be given to each student.

(b) A student who has completed the ~~1500 hours of~~ training in the Basic course in a cosmetology school or as an apprentice who completed the course in a salon, must have had required amount of patron practice by working under actual cosmetology salon conditions to that he should be able to:
(1) perform any ordinary operation satisfactorily and in the same amount of time customarily allotted to that operation in a cosmetology salon.
(2) conduct a consultation on any ordinary cosmetology subject and prescribe proper treatment.
(3) mix any preparation used in a cosmetology salon.

(c) Cosmetology salon management must include purchasing, price determination, selling, appointment scheduling, dispensing of supplies and personal management.

(d) The teaching of wig styling shall consist of training in the proper fitting, dressing, styling and arranging of wigs.

(e) State Cosmetology Law and Board rules ~~Rules~~ and regulations ~~Regulations~~ must be taught in all courses. ~~At least six (6) copies of the Rules, Regulations and Law book will be provided by the Board to each school (at cost for printing and delivery). Schools shall make rules, regulations and law book available to students.~~

(f) A school owner shall maintain an adequate dispensary room with supplies necessary for school operation and student training.

(g) A student enrolled in a ~~privately owned or public cosmetology~~ school shall not be allowed to work on the public until such time as he has received at least 150 clock hours or 5 credit hours of training spent in classroom theory and in mannequin or student practice under the direct supervision of a licensed instructor.

~~(h) Closed circuit television may be used to teach classes related to cosmetology only.~~

(h~~i~~) A Basic Cosmetology student who fails to complete the course and registers in the Manicurist, Cosmetician, Hairbraiding Technician or Facialist course may be credited with 10% of the previously accumulated hours.

(i~~j~~) Cosmetology schools must teach the curriculum for each course approved by the Board. A copy of current curriculum must be on file with the Board. The curriculum must be proven by a schedule which must be posted, ~~and~~ followed and made available to students. The schedule may be interrupted for a period not to exceed more than eight (8) hours per month for assembly purposes.

(j~~k~~) If a school stays open more than eight (8) hours per day, a curriculum and schedule must be submitted to the Board covering extra hours.

(k~~l~~) An evening school cannot be approved unless ~~complete~~ information as to the instructors in charge and a curriculum and schedule for each course to be taught is submitted to te Board before beginning evening classes. A student may attend both day and evening classes provided the entire time does not exceed eight (8) hours daily. A schedule must be submitted to each student training in such manner.

(l~~m~~) Each manager, instructor or ~~and/or~~ other person shall exercise the greatest care in keeping his person, all instruments used in school in the cleanest possible condition. Each must

be knowledgeable of the more communicable diseases and the techniques necessary to prevent the transmission of disease.

175:10-3-42. Facial/Esthetics Instructor course entrance and curriculum requirements

(a) **Entrance requirements.**

(1) Student registered in the facial esthetics instructor course must:

(A) hold an Oklahoma facial/esthetician license or be registered for the facial/esthetician examination. If any person enrolled prior to examination shall fail to appear or shall fail to pass facial test, he/she shall immediately cease facial/esthetics instructor training until such time as he shall again register for and show proof of achieving a passing score on the facial/esthetician examination.

(B) hold a high school diploma or General Education Development Certificate.

(C) file registration application for facial/esthetician instructor course including fee of $5.00 with the Board.

(2) Each student shall be provided with an approved textbook or manual before commencing training.

(3) A person licensed as a Manicurist/Nail Technician Instructor and holds a current esthetician license may be eligible for Facial/Esthetics Instructor licensure by registering and passing the Facial/Esthetics Instructor practical examination.

(b) **Curriculum requirements.** The 1000 clock hour or 33 ~~32~~ credit hour Facial/Esthetics Instructor course curriculum is prescribed as follows:

(1) Orientation ~~and review of the facial/esthetician curricula~~

(A) Clock hours - 60 ~~150~~

(B) Credit hours - 2 ~~5~~

(2) Introduction to teaching and curriculum

(A) Clock hours - 120 ~~60~~

(B) Credit hours - 4 ~~2~~

(3) Course outlining and development; lesson planning; teaching techniques; teaching aids; developing and administering and grading examinations

(A) Clock hours - 330

(B) Credit hours - 11

(4) Cosmetology Law, cosmetology school management and record keeping

(A) Clock hours - 90 ~~60~~

(B) Credit hours - 3 ~~2~~

(5) Teaching - assisting in classroom and clinic

(A) Clock hours - 150

(B) Credit hours - 5

(6) Practice teaching - classroom and clinic

(A) Clock hours - 250

(B) Credit hours - 8 ~~7~~

(7) Total hours

(A) Clock hours - 1000

(B) Credit hours - 33 ~~32~~

(c) **Minimum student kit contents.** A facial/esthetics instructor minimum kit equipment is required as follows:

(1) textbook or manual

(2) workbook

175:10-3-44. Manicurist/Nail Technician Instructor course entrance and curriculum requirements

(a) **Entrance requirements.**

(1) Student registered in the manicurist/nail technician instructor course must:

(A) hold an Oklahoma manicurist/nail technician license or be registered for the manicurist examination. If any person enrolled prior to examination shall fail to appear or shall fail to pass manicurist test, he/she shall immediately cease manicurist/nail technician instructor training until such time as he/she shall again register for and show proof of achieving a passing score on the manicurist examination.

(B) hold a high school diploma or General Education Development Certificate.

(C) file registration application for manicurist/Nail Technician Instructor course including fee of $5.00 with the Board.

(2) Each student shall be provided with an approved text book or manual before commencing training.

(3) A person licensed as a Facial/Esthetics Instructor and holds a current Manicurist license, may be eligible for Manicurist/Nail Technician Instructor licensure by registering and passing the Manicurist/Nail Technician Instructor practical examination.

(b) **Curriculum requirements.** The 1000 clock hour or 33 credit hour Manicurist/Nail Technician Instructor course curriculum is prescribed as follows:

(1) Orientation

(A) Clock hours - 60

(B) Credit hours - 2

(2) Introduction to teaching and curriculum

(A) Clock hours - 120

(B) Credit hours - 4

(3) Course outlining and development; lesson planning; teaching techniques; teaching aids; developing, administering and grading examinations

(A) Credit hours - 330

(B) Credit hours - 11

(4) Cosmetology Law, cosmetology school management and record keeping

(A) Credit hours - 90

(B) Clock hours - 3

(5) Teaching - assisting in classroom and clinic

(A) Clock hours - 150

(B) Credit hours - 5

(6) Practice teaching - classroom and clinic

(A) Clock hours - 250

(B) Credit hours - 8

(7) Total hours

(A) Clock hours - 1000

(B) Credit hours - 33

~~(1) The 1000 hour Manicurist/Nail Technician Instructor course curriculum is prescribed as follows with a recommended completion time of 25 weeks (40 hours per week):~~

~~(A) Orientation and review of the manicurist curricula: 150 hours~~

~~(B) Introduction to teaching: 60 hours~~

~~(C) Course outlining and development; lesson planning; teaching techniques; teaching aids; developing, administering and grading examinations: 330 hours~~

~~(D) Cosmetology Law, cosmetology school management and record keeping: 50 hours~~

~~(E) practice teaching - classroom and clinic: 150 hours~~

~~(F) Practice teaching - classroom and clinic: 260 hours~~

(c~~G~~) ~~Total hours: 1000 hours~~**Minimum student kit contents.** A manicurist/nail technician instructor minimum kit equipment is required as follows:

(1) textbook or manual

(2) workbook

PART 7. GENERAL OPERATIONS AND LICENSING REQUIREMENTS

175:10-3-51. Approval for school

An initial ~~original~~ license to open a cosmetology school is issued upon approval of location, equipment, schedule and curriculum.

175:10-3-52. Change of ownership or location

(a) No license is transferable. Any time a school changes ownership, the requirements for an original cosmetology license shall apply.

(1) Any school owner who contemplates selling or otherwise transferring ownership of his school shall notify the Board ~~board~~ in writing of intent to do so. The selling or other transfer of ownership shall not be considered consummated until such time as the application ~~applicant~~ of the new proposed owner has been approved by the Board and a new license is issued.

(2) Incorporation of a school shall require ~~that~~ a copy of the Articles of Incorporation, a new school license application, the initial license fee of four hundred dollars ($400.00) and a new sufficient surety bond shall be submitted to the Board immediately upon ~~aforementioned~~ incorporation.

(b) Change of location of any cosmetology shall require written notice be submitted to the Board no less than thirty (30) days prior to any ~~said~~ change in order to be approved by the Board.

175:10-3-53. Instructors

(a) **Licensed instructors required; demonstrators and guest lecturers.** Teaching in a cosmetology school shall be done by licensed instructors only. ~~Except a qualified manufacturer's representative may demonstrate the proper use of a product if approved by the school director.~~ Professional persons in fields related to cosmetology may lecture in cosmetology schools.

(b) **Product demonstration time allowed.** ~~In order to appear in any capacity in a cosmetology school, the demonstrator must have been previously approved by the Executive Director.~~ The total time given to product ~~such~~ demonstrations or lecturers shall not exceed eight (8) hours per month in any one school.

(c) **Product demonstration by appropriately licensed person only.** No person may demonstrate a product in a cosmetology school unless the person is licensed by the Board ~~he holds a current Demonstrator, Master Instructor, Cosmetician, Hairbraiding Technician, Facial/Esthetics Instructor, Manicurist/Nail Technician Instructor, Cosmetologist, Manicurist or Facialist license~~.

(d) **List of substitute instructors.** Schools shall maintain a current list of substitute instructors.

(1) List of current instructors shall contain names, addresses and phone numbers in the event of emergencies, vacations, leaves, or absence ~~etc~~. to assure appropriate instruction for the number of students enrolled ~~and/or for which the school is approved by the Board~~.

(2) Any substitute instructor in any cosmetology school shall posses a valid instructor license issued by the Board in order for hours of training to be credited to a student.

(e) **Owner instructors.** If the owner of a cosmetology school is the only instructor or one of the minimum number of instructors required for the number of students enrolled and registered in the ~~said~~ school, the ~~said~~ owner instructor shall devote full time to the instruction of cosmetology during school training hours.

(f) **Notice of change in instructor staff.** Each school owner is required to notify the Board in writing of any changes in cosmetology staff or instructors.

175:10-3-55. Student application and contracts

(a) A new student application, ~~and~~ contract and other required documents must be submitted before student commences training in any course.

(b) A student must be given a copy of the student contract at enrollment time.

(c) A copy of each student/school contract must be kept on file in the school.

(d) A student/school contract shall not be changed after a copy is submitted to the Board ~~board.~~ unless a ~~Except any~~ change in contract is ~~shall be~~ initialed by each involved party. A copy of the initialed contract shall be given to student at time of any change and a copy submitted to the Board ~~board~~ within five (5) days of a ~~said~~ change, noted with revised date.

(e) A student shall be registered in only one cosmetology school at any given time.

175:10-3-60. Attendance and other records and requirements ~~for clock hour schools~~

~~(a) **Monthly attendance record.** The owner of each cosmetology school shall file an attendance report with the Board on or before the fifth day of the month showing the total number of hours of instruction and training received by each student during the preceding calendar month. Hours reported shall be rounded to the nearest half hour.~~

(a~~b~~) **Minimum attendance per week.** ~~A student cannot be registered who will attend only one (1) day per week, even though he may attend regularly during the summer or other months~~. A part time schedule shall be submitted and approved by the Board. Student shall attend cosmetology school at least three (3) hours per day, five (5) days per week or a total of fifteen (15) hours per week.

~~(c) **Corrected attendance records.** Hours of student training credited on attendance records and submitted to the Board cannot be changed except as a correction which is approved and directed by the Board. Copies of sign-in sheet or time cards may be necessary to verify hours of attendance.~~

(b~~d~~) **Daily sign-in/time clock or other records maintained in a clock hour school.** In addition to maintaining ~~keeping~~ a current ~~the monthly~~ record ~~report~~ of student hours, clock hour schools shall keep a record of daily attendance ~~(sign-in sheet or time clock record) and of clinic practical practice(s) performed by each student~~. Students registered in a clock hour school ~~Each student~~ shall sign or clock in and out of each class daily.

(c) **Credit hour records maintained in a credit hour school.** Credit hour schools shall maintain a current record of credit hours earned by each student with dates and times of attendance.

(d) **Practical practice records.** Clock and credit hour schools shall maintain a record of clinic practical practices and theory credit or clock hours earned by each student.

175:10-3-61. School Affidavit; hours accumulated

~~(a) **Record of practical practice and classroom theory hours.** The school shall keep a record of practical practices performed and the number of hours of classroom theory received by each student. Hours reported shall be rounded to the nearest half hours.~~

(a~~b~~) **School Affidavit upon completion, withdrawal or termination.** School Affidavit shall be submitted within five (5) days upon completion of a course, withdrawal, or other termination of a student for any reason~~.~~ (excused ~~Excused~~ absence is an exception ~~excepted~~). The School Affidavit shall reflect the total number of clock or credit hours accumulated~~, and must state reason for termination or withdrawal~~.

(b~~c~~) **School Affidavit or hours completed to be submitted with examination registration.** The School Affidavit of completed hours of training must be submitted with examination registration.

(c~~d~~) **Hours submitted upon course completion.** Accumulated student hours shall be submitted to the Board within five (5) days of the ~~full~~ completion of course ~~the~~ hours ~~for any designated course~~ by a student. The school owner or instructor shall submit ~~said~~ accumulated hours to the Board on Board approved ~~attendance records and on the~~ School Affidavit to allow the student to be registered for examination and ~~and/or~~ be issued a student work permit by the Board.

(d~~e~~) **Refusal to submit student hours.** No school owner or instructor shall ever refuse to submit accumulated student hours.

(e~~f~~) **Hours not to be adjusted as penalty for absence or rule infraction.** No school owner or instructor shall penalize a student by deducting hours from accumulated hours earned, nor shall hours be added to the total hours required for course completion as penalty for excessive student absence or other school infraction.

(f~~g~~) **Student copies of School Affidavit of completion ~~and practical practice form~~.** A student who completes a specific course must be provided the School Affidavit of completion dated on the day of completion. ~~The student shall be provided, upon request, a report of the practical practice services performed.~~

175:10-3-62. Patron services in school

(a) **Student not paid for clinic work.** A school may not offer to pay commission to a student for clinic work performed.

(b) **Prices for services.** All prices charged by the cosmetology school for clinic cosmetology services shall be conspicuously posted ~~conspicuously~~ in the school clinic area.

(c) **Performing patron services in school.** An instructor in a cosmetology school shall not be allowed to perform patron service in the school. Appointment books and ~~and/or~~ other records shall reflect ~~for inspection purposes~~ the name of the patron and the student assigned to perform cosmetology services for the patron.

(d) **Student not called from theory hour of instruction.** A student shall not be called from any required ~~theory classroom during said hour of~~ instruction to perform practical services on the public.

175:10-3-63. School rules to be posted; specific and current

(a) A copy of the cosmetology school rule and regulations is required to be posted in each school.

(b) Cosmetology school rules ~~and regulations~~ shall define "Excused absence".

(c) School rules shall be specific regarding excessive absence and ~~and/or~~ tardiness.

(d) Posted school rules ~~and regulations~~ shall be kept current. Any revised rules shall be submitted to the Board ~~board~~ and students ~~student(s)~~ shall be apprised of revised rules and effective date at least two (2) weeks prior to planned effective date.

175:10-3-64. School uniform/dress code

(a) School rules shall be specific for student and student instructor uniform dress code requirements. The uniform dress code shall meet or exceed the Board rule requirements as pertain to professional uniform and safe and sanitary training practices. No hours shall be credited to any student who is not in uniform during classroom or clinic practical practice training. ~~Points of demerit will be noted on Board inspection records for any instructor/and/or school not in compliance~~

~~with~~ The Board minimum uniform dress code standards set forth as follows:

(1) Each ~~cosmetology school~~ instructor, student training in a cosmetology school or apprentice training in a salon ~~student, instructor student, trainee and instructor~~ shall be dressed in a washable tightly woven crisp fabric which shall readily shed hair clippings and/or other airborne particles.

(2) Tank or tube tops, sleeveless tops, high heals, ~~sandals, thongs~~ and ~~other~~ open toe footwear are considered by the Board to be unsafe and unsanitary attire for any cosmetology school student while training in the theory and practical practices of cosmetology.

(b) It shall be the responsibility of the managing cosmetology instructor of a cosmetology school to dismiss any student not in compliance with uniform dress code from clinic or theory class ~~(clinic or theory)~~ until such time as the student is in ~~shall be~~ Board approved uniform dress code.

175:10-3-67. Student re-registration fee and transfer process

(a) **Student re-registration.** Each time a student registers, re-registers, ~~(re-registers)~~ or transfers, in addition to other requirements, the registration fee of $5.00 must be submitted to the Board with ~~said~~ registration application.

(b) **Student transfer.** A student shall not be allowed to transfer from one cosmetology school to another for a period of at least thirty (30) days from the date of withdrawal or other termination unless a notarized release agreement, signed by official of transferring school is received by the Board. ~~(~~Withdrawal/termination date on school affidavit is required to be submitted within five (5) days of ~~said~~ termination.~~)~~

(c) **Out-of-state student transfer.** A student may transfer out-of-state hours provided the student submits the necessary proof of training to the Board for evaluation. Necessary papers will be forwarded upon request. The ~~(~~reciprocity~~)~~ processing fee for transfer of out-of-state hours is $30.00.

175:10-3-69. Student registration for examination upon course completion [REVOKED]

~~A student who has completed 1500 hours will be given no further credit in school until properly registered for th Basic Cosmetologist examination.~~

175:10-3-70. Student work permit [REVOKED]

~~(a) When an applicant registers for examination a permit may be granted the student upon completion of his course of training. The student may be issued a permit to work in a licensed cosmetology salon and permit shall designate his current student status to the public.~~

~~(b) The work permit with current 2" X 3" full face photo of student must be posted conspicuously at his work station.~~

~~(c) The student may practice cosmetology under the supervision of a licensed cosmetologist in a licensed salon until the scheduled appropriate examination.~~

~~(d) The permit shall be void from th date of notification form the Board that the student has (or failed) the examination. Except the student who shall pass the examination and apply for the appropriate license may practice under the permit thirty (30) days of notice.~~

175:10-3-71. Review hours

After a student registers for examination, he may register for non-required review hours not to exceed 500 clock or 17 credit hours. The non-required review hours remain on file but shall not be credited toward an examination. ~~Except those~~ Review hours that are required for the applicant whose license has expired may be credited toward the appropriate examination as in Rule 175:10-9-33.

175:10-3-72. Failure to appear for examination; request to be excused. [REVOKED]

~~(a) A student registered for the Basic Cosmetologist examination who shall fail to appear, and who is not excused due to emergency (serious injury, illness or death in the student's family) shall not be given credit for instructor or other training until such time as he has again registered for the examination.~~

~~(b) An excuse must be submitted to the Board in writing. Said excuse may be allowed by the Board only if the student shall notify the Board in writing within five (5) days of the examination for which he failed to appear. Said notice shall state emergency circumstance (i.e. serious injury, illness or death in said student's family). Documentation, such as a physician's statement shall be required.~~

175:10-3-73. Alcoholic beverage/controlled substance prohibited in schools

It is prohibited by the Board ~~board~~ for any cosmetology school instructor, student or ~~other cosmetologist or~~ school personnel to consume, serve or keep on school premises any beer, alcoholic beverage or other controlled substance during school training hours. This ~~Said~~ conduct shall be cause for possible suspension of registration and/or license by the Board ~~board~~.

175:10-3-75. Truth in advertisement; notice of student practice

(a) A cosmetology school shall be forbidden to advertise by using ~~means of~~ knowingly false ~~in either news or social items by the use of~~ or deceptive statements ~~and false promise~~ in order to induce students to enroll in the school.

(b) All advertisements for clinic practice shall contain the statement "All work is performed by students". The ~~Said~~ statement shall be required to be posted in a highly visible manner in the cosmetology school clinic area.

175:10-3-77. Non compliance with cosmetology law/rules~~; show cause hearing~~

A school owner who ~~shall fail~~ fails or refuses ~~refuse~~ to comply with the Act or ~~cosmetology law and~~ Board rules ~~rule~~

~~and regulations~~ is subject to disciplinary action by the Board ~~shall be served a notice to appear before the Board to show cause why the school license should not be revoked~~.

175:10-3-78. Availability of records for Board ~~board~~ inspection

All school records ~~(including school daily schedules)~~ shall be available for inspection.

SUBCHAPTER 5. LICENSURE OF COSMETOLOGY ESTABLISHMENTS

175:10-5-1. Cosmetology salon license application; authorization to open pending first inspection

(a) The Board will issue a salon license upon receipt of application for salon license, appropriate fee and notarized affidavit of applicant which reflects compliance with all salon license requirements. Initial inspection will be conducted to confirm compliance of license requirements. ~~Upon receiving application for cosmetology salon license, appropriate fee and notarized affidavit of the applicant which shall reflect compliance with all salon license requirements, the board will issue a receipt for license application. Said receipt will authorize the operation of the cosmetology salon until such time as initial inspection is conducted. Receipt is required to be posted in patron service area of the salon until license is received and is posted in public view,. The board will issue the initial salon license upon receiving inspection report of approval.~~

(b) In the event the salon should fail to be approved at initial inspection, the establishment may ~~will~~ be required to close and cease to provide services to the public until applicant/establishment shall be in compliance of all license requirements ~~and a license is issued~~.

(c) When the ownership ~~and/or location~~ of a salon changes ~~shall change~~, it will be considered a new salon and shall be required to comply with requirements for initial salon license. ~~(Except initial license fee is not required.) Notification of salon name change is also required.~~

(d) Salon owner is required to submit a salon change of location affidavit when the location of a salon changes. No fee is required unless a new license with new address information is requested.

(e) Salon owner is required to submit a salon name change affidavit when the salon name changes. No fee is required unless a new license with new salon name is requested.

175:10-5-2. Minimum equipment; sanitation standards; rule posted

(a) Each salon shall have at least one (1) shampoo basin and shampoo chair and other equipment, implements and supplies adequate to provide cosmetology services in a sanitary and safe manner to the public. Clothing worn by licensee ~~cosmetologist~~ while performing services to the public shall be clean and shall be designed to reduce risk of exposure to electrical and/or chemical burns/cuts to the skin and the potential for transmitting germs/bacteria.

(b) Each cosmetology establishment ~~salon~~ shall have in use at all times, at least one (1) dry and one (1) wet sanitizer for the purpose of sanitizing combs, brushes and other implements after each use.

(c) Each cosmetology establishment ~~salon~~ shall be required to be in compliance with ~~all~~ rules ~~and regulations~~ established by the Board ~~board~~ relating to the standards of sanitation to be observed and practiced ~~observed/practiced~~ in each cosmetology establishment. A copy of the sanitary rules ~~and regulations~~ will be provided ~~by the board~~ to each cosmetology establishment ~~salon~~ by the Board. The rules are required to be posted in each salon.

(d) Each salon owner and manager ~~owner/manager~~ is responsible for the general and sanitary condition of the salon. Each owner and manager ~~owner/manager~~ is responsible for assuring that each person employed and/or under his supervision and control in the salon, shall appropriately post a current, valid Oklahoma ~~cosmetology~~ license or work permit before performing services to the public in the salon.

175:10-5-4. Licensure requirements for health care facilities

(a) No individual, company or corporation may operate a cosmetology establishment without making application for a salon license.

(b) Health care facilities, such as hospitals, nursing or convalescent homes that offer cosmetology services to the public must have the following:

(1) a cosmetology establishment license

(2) licensed cosmetologist to perform cosmetology services

(c) No salon license is required if health care facilities offer limited cosmetology services for grooming and hygiene purposes to patrons and residents of the facility. Persons employed by the facility to perform limited cosmetology services must be a licensed cosmetologist or be authorized to practice the healing arts or nursing while engaged in the proper discharge of their professional duties. [Title 59 O.S. Section 199.6 (I)]

SUBCHAPTER 7. SANITATION AND SAFETY STANDARDS FOR COSMETOLOGY ESTABLISHMENTS, SALONS AND SCHOOLS

175:10-7-1. Cosmetology establishment separate from residence or other business

No cosmetology establishment shall operate in a residence or beauty/barber supply house or other business unless a room or rooms are provided separate and apart from the residence/supply house business and with a separate entrance. Salon must be separate from beauty supply house/business. Salon area shall have separate entrance and must be identified/signed in order for the Board ~~board~~ ~~(~~and consumers~~)~~ to determine specific area of inspection authority and responsibility. Salon area shall be separated by a solid divider, partition,

wall, display counter or shelves. Divider wall must measure at least six (6) feet from floor to top in such manner as to assure compliance with Board ~~board~~ standards of sanitation and safety for salon operation. All doors and windows between residence/living quarters shall be kept closed during cosmetology establishment hours.

175:10-7-3. Adequate ventilation

All rooms must have good ventilation adequate to quickly rid immediate premises of fumes from cosmetic products (i.e. artificial nail products, bleach ~~products/bleach~~ etc.) according to the city/state codes.

175:10-7-4. Furnishings; windows; ceilings; walls; floors

(a) Furniture shall be of washable material and shall be kept ~~scrupulously~~ clean. If upholstered furniture is used in the salon, it shall be covered with clean, washable slip covers ~~and must be laundered frequently~~. Breaks or cracks in leather or vinyl covered furniture must be repaired immediately.

(b) Windows must be kept in a clean condition.

(c) Each work/styling station shall be provided with adequate light and fixtures which shall be kept in a sanitary and safe condition.

(d) Ceilings and walls shall be of an easily cleaned, smooth and unbroken surface.

(e) Curtains, partitions or wall hangings shall be kept ~~scrupulously~~ clean at all times. ~~Curtains and hangings shall be changed/laundered frequently.~~

(f) Floors ~~in work areas (shampoo and styling areas)~~ in salons and schools ~~shall be covered with hard scrubbable surface, vinyl, tile, linoleum or other impervious floor covering~~ shall be maintained in a clean manner.

(g) Carpet is prohibited for use in work areas (shampoo and styling areas) of a cosmetology salon or school. ~~(Work station and shampoo areas).~~

(h) Each work/styling station shall be provided with a waste container which shall be emptied and cleaned each day.

175:10-7-5. Sanitizer(s)

(a) Wet sanitizer is a large, pan-type covered container required for use in a cosmetology salon or school. It may be of plastic, enamel, stainless steel, or rubber and shall be filled with sufficient EPA registered ~~board approved~~ liquid chemical sanitizing solution to completely cover all combs, brushes or other articles placed within for the purpose of sanitizing ~~said~~ cosmetology articles.

(b) Every precaution shall be taken to prevent infection by ~~the use of~~ sanitizing all cosmetology tools.

(c) All combs, brushes and other instruments, after being used, shall be sanitized as follows:

(1) Hair and other soil shall be cleaned from brushes and combs.

(2) Implements and other articles ~~requiring sanitizing~~ shall be washed in warm water and detergent.

(3) Articles shall ~~Must~~ be rinsed thoroughly in plain water.

(4) Articles shall be sanitized ~~Sanitized~~ in wet sanitizer with EPA registered ~~approved~~ liquid sanitizing solution.

(5) Articles shall be dried ~~Dried~~ and placed in dry sanitizer without fumes.

(d) Dry sanitizer is a clean, dry cabinet or sanitizer/sterilizer/cabinet, drawer, or other closed/covered/light type container which shall be used to store sanitized instruments, combs and brushes ~~(after tools have been taken from wet sanitizer)~~ so they are free from contamination~~, of those metal implements afer implements have been appropriately sanitized aby use of approved sanitizing methods and agents 70% alcohol or oil base spray sanitizer~~.

175:10-7-6. Sanitizing agents for use in cosmetology schools and related establishments

(a) Disinfectants for use by cosmetology establishments and schools shall be used only~~:~~ if registered with the Environmental Protection Agency (EPA) for use as a disinfectant to achieve its intended purpose in accordance with the product label.

~~(1) if registered with the Environmental Protection Agency (EPA) for use as a disinfectant to achieve its intended purpose in accordance with the product label; and~~

~~(2) after submission of a copy of the EPA - stamped product label and the actual product label to the Oklahoma State Board of Cosmetology to confirm that the labels are substantially similar.~~

(b) To sanitize and minimize corrosion of metal instruments, immerse and wipe thoroughly with an EPA approved disinfectant ~~(sanitizing solution) as in (a) of this rule,~~ or spray with approved oil base sanitizer and store in ~~sanitizer~~ a cabinet or closed container free from contamination between use and service for each patron.

175:10-7-7. Detection of head lice

(a) If head lice is detected, the licensee, student or apprentice ~~cosmetologist/student~~ should not proceed with further services and shall ~~should~~ wash and disinfect ~~his~~ hands. Infected person ~~patron~~ should be referred to a physician or health clinic. The ~~Said~~ person should submit a statement, signed by a practicing physician, which states that he is no longer infected and is free from communicable episode before any cosmetology services are performed ~~for the person~~.

(b) Appropriate action is to wipe down all exposed areas ~~(chairs, shampoo bowls, etc.)~~ with an EPA registered lice killing product ~~2% lysol or other germicidal solution~~. ~~Disinfect all exposed tools and equipment with 125 degree temperature water and/or 2% lysol or other approved germicidal solution. Vacuum and remove hair and waste, clean and disinfect floor with 2% lysol or other approved germicidal solution.~~

(c) Exposed towels and other linen shall be sealed in a plastic bag until such time as they ~~said towels~~ may be ~~appropriately~~ laundered.

(d) The immediate referral to a physician or health clinic ~~and other recommended action~~ shall also apply to any cosmetology licensee, ~~and/or cosmetology school~~ student or apprentice on

whom head lice or other communicable disease, infection, or condition is detected.

(e) The cosmetology salon or school owner/manager shall be held responsible ~~to the board~~ for assuring that no person performs cosmetology services in a licensed establishment or school ~~any cosmetology salon, studio or school~~ when the owner/manager knows ~~is knowledgeable~~ that any licensee, student, apprentice ~~Cosmetologist, Manicurist, Facialist, Demonstrator, cosmetology school student or apprentice~~ or patron is infected with head lice or other communicable disease. License may be subject to revocation or suspension in instance of noncompliance.

175:10-7-9. Shampoo area and equipment; plumbing [REVOKED]

~~(a) Shampoo units/areas shall be kept in a clean orderly manner.~~

~~(b) Shampoo bowls shall be rendered free from dirt and grease. Headrests of bowls shall be cleaned afer each appointment.~~

~~(c) Shampoo spray and hose shall be clean and free of cracks.~~

~~(d) Plumbing shall be in good repair at all times.~~

175:10-7-10. Lighting fixtures [REVOKED]

~~Light fixtures shall be adequate, appropriately installed and located for work and safety and in good repair at all times in order to provide adequate lighting in a safe manner.~~

175:10-7-11. Brushes and combs; rollers and clips; appropriate dispensers; product removal

(a) Rollers~~,~~ and clips ~~etc.~~ shall be cleaned and sanitized daily. ~~Placing combs or other articles to be used in the pocket of the uniform is prohibited.~~

(b) Placing combs or other articles to be used in the pocket of the uniform is prohibited. ~~An adequate daily supply of a minimum of twenty four (24) hair brushes shall be provided for each cosmetologist.~~

(c) An adequate daily supply of ~~a minimum of 24~~ combs and brushes shall be ~~provided~~ available ~~for each cosmetologist.~~

(d) ~~Use of a glass or cup for dipping combs or other instruments is prohibited.~~ Lotions, powder or water shall be dispensed from shaker or ~~spray~~ bottle.

(e) Creams and other semi-solid preparations shall be removed from containers with a spatula.

175:10-7-12. Towels

(a) ~~Towels and other items used in the cosmetology salon shall be washed after each use.~~ Clean towels shall be used for each patron. ~~Towels shall not be washed in shampoo bowls. Drying towels on line or chairs, etc. in the salon is prohibited. The headrest of the chair used shall be covered and the covering changed for each patron. Either a clean towel or paper toweling may be used. A plentiful supply of clean linens and neck strips must be maintained.~~

(b) Clean towels and other linens shall be kept in a closed area that is free from contamination.

(c) A suitable hamper-type container shall be provided for soiled towels.

(d) The headrest of the facial chair shall be covered with a clean towel for each patron.

(e) An appropriate supply of clean towels, linens and neck strips shall be maintained in the cosmetology establishment.

175:10-7-13. Work/styling station and shampoo area sanitation and safety

(a) Work/styling station and shampoo area shall be maintained in a neat and order manner at all times. Instruments, which have been used, shall not be placed on work station or on the floor. Loose/cut hair must be removed from styling/work station/chair and floor immediately after patron service is complete ~~hair cutting service performed~~.

(b) Consuming of food and/or beverage shall not be permitted at work/styling station or in classroom.

(c) Student, ~~and/or~~ instructor or other school personnel shall be not permitted to smoke in classroom or ~~and/or~~ at work/styling station.

(d) Light fixtures shall be appropriately installed in order to provide adequate lighting in work areas.

175:10-7-14. Manicuring station and equipment; methyl methacrylate (MMA) prohibited

(a) Manicuring station and equipment shall be kept in a clean and sanitary condition at all times.

(b) Manicuring bowls, brushes, and other washable items shall be cleaned and sanitized after each use and shall be kept in a closed area, free from contamination, when not in use.

(c) Manicuring instruments, tweezers, and other non-metal ~~non metal~~ implements shall be cleaned and sanitized. Implements shall be sanitized using an EPA registered product ~~immersed for the appropriate time per product instructions in approved hospital grade disinfectant and/or sprayed with approved oil base sanitizer designed for use on metal implements~~. Sanitized implements shall be stored in a sealed plastic bag or must remain in a dry closed/covered/light sanitizer (drawer, cabinet or box-type) until ready for use on next patron. At least two (2) sets of manicuring implements shall be maintained for each practicing manicurist in order that one set is appropriately sanitized for use on each patron.

(d) Hot oil or lotion manicuring units shall be maintained in a safe, clean and sanitary condition. A disposable type liner shall be used in unit cup to hold lotion. The used liner and oil or lotion shall be disposed of immediately afer use and shall not be reused.

(e) Maximum precautionary, safe, sanitary and appropriate preparation and application shall be observed in sculptured nails, tips, and other artificial nail procedures. Each licensee ~~manicurist/cosmetologist~~ shall be knowledgeable and alert to nail diseases and potential health hazards which may be present before or after artificial nail application. If evidenced prior to service, the licensee ~~cosmetologist~~ shall not proceed with application. If infection or other condition of disease is

evidenced after application, the patron shall ~~should~~ be referred to a physician or health clinic for appropriate treatment. No further manicuring services shall be performed ~~on the patron~~ until hands, nails, and/or fingers are free and clear of the disease or infection ~~disease/infection~~.

(f) Each licensee ~~manicurist/cosmetologist~~ shall be knowledgeable of product ingredients. If not listed on the product, the manufacturer should be contacted for content information. The use of methyl methacrylate (MMA) is prohibited.

175:10-7-15. Plumbing installation; electrical equipment; state and local ~~federal~~ code compliance

(a) Sufficient hot and cold water shall be supplied for sanitary and safe conditions in all cosmetology establishment and schools. All plumbing installation shall conform to state and local plumbing codes and be in good repair at all times. ~~Sufficient hot and cold water shall be supplied for (sanitary and safe conditions)in the cosmetology salon and school. All plumbing installation shall conform to state and local plumbing code. Specific attention shall be given to the possibility of back siphonage.~~

(b) All electrical equipment shall be properly maintained and installed by a qualified electrician. All electrical equipment installation shall conform to state and local plumbing codes.

175:10-7-17. License and other posting requirements

(a) Licenses shall be posted in a place easily viewed by the public.

(1) ~~Appropriate~~ Current ~~current~~ 2" X 3" photo of licensee is required to be posted with each license or work permit ~~license/work permit as applicable~~.

(2) Student and apprentice registration receipts and student permits to work shall be posted conspicuously.

(3) Posting at individual work/styling station in an establishment may be required for inspection and identification ~~inspection/identification~~ purposes.

(b) Board Sanitation Rules shall be posted in each cosmetology establishment ~~and Code of Ethics shall also be posted~~.

(c) Code of Ethics shall be posted in each cosmetology school.

(d~~c~~) Current inspection reports shall be posted in a place easily viewed by the public.

175:10-7-18. Sanitary precautions before and after each patron service~~; shaker dispenser~~

~~(a) Powder shall be kept in and dispensed from a shaker.~~

(a~~b~~) The hands of the licensee, student or apprentice shall be washed and the integrity of the skin carefully examined before and after performing a cosmetology service for any person. If any abrasion, cut, scratch, open lesion or infection is evidenced, protective or disposable gloves shall be worn while performing cosmetology services in order to reduce risk or transmission of infectious bacteria/virus/disease.

(b~~c~~) Styptic pencils and lump alum are prohibited. Liquid or powdered astringent shall be used to check bleeding and shall be applied with separate, clean, sterile gauze or cotton which shall be disposed of immediately after use.

(c~~d~~) Any cosmetology licensee who can reasonably anticipate, as the result of performing any cosmetology service, contact with blood and other potentially infectious material, shall wear protective disposable gloves while performing the services. Gloves shall not be re-used and shall be disposed of properly immediately after use.

175:10-7-19. Restroom areas

(a) Each cosmetology establishment~~,~~ and school ~~or cosmetology department~~ shall be required to maintain an adequate supply of disposable towels or ~~and/or~~ electric hand dryers, and liquid or powder soap for the restroom areas at all time. Soap must be dispensed from a pump or other type dispenser. Bar soap is prohibited for use in a cosmetology establishment or school.

(b) ~~Use of~~ E.P.A. approved disinfectant/germicidal products shall be used to clean restrooms in cosmetology establishments and school ~~are considered to be effective disinfection for sanitation of exposed implements, equipment and washroom/restroom fixtures and floors etc~~.

175:10-7-20. Communicable/infectious diseases in evidence

(a) Cosmetology licensees shall use universal precautions (treat blood and other body fluids/materials as if infectious).

(b) If a cosmetologist, student or apprentice ~~student/apprentice~~ has reason to suspect that a patron is suffering from any communicable or infectious disease, the licensee's ~~cosmetologist's~~ hands shall be washed and disinfected. Services shall be discontinued and patron referred to a physician.

(c) No person in charge of a cosmetology establishment ~~salon~~ or school, if knowingly infected with an infectious, contagious, communicable disease shall work in, nor shall he permit any person infected with communicable disease to work in ~~said~~ cosmetology establishment ~~salon~~ or school.

(d) No licensee, student or apprentice ~~cosmetologist/student/apprentice~~ shall massage any person when the surface to be massaged is inflamed or has open cuts, lesions or infection.

175:10-7-21. Appropriate cosmetic preparation application [REVOKED]

~~Creams and other semi-solid preparations shall be removed from containers with a spatula which shall not touch the hair or skin of the patron.~~

175:10-7-24. Electrical appliances, accessories and equipment [REVOKED]

~~Permanent wave, hair color, facial/skin care units and all other electrical appliances and/or accessories shall be inspected and checked frequently by a qualified electrician or other qualified authority who shall certify in writing the facts regarding such inspection. All newly installed electrical equipment shall be properly grounded, either by a separate ground wire, or through the power supply cord. The latter~~

~~methods would involve the use of the three pronged plug for equipment and ground receptacles. All electrical equipment shall be properly maintained. Frayed cords shall be replaced immediately.~~

175:10-7-25. Animals, birds, pets prohibited in cosmetology schools and related establishments

Animals, birds, and/or other pets shall be prohibited in a cosmetology establishment ~~salon~~ or ~~cosmetology~~ school, unless otherwise provided by law.

SUBCHAPTER 9. LICENSURE OF COSMETOLOGISTS AND RELATED OCCUPATIONS

PART 1. APPRENTICESHIP

175:10-9-1. Apprentice training

(a) Only a licensed instructor ~~of cosmetology~~ may train an apprentice in a cosmetology establishment ~~salon~~. Only a Manicurist/Nail Technician Instructor may train a manicurist apprentice. Only a Facial/Esthetics Instructor may train a facialist apprentice. Only one (1) apprentice per establishment ~~shop~~ shall be approved to be trained at any given time.

(b) A currently licensed instructor who wishes to train an apprentice shall make written application to the Board. The application shall include:

(1) Proof of need affidavit from the proposed apprentice. ~~(proof~~ Proof of need is considered by the Board to be proof of dire financial circumstances of the apprenticeship applicant or proof of lack of cosmetology training available within a reasonable distance of residence of apprentice applicant).

(2) Apprenticeship inspection fee of $20.00 (includes purchase of Rules, Regulations and Law book, apprentice registration and inspection fee) is required.

(c) An inspection will be made by the Board ~~board~~ for approval of required equipment, textbooks, and theory tests.

(d) An interview will be conducted with the instructor and the proposed apprentice to assure that both parties fully understand the apprenticeship program.

(e) When all requirements are met, an equipment affidavit will be signed by the inspector and the instructor. Apprentice registration forms will be completed at time of inspection ~~left with the instructor for completion~~.

(f) Equipment required to train an apprentice shall include:

(1) One (1) facial chair (reclining styling or shampoo chairs are acceptable ~~for apprentice practice~~).

(2) One (1) therapeutic lamp with red lights or unit that provides multi-lamp or light-heat treatment, ~~(~~installed for ~~so the apprentice may have~~ free use of both hands~~) shall be adequate to train an apprentice in facial and scallp treatments~~. ~~A unit that shall provide multi lamp (light heat) treatment may be approved by the board.~~

(3) One (1) facial supply cabinet.

(4) One (1) work/styling station.

(5) One (1) mannequin.

(6) Other ~~regular~~ cosmetology establishment ~~salon~~ equipment as shall be required for course of training ~~as shall be required by the board~~.

(g) Textbooks must be approved by the Board that adequately cover the prescribed curricula and prepares students for State Board testing. Other textbooks and reference material may be used to enhance the apprentice course.

(h) Reference and other library equipment include:

(1) Standard Dictionary

(2) American Medical Dictionary

(3) Subscription to at least one (1) professional magazine

(i~~h~~) Entrance requirements for apprentice training ~~(Basic Cosmetologist 1500 hour course, Manicurist 600 hour course, Facialist 600 hour course) are as follows:~~

(1) Apprenticeship must be approved by the Board ~~board~~ before apprentice attends class.

(2) Apprentice must be at least sixteen (16) years of age.

(3) Apprentice must show proof of at least 8th grade education or equivalency (8th grade diploma or transcript). The Board may accept a statement from a school official who states, upon interview with applicant, that applicant has the equivalency of at least 8th grade potential and ability to learn. ~~Apprentice must be mentally competent and able to benefit from instruction. An apprentice may be required to pass a test of competence or learning capability and potential before student registration application is accepted by the board. (Test administered and/or approved by the board).~~

(4) Apprentice must be able to benefit from instruction. ~~Apprentice must show proof of at least 8th grade education or equivalency 8th grade equivalency (8th grade diploma or transcript) or the applicant shall satisfactorily pass an 8th grade equivalency test administered by the board or the board may interview with said applicant, that the applicant has he equivalency of at least 8th grade potential and ability to learn.~~

(5) Apprentice must submit copy of birth certificate or other legal proof of age if under the age of 18 years of age ~~If under 18 years of age, apprentice must submit a photocopy of Birth Certificate or other legal proof of age~~.

(j~~i~~) Minimum content requirements for an apprentice kit are~~:~~ the same as for students registered in a cosmetology school.

~~(1) Copy of State Board Rules and Regulations and Law Book.~~

~~(2) One (1) approved text on the theory of cosmetology.~~

~~(3) One (1) razor-type hair shaper and shaper blades or razor hone.~~

~~(4) One (1) pair of hair cutting shears and one (1) pair of thinning shears.~~

~~(5) One (1) cuticle nipper for finger nails and one (1) nipper for toe nails.~~

~~(6) One (1) cuticle scissor.~~

~~(7) One (1) cuticle pusher.~~

~~(8) One (1) nail brush.~~

~~(9) One (1) nail file or package of emery boards.~~
~~(10) One (1) tweezer.~~
~~(11) Twelve (12) hair brushes.~~
~~(12) Twelve (12) hard rubber combs or other good quality combs (shall include rat tail, color, regular and barber type).~~
~~(13) Two (3) boxes of curl clips (100 per box).~~
~~(14) One (1) shampoo cape.~~
~~(15) Twelve (12) dozen hair styling rollers.~~
~~(16) One (1) kit or tray to contain apprentice personal training equipment listed in (1) through (15) of this subsection.~~

(k~~j~~) In addition to requirements of a kit, the apprentice shall have available for apprentice training: ~~the list of equipment in (I) of this section the shop shall have immediately available for apprentice training:~~

(1) At least one set of appropriately sanitized manicuring implements immediately available for use on each patron

(2) Adequately supplied dispensary to appropriately train apprentice in cosmetology practices; and ~~Toe nail clippers~~

(3) Visual aid equipment in addition to the chalk or marker board. ~~Permanent wave rods and other hair restructuring supplies.~~

~~(4) Adequately supplied dispensary to appropriately train apprentice in cosmetology practices and~~

~~(5) Visual aid equipment in addition to the blackboard.~~

(l~~k~~) Apprentice training may be approved ~~for the Basic Cosmetologist course, the Manicurist course, the Facialist course~~ for all courses except Instructor ~~and for review hours in these courses for expired licenses are required in board's Time Table. (175:10-11-1(g))~~. Apprentice training may be approved for courses of review when required for expired license.

(m~~l~~) The instructor shall not charge the apprentice for training. The instructor may charge for cosmetology services rendered by the apprentice while in apprentice training.

(n~~m~~) If the apprentice performs extra curricular work for the shop owner for compensation, the ~~said~~ work shall in no way interfere with the eight (8) hours per day of training for an ~~a regular~~ apprentice.

(o~~n~~) The instructor shall instruct the apprentice in all subjects as outlined in the curricula prescribed by the Board ~~board~~ to be taught in a cosmetology school. The instructor shall give the apprentice weekly tests and a final examination in both the practical skills and theory work.

(p) Apprenticeship training shall be under the direct supervision of the approved licensed instructor at all times.

175:10-9-2. Number of clock hours credited for apprentice training

(a) ~~An apprentice who spends eight (8) hours per day training in a cosmetology salon may complete a Basic course in a year and one half. A year and one half consists of seventy five (75) weeks of five (5) days each. If an apprentice trains six (6) days per week the training time will be less than seventy five (75) weeks. Training time is an actual 375 days or 3000 hours which is the equivalency of 1500 hours in a cosmetology school.~~ Apprentice course clock hours are as follows:

(1) Basic cosmetology - 3000 hours
(2) Manicurist/Nail Technician - 1200 hours
(3) Facial/Esthetics - 1200 hours
(4) Cosmetician - 1200 hours
(5) Hairbraiding Technician - 1200 hours

(b) ~~A Manicurist/Nail Technician or Esthetician/Facialist/Facial Operator course apprentice who shall be trained eight(8) hours per day may complete said course in one hundred and fifty 150) days (1200 hours).~~

(c) An apprentice who transfers to a cosmetology school shall be given 50% credit of the hours completed as an apprentice ~~will be allowed four (4) clock hours credit per day for the time trained as an apprentice~~.

175:10-9-3. Failure to complete apprentice training

If an apprentice ceases training before completion of the course, the instructor shall submit to the Board ~~board~~ the apprentice badge and course completion affidavit ~~state the reason the apprentice did not complete training~~. ~~The apprentice shall also notify the board the reason he did not complete training.~~

175:10-9-4. Apprentice badge and uniform

(a) An apprentice shall wear a lab coat and an apprentice badge at all times.~~,~~ The badge shall be issued by the Board and shall identify apprentice as a trainee. ~~and shall keep the apprentice registration receipt posted~~.

(b) Apprentice registration receipt shall be posted at all times ~~The apprentice badge will be provided by the Board and shall identify the apprentice as a trainee.~~.

175:10-9-5. ~~Record of~~ Practical ~~practical~~ practice and attendance records

(a) Each apprentice shall maintain ~~keep~~ a record ~~(on a form approved by the board)~~ of each practical practice he performs during training on a form approved by the Board. The instructor shall initial each practice immediately after each is performed by the apprentice ~~and the instructor and apprentice shall be co-responsible for submitting the practical practice records to the board monthly and at the completion of training, termination or withdrawal from apprenticeship training~~.

(b) Attendance reports shall be completed by both the instructor and the apprentice and maintained in the salon for inspection purposes.

175:10-9-6. Supervision; attendance record [REVOKED]

~~Training shall be under the direct supervision of a licensed instructor at all times. Monthly attendance reports shall be completed by both the instructor and the apprentice and maintained in the salon for inspection purposes submitted to the board's office by the 5th of each month for the preceding month.~~

175:10-9-7. Completion of training; examination application and issuance of work permit

(a) At the completion of training, the instructor shall immediately submit the ~~final monthly attendance records, practical practice report and the~~ affidavit of hours completed. ~~Also, all unused forms and the apprentice badge shall be submitted to the Board.~~

(b) Upon Board receipt of affidavit of hours ~~At such time as the practical practice forms, attendance records, affidavit of completed hours and badge are received by ch Board~~, a registration for examination form is mailed to the instructor for the apprentice. ~~The apprentice shall be registered immediately for the State Board examination.~~ The examination registration requires completion by both the instructor and apprentice and must be immediately submitted to the Board. The Board shall issue a permit to work ~~examination registration receipt~~ which ~~will permit apprentice to work until examination and~~ shall be posted at work/styling station with current photo attached.

PART 3. STATE BOARD EXAMINATION

175:10-9-25. Examination form; administration ~~Administration~~ and content of Board examination; passing score; disability accommodations; grade release reports

(a) The examination application shall be completed to include the School Affidavit of completion of hours, 2" X 3" current full-face photograph of the applicant and the examination fee of fifteen dollars ($15.00).

(b~~a~~) The Board shall conduct examinations for license at such times as the Board shall consider necessary to reasonably accommodate applicants for the examination.

(c~~b~~) Each applicant shall be required to take both written and practical ~~practice~~ portion of the State Board of Cosmetology examination.

(d~~c~~) The written exam will test general knowledge of cosmetology. ~~All questions will be general.~~ Textbooks approved by the Board will contain the subjects and examination questions and answers.

(e) The test for all instructor license examination candidates must include completion of student attendance record form, lesson plan preparation, class presentation and a written theory test and other cognate areas of teacher training. The instructor tests shall include questions pertaining to Oklahoma Cosmetology law and Board rules and regulations.

(f~~d~~) Each applicant is required to bring a model for the practical examination. The ~~Said~~ model must be sixteen (16) years of age or older.

(g~~e~~) Minimum passing grades ~~for examination~~, on each portion of the examination, ~~(written and practical)~~ are as follows:

(1) Basic Cosmetology Course - 75%
(2) Master Instructor Course - 85%
(3) Manicurist Course - 75%
(4) Esthetician Course - 75%
(5) Cosmetician Course - 75%
(6) Hairbraiding Technician - 75%
(7) Manicurist/Nail Technician Instructor - 85%
(8) Facial/Esthetics Instructor - 85%

~~(f) The test for all instructor license examination candidates must include completion of student attendance record form, lesson plan preparation, class presentation and written theory test and other cognate areas of teacher training. The instructor tests shall include questions pertaining to Oklahoma Cosmetology law and Board rules and regulations.~~

(h) A Cosmetologist, Manicurist, Esthetician, Cosmetician, or Hairbraiding Technician, declaring a disability, defined by the American Disabilities Act (ADA) shall submit a written statement when requesting an oral examination or other special testing accommodation. Such needs identification and request for special accommodation must be made at time of student enrollment with the Board or at the earliest time possible during course of training.

(i) Validity of disability must be established by the submission of a statement from a licensed health care professional qualified to diagnose the disability.

(j) Instructor license examination candidate declaring a disability shall be provided a distraction free space, test schedule variation and/or extended time to complete the test.

(k) State Board examination grades/scores will be provided to schools at least twice a year. The reports will be provided more frequently only as time and staff allows.

175:10-9-26. ~~Registration~~ Pre-registration for Board examination~~; pre-registration~~

(a) Except in emergency circumstances, examination pre-registration will be recognized by the Board only as follows: ~~The examination application shall be completed to include the School Affidavit of completion of hours, 2" X 3" current full-face photograph of the applicant and the examination fee of fifteen dollars ($15.00).~~

~~(b) Except in emergency circumstances examination pre-registration will be recognized by the Board only as follows:~~

(1) Application for examination pre-registration, with photo and fee is accompanied by the School Affidavit which shall reflect the total accumulated hours of training as the date of application and shall reflect that ~~said~~ applicant lacks ~~only~~ 100 clock hours or 3 credit hours less of training required for course completion. ~~The application shall also contain the photo, appropriate fee and other documentation as the Board may request.~~

(2) May of each year shall be considered the "school year end" for any pre-registration application for examination, therefore,~~. Therefore only~~ April, May and June pre-registration eligibility is established.

(3) A work permit shall not be issued to an applicant who is pre-registered before completion of training.

(4) School is required to submit School Affidavit immediately upon final completion of hours in order that the Board may issue a license. ~~Any examination pre-registration application received by the Board which shows that more than 100 hours are necessary for completion will be returned to application without further notice.~~

~~(5) Any applicant for examination registration who shall pre-register within 100 hours of completion, shall at~~

~~time of course completion be required to also submit to the Board an applicant's hours of completion before the applicant shall be issued a license.~~

(b~~c~~) A student instructor may apply for examination registration within 100 clock hours or 3 credit ~~one hundred (100)~~ hours of completion of the Instructor course. ~~The applicant shall not be notified to appear for examination until such time as proof (school affidavit) that the hours required for the completion of course is received by the Board.~~

~~(d) Examination registration applications must be submitted to the Board on forms which have been approved by the Board for this purpose.~~

~~(e) A Cosmetologist, Manicurist and/or Esthetician, Cosmetician, Hairbraiding Technician declaring a disability, defined by the American Disabilities Act (ADA) shall submit a written statement when requesting an oral examination or other special testing accommodation. Such needs identification and request for special accommodation must be made at time of student enrollment with the Board or at the earliest time possible during course of training.~~

~~(f) Validity of disability must be established by the submission of a statement from a professional in the field of disability. Statement must include credentials of such professional.~~

~~(g) Instructor license examination candidate declaring a disability shall be provided a distraction free space, test schedule variation and/or extended time to complete the test.~~

175:10-9-27. Minimum age; education license requirement [REVOKED]

~~An applicant may sit for an examination, but no applicant may be issued a license until he is a high school graduate or is seventeen (17) years of age.~~

175:10-9-28. Work permit; limitation

~~Upon registration fo the examination, an~~ An applicant may be issued a permit to work in a licensed cosmetology establishment, under the direct supervision of a licensed cosmetologist, upon registration for the examination and course completion. ~~Except~~ The ~~the~~ Board shall not issue a permit to work to an applicant for the Instructor's examination nor to an applicant who is pre-registered before course completion.

175:10-9-29. Failure of instructor student to pass ~~Basic Cosmetologist~~ examination

(a) Any instructor student enrolled and accumulating Instructor course hours who fails ~~shall fail~~ to pass the ~~Basic~~ Cosmetologist, Manicurist or Esthetician examination, shall upon notice of the ~~said~~ failure ~~to both student and school, shall~~ immediately cease instructor training until such time as the student ~~he shall show proof of passing~~ passes the ~~Basic Cosmetologist~~ examination and applies ~~has applied~~ for ~~his Basic Cosmetologist~~ a license.

(b) School shall notify Board when Instructor student resumes training. ~~A new instructor student registration application is required to be submitted for any student instructor before instructor training is resumed.~~

175:10-9-30. Failure to apply for license upon passing examination

(a) When an applicant is notified by the Board ~~board~~ of passing ~~that he has passed~~ the examination, application for license must be made ~~he is instructed to apply for the appropriate license~~ within thirty (30) days. ~~If he does not apply as instructed, his previously~~ Previously issued ~~student~~ work permit becomes void thirty (30) days from date of notice.

(b) ~~If an applicant~~ Applicant may ~~has applied for his license within thirty (30) days from date of notification to apply, he~~ continue to work under the ~~his previously issued and posted~~ student work permit until a ~~such time as he~~ license is issued if application for license is made within thirty (30) days of notice to apply ~~the appropriate license by the board~~.

(c) An applicant who fails ~~shall fail~~ to apply for a ~~his~~ license from sixty (60) days to one (1) year from date of notice to apply ~~after passing examination,~~ shall, in addition to the appropriate license fee, be required to pay a penalty of ten dollars ($10.00) ~~for the delinquent license application before a license may be issued by the Board~~.

175:10-9-31. Failure to appear for examination

(a) **Excused from examination due to emergency circumstances.**

(1) In order to be excused from examination, the ~~an~~ applicant ~~who shall fail to appear for the examination for which he is scheduled,~~ must notify the Board in writing within five (5) calendar days after the ~~of said~~ examination ~~date~~ stating that the ~~his~~ failure to appear was due to an ~~circumstances of~~ emergency ~~nature~~. Emergency circumstance is considered to be serious injury, illness or death in the immediate family of the applicant. Documentation, such as physician's statement, may be required ~~a documentable fact or event that prevents applicant for registration, examination, licensure etc. from appearing for the scheduled examination that is determined by the Executive Director to be good cause serious injury, illness or death in the immediate family of the applicant~~. Documentation, such as physician's statement, may be required ~~of emergency is required, i.e. physician's statement etc.~~

(2) If an applicant is excused from the examination, any previously issued ~~for which he failed to appear, his student~~ work permit ~~previously issued~~ shall remain valid until the date of the next scheduled examination ~~and said applicant may be reschedule for the next examination without additional registration applicator or fee required~~. The applicant shall not be required to pay any additional fee or submit another examination registration form.

(b) **Un-excused from examination ~~Re-registration and fee requirements for non-excused applicant~~; work permit limitation.** An applicant who fails ~~shall fail~~ to appear for examination, ~~(~~without emergency excuse~~)~~, or an applicant who fails ~~shall fail~~ to pass the examination ~~for which he is scheduled~~ for the second time, ~~shall forfeit any previously submitted examination fee. No further~~ will not be issued any further work permit ~~may be issued,~~ and any previously issued work permit will become ~~becomes~~ immediately null ~~and void~~.

Applicant is required to re-register for examination with appropriate fee. ~~In order for the applicant to be issued a license by the Board, he shall be required to again appropriately register (including payment of examination fee) and shall show proof of scoring a passing grade for the (failed or failed to appear for) examination as is applicable.~~

175:10-9-32. Failure to pass examination; re-taking failed portion; review hours

(a) An applicant who fails ~~shall fail~~ either the practical portion or the written theory examination may be re-scheduled for ~~the next~~ examination by submitting the appropriate registration application and fee to the Board. Applicant shall be scheduled to take only that portion of the examination failed ~~provided that the applicant shall register for and take the portion failed within six (6) months from the date of completion of the applicable course of training~~.

(b) An applicant who has failed either the practical practice or the written theory examination four (4) times must first show proof of having completed 120 clock or 4 credit review hours in an approved Oklahoma cosmetology school before being eligible to re-register for the examination.

175:10-9-33. Review of hours required after failure to timely register for examination or to apply for license

(a) After one (1) year and up to five (5) years from date of the completion of a course of training, any applicant who fails ~~shall fail~~ to register for the examination or who fails ~~shall fail~~ to apply for his license after notice to apply, shall be required to ~~first register with the Board for the appropriate examination and shall be required to~~ show proof of no less than the following review hours in an approved Oklahoma cosmetology school before being eligible to sit for the examination:

(1) Basic Cosmetologist
  (A) 120 clock hours
  (B) 4 credit hours
(2) Manicurist
  (A) 40 clock hours
  (B) 2 credit hours
(3) Facialist
  (A) 40 clock hours
  (B) 2 credit hours
(4) Hairbraiding Technician
  (A) 40 clock hours
  (B) 2 credit hours
(5) Cosmetician
  (A) 40 clock hours
  (B) 2 credit hours
(6) Master Instructor
  (A) 120 clock hours
  (B) 4 credit hours
(7) Manicurist/Nail Technician Instructor
  (A) 120 clock hours
  (B) 4 credit hours
(8) Facial/Esthetics Instructor
  (A) 120 clock hours
  (B) 4 credit hours
  ~~120 current review hours for the Basic Cosmetologist course, forty (40) hours for the Manicurist or Facialist course, whichever is applicable, in an approved cosmetology school before being eligible to sit for examination. (Applicable to Instructor - 120 hours.)~~

(b) After five (5) years from date of the completion of a course or training, any applicant who shall fail to register for the examination or who shall fail to apply for his license after notice to apply, shall be required to first register ~~with the board~~ for the appropriate examination. He shall be required to show proof of a specific number of current review hours, the same as is required for the renewal of an expired license which is expired for the same length of time as required in Title 59 O.S. Section 199.10 (D) ~~(Time table 175:10-11-1(g))~~.

PART 5. DEMONSTRATORS; COSMETIC STUDIOS; TRADE SHOWS; GUEST ARTISTS; WIG DRESSING

175:10-9-50. Demonstrator and cosmetic studio license requirements.

(a) Any person ~~in this state~~ who is not a cosmetology licensee in this state, and who demonstrates any cosmetic preparation ~~by use of a sponge, brush or other applicator~~ for the public from open tester, sampler or other open container, is hereby declared to be a demonstrator and shall be required to obtain a license from the Board before making the ~~said~~ demonstrations.

(b) While the Board does not interfere with door-to-door individual one-on-one type cosmetic retails sales, any person who establishes ~~shall establish~~ a cosmetology business or represents ~~represent~~ himself to be providing facials or other cosmetology services to the general public in a place other than a cosmetology salon or school shall be required to obtain a license as is appropriate to the practice performed.~~, i.e. to provide~~ Providing or performing ~~(perform)~~ a facial is a cosmetology practice which shall require a Facialist, Cosmetologist, Facial/Esthetics Instructor or Master Instructor license. ~~(If performing demonstrations of make-up and cosmetic application, a Demonstrator license may be appropriate and within the Oklahoma cosmetology law. Restrictions may be required for individual circumstance.)~~

(c) A person who provides a demonstration of the proper use and application of specific make-up and cosmetic technique and product information to students enrolled in modeling, charm or other self-improvement programs, shall be a licensed Cosmetologist, Cosmetician, Facial/Esthetics Instructor, Manicurist, Facialist, Master Instructor or Demonstrator as applies to a specific license held ~~(~~and demonstration performed~~)~~ by the person. Techniques and products demonstration shall be restricted to personal self-improvement and individual modeling students and shall not be training to provide cosmetology services to others.

(d) A Cosmetic Studio is considered by the Board to be a place where licensed demonstrators give demonstrations for the sole purpose of advertising and selling cosmetics.

(e) Any Cosmetic Studio shall be required to be licensed by the Board and ~~said~~ license shall expire and subject to renewal annually.

(f) Each Cosmetic Studio must prominently display an identifying sign in plain letters at least three (3) inches tall and one (1) inch wide. Failure to display such a sign will be considered as evidence of attempt to avoid inspection.

(g) A cosmetic counter or other establishment where cosmetic preparations may be sold but where cosmetics are in sealed containers ad where no open containers (testers, samplers, applications etc.) are used to demonstrate, the cosmetics may be exempt from cosmetology licensing requirements.

(h) Requirements for the issuance of a Demonstrator's license are:

(1) One (1) current, 2" X 3", full-face photo ~~(full face 2" X 3")~~

(2) Notarized application and affidavit ~~(forms may be obtained from the board)~~

(3) Fee of $20.00

(i) Demonstrator license requirements shall be met before the demonstrator begins a demonstration. These requirements are established and must be met to ensure ~~insure~~ the identification of persons, products and locations where demonstrations are performed to the consuming public.

(j) The demonstration of eye lash and brow tints, hair tints and color rinses, permanent waves and hair relaxants, facial preparations or other preparations considered by the Board to require extensive knowledge, skill and training to ensure ~~insure~~ safe and proper usage, is hereby prohibited. ~~Except said demonstrations may be performed for persons who have had at least 1500 hours of cosmetology training and which persons shall hold a current and in good standing license therefore or to persons who are students currently enrolled in cosmetology school.~~

175:10-9-52. Trade show, special class, guest artist requirements

~~(a) In accordance with the Oklahoma Cosmetology Act, it shall be unlawful for any person to practice cosmetology without having obtained an appropriate license, and in any place other than a licensed cosmetology establishment or school.~~

~~(b)~~ The Board has established the following rules for guest artist appearances ~~appearance(s)~~, a cosmetology related trade show, special class, seminar and/or conference.

(1) The Board may allow a trade show, special class or demonstration, not to exceed five (5) consecutive days in any six (6) month time frame, provided that the ~~said~~ trade show, special class, or demonstration shall be sponsored by a cosmetology association, cosmetology school association or beauty supply house.

(2) ~~Provided~~ An ~~an~~ out-of-state or in-state technician, product sales person, demonstrator, color analyst, or other person who may be engaged to appear at any ~~said~~ trade show, special class, seminar or conference ~~etc.~~ shall be required to show proof of current license to practice cosmetology issued by the person's state, province, territory or country for inspection purposes.

(3) ~~It is further provided that~~ Notice ~~notice~~ is required for any trade show, special class, or other cosmetology platform demonstration of technique or product. The ~~Said~~ notice ~~of demonstration/performance, etc.~~ shall be submitted to the Board prior to scheduled performance, class, show or seminar ~~performance/show~~ and shall include details of location, date and time, and the name(s) ~~and qualifications~~ of sponsor(s) and guest artist(s) scheduled to perform at or to conduct the ~~said~~ show. ~~A limited, temporary permit for a trade show or special class not to exceed five (5) consecutive days shall be required to be obtained from the Board before said show shall be approved. A fee of thirty-five ($35.00) shall be submitted to the board for each trade show or class.~~ Advertising for ~~said~~ trade show shall indicate that the show is limited to licensed cosmetologists and/or cosmetology students.

175:10-9-53. Wig dressing requirements

(a) The dressing, cleaning, styling, fitting or arranging of wig/wiglet/hair-piece of synthetic or human hair and the performing of these services ~~services~~ to the public is a practice of cosmetology. ~~(The requirements for a Hairbraiding Technician re: hair extensions as in 175:10-3-43, do not apply to this sub-section).~~ The person performing these services ~~who fits, arranges or styles a wig or other hairpiece~~ upon head/hair or the public consumer ~~of said service(s)~~ must be appropriately licensed as a ~~Basic~~ Cosmetologist or Instructor ~~or registered as a cosmetology student~~. The requirements for a Hairbraiding Technician at 175:10-3-43 do not apply to this sub-section.

(b) Wig dressing/cosmetology services ~~service(s)~~ must be performed in a licensed cosmetology school or establishment. Sanitation rules and regulations ~~required for any licensed cosmetology school or established~~ must be observed ~~by licensee/student as is applicable to wig dressing/cosmetology practice/training curriculum and premises where the services/practice/training is performed~~.

(c) Retailing of wig, wiglet or hairpiece is exempt from licensing requirements. However ~~provided~~ the seller shall not engage in the practice of cosmetology ~~perform service/practice~~ as described in subsection (a) of this rule or as otherwise defined in the Oklahoma Cosmetology Act and ~~described/defined as wig dressing/practice of cosmetology~~.

175:10-9-54. Cosmetology related high fashion photography or similar business/establishment requirements

(a) Any high fashion photography and similar cosmetology related business/establishment providing any one or combination of cosmetology services separately or in conjunction with photography or similar services to the public shall be appropriately licensed by the Board ~~of Cosmetology~~.

(b) Any employee ~~of~~ or other person performing any one or combination of cosmetology services in such establishment shall be appropriately licensed by the Board.

SUBCHAPTER 11. LICENSE RENEWAL, FEES AND PENALTIES

175:10-11-1. Application for renewal of license

(a) All practitioner licenses issued under the provisions of the Cosmetology Act shall be issued for a period of one (1) year. The expiration date of the license shall be the last day of the applicant's birthday month. ~~Except a cosmetology establishment license which is issued to a non cosmetologist owner and/or a cosmetology school license shall expire by June 30th each year.~~

(b) A cosmetology establishment license issued to a cosmetologist shall expire on the last day of applicant's birthday month each year. ~~Application for renewal must be made on or before the last day of the applicant's birthday month or by June 30th as is applicable and shall be accompanied by appropriate fees.~~

(c) A cosmetology establishment license issued to a non-cosmetologist owner and a cosmetology school license, shall expire by June 30th each year.

(d) Application for renewal must be made on or before the last day of the applicant's birthday month or by June 30th as applicable and shall be accompanied by appropriate fees.

(e~~c~~) One day following the expiration date of a license is considered to be the day a license becomes void, and a person practicing with the invalid license shall be considered to be practicing without the appropriate license. ~~The person is subject to all recourse available to the board as is provided for in the Cosmetology Act and board rules and regulations.~~

(f~~d~~) Each person holding a license shall notify the Board of any change in name and/or address within thirty (30) days after the change. Any name change shall require court or other legal documentation of the change before the change may be recognized and recorded in files of the Board.

175:10-11-2. Cosmetology license and penalty fees

(a) The Board is authorized the following license and penalty fees:

(1) Student/Apprentice registration - $5.00
(2) Examination registration - $15.00
(3) Cosmetology school license (initial) - $400.00
(4) Cosmetology school license (renewal) - $125.00
(5) Master Instructor - $20.00
(6) Facial/Esthetics Instructor - $20.00
(7) Manicurist/Nail Technician Instructor - $20.00
(8) Basic Cosmetology license - $15.00
(9) Manicurist license - $15.00
(10) Esthetician license - $15.00
(11) Cosmetician - $15.00
(12) Hairbraiding Technician - $15.00
(13) Demonstrator license - $20.00
(14) Advanced Operator license (renewal only) - $15.00
(15) Cosmetology establishment ~~salon~~ (initial) - $35.00
(16) Cosmetic studio license (initial) - $35.00
(17) Cosmetology establishment ~~salon~~/Cosmetic studio license (renewal) - $20.00
(18) Reciprocity license - $30.00
(19) Reciprocity transfer of hours processing fee from out-of-state - $30.00
(20) Duplicate license (in case of loss or destruction of original license and/or renewal application) - $5.00
(21) Notary Fee - $1.00
(22) Certification of Records - $10.00

(b) The Board shall charge a penalty fee of ten dollars ($10.00) for ~~For~~ the renewal of any license delinquent from two (2) months to one (1) year ~~(~~after expiration date~~)~~ ~~the Board shall charge a penalty of ten dollars ($10.00)~~. This sub section ~~rule~~ also applies to any delinquent initial license application.

(c) All fees shall be submitted to the Board in the form of a cashier's check, money order or business check. Personal checks are not accepted by the Board. ~~(Not responsible for cash by mail).~~

SUBCHAPTER 13. RECIPROCAL AND CROSSOVER LICENSING

175:10-13-2. Credit allowed for barber training

(a) A barber who holds a current Oklahoma barber license in good standing, who shall apply to register for the Board's ~~board's~~ examination for a Basic Cosmetologist license, may be eligible to sit for the examination upon showing proof of the completion of seven hundred and fifty (750) hours of training in a cosmetology school.

(b) Training shall be in accordance with ~~to~~ a curriculum and schedule approved ~~prescribed~~ by the Board ~~board~~ and developed specific to manicuring, ~~and~~ pedicuring, ~~facial (~~skin care, ~~and~~ make-up~~)~~, hair styling, ~~and~~ color techniques, Cosmetology law and Board ~~board~~ rules and regulations. ~~(~~Training evaluation and curriculum is approved at time of enrollment in a school of cosmetology~~)~~.

SUBCHAPTER 15. INSPECTIONS, VIOLATIONS AND ENFORCEMENT

175:10-15-1. Board authority to enforce rules [REVOKED]

~~(a) The Board is authorized by legislative action to carry out the provisions of the Oklahoma Cosmetology Act, and with the power and duty to make and enforce all reasonable rules necessary in order to safely and effectively protec the health and general welfare of the people of Oklahoma.~~

~~(b) The Board by majority vote, shall have the authority to waive any procedural rule herein, provided however no substantive rule may be waived by the Board.~~

175:10-15-2. Board inspection of cosmetology establishments and schools

(a) The Board's Inspector ~~board~~ and/or its authorized representative shall have the authority and right to entry to cosmetology salons and schools during reasonable business hours in order to perform inspection and investigatory duties

necessary to the responsibility and functions of the Board. The inspection duties shall include all sanitation and licensing rules compliance as pertains to any licensed facility where cosmetology services ~~(practices)~~ are performed for the public.

(b) Inspectors shall list the names ~~number~~ of persons working in each cosmetology salon and school, ~~each~~ license type, ~~And~~ file number and expiration date.

(c) Inspectors shall make inspections and investigations ~~inspection and/or investigation,~~ and shall file a report on any alleged violation and unlawful practice of the Oklahoma Cosmetology Act.

(d) Refusal to permit, or otherwise interfering with an inspection shall constitute cause for disciplinary action and could lead to revocation or suspension of ~~the cosmetology~~ license(s). ~~Any school refusing or otherwise impeding the orderly conduct of an inspection shall have student hours immediately ceased until such time as the situation has been corrected. Any cosmetology school or related establishment (owner management) refusing to allow or otherwise interfering with the duties of the Board's inspector or other authorized representative, shall be subject to show cause hearing before the Board in accordance with the Oklahoma Cosmetology Act.~~

175:10-15-4. Complaints; notice of violation; corrective measures [REVOKED]

~~(a) Should a violation be discovered, a written notice (inspection report) of the violation shall be given to the alleged offender with a time frame designated for corrective measures. Such notice shall be posted conspicuously in the premises where such violation exists.~~

~~(b) The initial complaint (report) shall be filed with the board by the Inspector or other complainant. A notice of alleged violation and any pending Board action will be provided to the alleged offender as is applicable.~~

~~(c) If no response from alleged offender of intent to correct or note corrective measure taken within ten (10) days from the date of notice is received by the date, an official order to appear before the board to show just cause why his license should not be revoked or suspended, may be sent to said alleged offender. Such legal remedy of the board shall be in accordance with the Board of Cosmetology rules of practice and the Oklahoma Administrative Procedures Act.~~

~~(d) Consumer complaint forms shall be available from the board.~~

~~(e) Anonymous complaints may not receive response and/or action by/from the Board.~~

~~(f) A notice providing the name, address, and telephone number of the State Board of Cosmetology shall be posted conspicuously in each cosmetology school and establishment. Such posting shall provide notice that the complaints against licensees may be filed with this regulatory board. Complaint forms for this purpose may be obtained from the office of the Board.~~

SUBCHAPTER 17. EMERGENCY COSMETOLOGY SERVICE

175:10-17-1. Emergency cosmetology services ~~limited~~; documentation required

(a) ~~It shall be unlawful for any person to practice cosmetology except as provided in Board rules and cosmetology law.~~ A licensed cosmetologist may perform cosmetology services ~~by appointment only~~ for a person in the person's ~~temporary or permanent~~ residence ~~of the person~~ in the event ~~circumstance~~ of an emergency ~~nature~~. Emergency is considered to be serious injury or illness which causes ~~shall cause~~ the ~~said handicapped or other incapacitated~~ person to be residence bound. ~~Provision for cosmetology services to be performed for residence bound/incapacitated persons is limited to emergency situations acknowledged by a doctor's verification.~~

(b) ~~It is further provided that appointment~~ Appointment for emergency service must be booked from a ~~cosmetology~~ licensed cosmetology establishment. ~~Details of the emergency appointment shall be provided to the Board on request. (i.e. emergency location and other conditions of emergency, physicians statement etc.).~~ A doctor's statement must be kept in the cosmetology establishment verifying that the person is residence bound or otherwise incapacitated.

(c) The cosmetology shall have his license in his possession when performing cosmetology services.

(d) Mobile, portable or other door-to-door cosmetology service is prohibited unless provided as emergency service as described in this sub-section.

175:10-17-2. Mobile/portable cosmetology establishment/services not allowed [REVOKED]

~~The Oklahoma Cosmetology Act and Board rules prohibits a mobile, portable or other door to door cosmetology service or practice except as provided in 175:10-17-1 for incapacitated persons.~~

[OAR Docket #04-615; filed 4-9-04]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #04-533]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Records and inspections
240:1-3-3. Confidential records [AMENDED]
240:1-3-4. Copies [AMENDED]
240:1-3-7. Receipt of requests [AMENDED]
AUTHORITY:
40 O.S. §§ 4-302 and 4-508; and the Oklahoma Employment Security Commission.
DATES:
Comment Period:
December 15, 2003 through January 15, 2004
Public Hearing:
No public hearing was held or requested
Adoption:
February 3, 2004

Submitted to Governor:
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Submitted to Senate:
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Gubernatorial Approval:
March 11, 2004
Legislative Approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 30, 2004
Final Adoption:
March 30, 2004
Effective:
May 15, 2004
Superseded Emergency Actions:
None
Incorporations By Reference:
None
Analysis:
In the 2003 legislative session, the confidentiality statute at 40 O.S. §4-508 was amended to state that subpoenas would be invalid to obtain unemployment claim information and employer wage information. The statute now provides that this information can be obtained by court order. Administrative subpoenas from federal, state or local government agencies with subpoena power will also be allowed.
Contact Person:
For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2004:

SUBCHAPTER 3. RECORDS AND INSPECTIONS

240:1-3-3. Confidential records

(a) Employer and unemployment insurance claimant records made confidential under Title 40 O.S., Section 4-508, may be released upon receipt of ~~a~~ an administrative subpoena, court order or a notarized waiver of confidentiality signed by the person with the authority to waive the confidentiality of the records.

(b) The administrative subpoena, court order or wavier of confidentiality form shall be served on the Commission's legal division or the custodian of records twenty (20) days prior to the date on which the records are to be produced. The records requested shall be described as specifically as possible and the administrative subpoena, court order or waiver of confidentiality form shall set out the employer account number or social security number of the employer or claimant whose records are being requested.

(c) An employer or unemployment insurance claimant with proper identification can personally review his or her records at the Commission's local office where the claimant filed his or her claim or at the administrative office located in the Will Rogers Memorial Office Building in Oklahoma City depending on where the records are located.

240:1-3-4. Copies

(a) Any person wishing to obtain a copy of any record must follow the procedures in rules 240:1-3-2 or 240:1-3-3 and include a request for copies in the writing, administrative subpoena, court order or waiver of confidentiality.

(b) In the event the request constitutes more than twenty (20) pages, the legal division or custodian of records may arrange to mail the copies to the requester, within twenty-five (25) days from the date of receipt of the request.

240:1-3-7. Receipt of requests

All requests for inspection or release of information, administrative subpoenas, court order or waivers of confidentiality shall be served upon the Legal Department of the Oklahoma Employment Security Commission or the Custodian of Records for the records requested. The Executive Director of the Oklahoma Employment Security Commission shall designate the Custodian of Records.

[OAR Docket #04-533; filed 3-31-04]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE

[OAR Docket #04-577]

RULEMAKING ACTION:
PERMANENT final adoption
PROPOSED RULES:
Subchapter 9. Administrative Proceedings
Part 5. Air Quality Advisory Council Hearings
252:4-9-51 [AMENDED]
252:4-9-52 [AMENDED]
AUTHORITY:
Environmental Quality Board, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, 27A O.S., §§ 2-5-101 *et seq.*
DATES:
Comment period:
June 16, 2003 through July 16, 2003
Public hearing:
July 16, 2003 and September 9, 2003
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Gubernatorial approval:
October 27, 2003
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Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004
Final adoption:
March 24, 2004
Effective:
June 1, 2004
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None

ANALYSIS:

The Department proposes to delete the option for the Air Quality Advisory Council to conduct individual proceedings on enforcement matters. This amendment is for conformity with statute, as legislated in HB 1019 and approved by the Governor April 22, 2003.

CONTACT PERSON:

Pat Sullivan, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JUNE 1, 2004:

SUBCHAPTER 9. ADMINISTRATIVE PROCEEDINGS

PART 5. AIR QUALITY ADVISORY COUNCIL HEARINGS

252:4-9-51. In general

The Air Quality Advisory Council is authorized to conduct individual proceedings on ~~enforcement matters and~~ requests for a variance from the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 through 2-5-118, or the Air Pollution Control Rules, OAC 252:100.

252:4-9-52. Individual proceedings

Individual proceedings before the Air Quality Advisory Council will be conducted in accordance with the requirements in Part 3 of this Subchapter. ~~To be heard by the Council, the request for hearing in response to an Order must include a request that the Council conduct the hearing.~~ The Council may designate an Administrative Law Judge for individual proceedings to be held before the Council. ~~The Council or its designee may perform Administrative Law Judge functions described in Part 3 of this subchapter.~~

[OAR Docket #04-577; filed 4-7-04]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #04-576]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 33. Control of Emission of Nitrogen Oxides
252:100-33-1.1 [AMENDED]
252:100-33-1.2 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and Oklahoma Clean Air Act, 27A O.S. § 2-5-101, *et seq.*

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:
252:100-33-1.2 [AMENDED]
Gubernatorial approval:
March 17, 2003
Register publication:
20 Ok Reg 737
Docket number:
03-466

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The DEQ proposes to exempt glass-melting furnaces from the requirements of Subchapter 33 and to revise the definition of "new fuel-burning equipment" to reflect the date (July 1, 1977) that direct-fired fuel-burning equipment became subject to Subchapter 33. An emergency rule containing this exemption was approved by the Board at their February 28, 2003 meeting and became effective March 17, 2003. The permanent revision was delayed to allow time to determine if other direct-fired fuel-burning processes located in the State faced similar problems in complying with the NOx limits in Subchapter 33. After careful evaluation, staff can find no indication that other direct-fired, fuel-burning processes in the State have the same problems meeting the NOx limits in Subchapter 33, so the staff has recommended that the rule change be made permanent for glass-melting furnaces only. As explained to the Board at the February, 2003 meeting, the basis for the requested amendment was a determination that glass-melting furnaces cannot meet the requirements of Subchapter 33. A review of the Division's records of stack tests performed on existing glass-melting furnaces in the State and a search of EPA's BACT, RACT, LAER Clearinghouse for recently issued permits for glass-melting furnaces in the United States indicates that in other States glass-melting furnaces are not required to and are unable to meet such emissions limits. Staff does not feel that the Department intended to set a NOx emission limit for glass-melting furnaces that could not be met, thus precluding the installation of any new glass plants in the state or the modification of existing glass-melting furnaces. The glass-melting furnaces in question must demonstrate that BACT (Best Available Control Technology) will be used in the design and operation of the equipment. The use of BACT should be sufficient to protect the environment from the adverse effects of the added NOx emissions. The use of BACT will also allow more efficient controls to be required when they are available without the necessity of revising the rule.

CONTACT PERSON:

Joyce D. Sheedy, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 794-6800

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,

SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2004:

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

252:100-33-1.1. Definitions

The following terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"New fuel-burning equipment" means any fuel-burning equipment~~, with the exception of gas turbines~~ that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in nitrogen oxide emissions~~, and any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions~~ with the following exceptions.

(A) New fuel-burning equipment for gas turbines means any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions; and

(B) New fuel-burning equipment for direct-fired processes means any direct-fired fuel-burning equipment or processes that were not in being on July 1, 1977, or any existing direct-fired fuel-burning equipment or processes that were altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions.

"Three-hour average" means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

252:100-33-1.2. Applicability

(a) This Subchapter applies to new fuel-burning equipment that meets both of the following criteria.

(1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr or greater.

(2) The equipment burns solid fossil, gas, or liquid fuel.

(b) Glass-melting furnaces that are subject to BACT requirements contained in a currently applicable Air Quality Division permit are exempt from the requirements of this Subchapter.

[OAR Docket #04-576; filed 4-7-04]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #04-578]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants
Part 3. Hazardous Air Pollutants
252:100-41-15 [AMENDED]

AUTHORITY:
Environmental Quality Board; 27A O.S. 2001, §§ 2-2-101, and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. § 2-5-101, *et seq.*

DATES:
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June 1, 2004

SUPERSEDED EMERGENCY ACTIONS:
None

INCORPORATIONS BY REFERENCE:
Incorporated standards:
The following Subparts of 40 CFR Part 63 are incorporated by reference in their entirety as they exist on July 1, 2003:
(1) Subpart A
(2) Subparts F through J
(3) Subparts L through O
(4) Subparts Q through U
(5) Subparts W through Y
(6) Subparts AA through EE
(7) Subparts GG through MM
(8) Subparts OO through YY
(9) Subparts CCC through EEE
(10) Subparts GGG through JJJ
(11) Subparts LLL through RRR
(12) Subparts TTT through VVV
(13) Subpart XXX
(14) Subpart AAAA
(15) Subpart CCCC
(16) Subpart GGGG
(17) Subpart HHHH
(18) Subpart JJJJ
(19) Subpart NNNN
(20) Subpart OOOO
(21) Subparts QQQQ through XXXX
(22) Subpart BBBBB
(23) Subpart CCCCC
(24) Subpart FFFFF
(25) Subparts JJJJJ through NNNNN
(26) Subpart PPPPP
(27) Subpart QQQQQ
(28) Subpart SSSSS
The following Subparts of 40 CFR Part 61 are incorporated by reference in their entirety as they exist on July 1, 2003:
(1) Subpart A
(2) Subpart C
(3) Subpart D
(4) Subpart E
(5) Subpart F
(6) Subpart J
(7) Subpart L
(8) Subpart M

(9) Subpart N
(10) Subpart O
(11) Subpart P
(12) Subpart V
(13) Subpart Y
(14) Subpart BB
(15) Subpart FF
(16) Appendix A
(17) Appendix B
(18) Appendix C

Incorporating Rule:
252:100-41-15

Availability:
From the contact person listed below

ANALYSIS:
The proposed amendments to OAC 252:100-41-15 update references to the federal National Emission Standards for Hazardous Air Pollutants (NESHAP).

CONTACT PERSON:
Max Price, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-4100, fax (405) 702-4101

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2004:

SUBCHAPTER 41. CONTROL OF EMISSION OF HAZARDOUS AIR POLLUTANTS AND TOXIC AIR CONTAMINANTS

PART 3. HAZARDOUS AIR CONTAMINANTS

252:100-41-15. National emission standards for hazardous air pollutants (NESHAP)

(a) NESHAP, as found in 40 CFR Part 61, are hereby adopted by reference as they exist on July ~~31, 2002~~ 1, 2003, with the exception of Subparts B, H, I, K, Q, R, T, W and Appendices D and E, all of which address radionuclides. These standards shall apply to both existing and new sources of hazardous air pollutants (HAPs).

(b) General Provisions as found in 40 CFR Part 63, Subpart A, and the Maximum Achievable Control Technology (MACT) standards as found in 40 CFR Part 63, Subparts F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, LL, KK, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, GGGG, HHHH, JJJJ, NNNN, OOOO, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, ~~and~~ WWWW, XXXX, BBBBB, CCCCC, FFFFF, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ and SSSSS, are hereby adopted by reference as they exist on July ~~31, 2002~~ 1, 2003. These standards shall apply to both existing and new sources of HAPs.

[OAR Docket #04-578; filed 4-7-04]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #04-579]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Appendix E. Primary Ambient Air Quality Standards [REVOKED]
Appendix E. Primary Ambient Air Quality Standards [NEW]
Appendix F. Secondary Ambient Air Quality Standards [REVOKED]
Appendix F. Secondary Ambient Air Quality Standards [NEW]

AUTHORITY:
Environmental Quality Board powers and duties; 27A O.S., §§ 2-2-101, 2-2-201 and 2-5-101, *et seq.*

DATES:
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September 2, 2003 through October 8, 2003
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June 1, 2004

SUPERSEDED EMERGENCY ACTIONS:
None

INCORPORATIONS BY REFERENCE:
None

ANALYSIS:
The proposed amendments to Appendices E and F would change the primary and secondary ambient air quality standards for ozone to be consistent with the National Ambient Air Quality Standards. The 8-hour ozone standard of 0.08 ppm would be consistent with the National Ambient Air Quality Standards.

CONTACT PERSON:
Leon Ashford, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2004:

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m^3 (2)35 ppm	235 ug/m^3 (4)0.12 ppm		
8-hr. max			10 mg/m^3 (2)9 ppm	(6)0.08 ppm		
24-hr. max	365 ug/m^3 (2) 0.14 ppm	150 ug/m^3				
Calendar Qtr.						(5) 1.5 ug/m^3
Annual	80 ug/m^3 (1) 0.030 ppm	(3) 50 ug/m^3			100 ug/m^3 (1) 0.053 ppm	

(1) Annual arithmetic mean
(2) Not to be exceeded more than once per year
(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the
(4) The standard is attained when the expected number of days per calendar year with maximum hourly
(5) Maximum arithmetic mean averaged over a calendar quarter
(6) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m^3 (2)35 ppm	235 ug/m^3 (4)0.12 ppm		
3-hr. max	1300 ug/m^3 (2)0.5 ppm					
8-hr. max			10 mg/m^3 (2)9 ppm	(6)0.08 ppm		
24-hr. max		150 ug/m^3				
Calendar Qtr.						(5) 1.5 ug/m^3
Annual		(3) 50 ug/m^3			100 ug/m^3 (1) 0.053 ppm	

(1) Annual arithmetic mean
(2) Not to be exceeded more than once per year
(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the
(4) The standard is attained when the expected number of days per calendar year with maximum hourly
(5) Maximum arithmetic mean averaged over a calendar quarter
(6) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-

[OAR Docket #04-579; filed 4-7-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 234. MEDICAL MICROPIGMENTATION

[OAR Docket #04-594]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Medical Micropigmentation Certification
310:234-3-1. [AMENDED]
310:234-3-3.1. [NEW]
310:234-3-4. [AMENDED]
Subchapter 9. Standards For Medical Micropigmentation
310:234-9-1.1. [NEW]
AUTHORITY:
Oklahoma State Board of Health; 63 O.S. Sections 1-104, 1-1453 and 1-1455
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Subchapter 3. Medical Micropigmentation Certification
310:234-3-3.1. [NEW]
310:234-3-4. [AMENDED]
310:234-9-1.1. [NEW]
Gubernatorial approval:
November 6, 2003
Register publication:
21 Ok Reg 238
Docket number:
03-3260
INCORPORATIONS BY REFERENCE:
"n/a"
ANALYSIS:
Rule revisions are sought to comply with Senate Bill No. 340 signed by Governor Henry on June 4, 2003. The proposal amends the Medical Micropigmentation Rules by reducing the minimum number of hours of instruction from 450 hours to 300 hours. Language has been amended to reflect that the physician in whose office medical micropigmentation is being performed is to determine the level of supervision. Since the statutory change allows physicians to determine the level of supervision and micropigmentologists may work for more than one physician, language is necessary to identify contact information for each supervising physician. This chapter will also provide an opportunity for other entities to offer medical micropigmentation training and will set out provisions for instructors. The proposal contains new language, which allows the State Department of Health, upon recommendation of the Medical Micropigmentation Advisory Committee, to approve applicants for certification by reciprocity if they have qualifications and training comparable to those under this act. Applicants would also have to verify two (2) years experience and a minimum of two hundred (200) procedures and would have successfully completed the Oklahoma Medical Micropigmentation Certification Exam.
CONTACT PERSON:
Rocky McElvany, Consumer Health Services, Protective Health Services, Oklahoma State Department of Health, (405) 271-9444, ext. 57901

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 3. MEDICAL MICROPIGMENTATION CERTIFICATION

310:234-3-1. Practice limitations

~~(a) Until May 1, 2002, medical micropigmentation may only be performed in a physician's office by:~~

~~(1) A physician as defined by the Oklahoma Medical Micropigmentation Regulation Act;~~

~~(2) A person licensed to practice registered nursing by the Oklahoma Board of Nursing while working under supervision of a physician. The level of supervision shall be determined by the licensing board of the physician in whose office medical micropigmentation is being performed; and~~

~~(3) Any person while working under supervision of a physician. The level of supervision shall be determined by the licensing board of the physician in whose office medical micropigmentation is being performed. [63:1-1452]~~

~~(b)~~ On and after May 1, 2002, medical micropigmentation may only be performed in a physician's office by:

(1) A physician as defined by the Oklahoma Medical Micropigmentation Regulation Act;

(2) A registered nurse licensed by the Oklahoma Board of Nursing who holds a current certificate issued by the State Commissioner of Health pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act while working under supervision of a physician. The level of supervision shall be determined by ~~the licensing board of~~ the physician in whose office medical micropigmentation is being performed; and

(3) A person who holds a current certificate issued by the State Commissioner of Health pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act while working under supervision of a physician. The level of supervision shall be determined by ~~the licensing board of~~ the physician in whose office medical micropigmentation is being performed. [63:1-1452]

310:234-3-3.1. Reciprocity

The State Department of Health upon recommendation of the Medical Micropigmentation Advisory Committee may approve applicants for certification by reciprocity. An applicant shall qualify for certification by reciprocity if the applicant:

(1) Has qualifications and training comparable to those required under the Oklahoma Medical Micropigmentation Regulation Act;
(2) Provides documentation verifying two (2) years of experience and a minimum of two hundred (200) procedures; and
(3) Has successfully completed the Oklahoma certification examination.[63:1-1455(E)]

310:234-3-4. Certificate by completion of medical micropigmentation training program and certification testing process

(a) Training in medical micropigmentation obtained through the Oklahoma Department of Career and Technology Education or other training course shall consist of at least ~~450~~300 hours or equivalent of competency based instruction [63:1-1455] encompassing both theory and clinical training and is approved by the Department as meeting the training and curriculum requirements of this section.

(b) Medical Micropigmentation training shall be in the following skills area including theory and lab training:
(1) Safety and Aseptic Technique;
(2) Knowledge of Facial Anatomy, Physiology, and Disease;
(3) Theory and Application of Micropigmentation;
(4) Color Theory~~:~~;
(5) Client Consultation Services;
(6) Professionalism; and
(7) Micropigmentation procedures (eyeliner, lips, eyebrows, eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma, or repigmentation of the areola):
(A) Basic procedures on clients (eyeliner, lips, and eyebrows),
(B) Advanced procedures (eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma or repigmentation of the areola).

(c) The instructor for micropigmentation procedures and techniques shall be ~~certified in medical micropigmentation~~an Oklahoma Certified Micropigmentologist who has performed procedures for one (1) year ~~and~~/or ~~be~~ a physician ~~approved by CareerTech~~ as defined by OAC 310:234-1-2. Subject matter experts may be utilized to teach technique and theory in other skill areas.

(d) **Skills area evaluations.**
(1) During the training program, a candidate must satisfactorily complete an evaluation for each skills area. The evaluation verifies that micropigmentation concepts and/or techniques presented in that skills area have been mastered.
(2) Mastery of medical micropigmentation technique in a skills area shall be demonstrated when the candidate performs all skills presented on all job sheets contained within that skills area to the instructor with 100% accuracy.
(3) Mastery of medical micropigmentation theory in a skills area shall be demonstrated when the candidate scores 85% on the written test over material covered in that skills area (if applicable).

(e) **Written certification examination.**
(1) Candidate shall be eligible to sit for the written certification examination upon satisfactory completion of training and skills area evaluations. The written certification examination for medical micropigmentation shall be offered at Health Certification Project testing sites located in Technology Centers. Documentation of satisfactory completion of the written certification exam shall be required before a candidate is permitted to take the clinical certification examination.
(2) A passing score of 70% shall be required to show competency. A candidate who does not meet this score can retest up to two (2) times. Candidates who do not pass the written certification examination must wait at least seven (7) days before retesting. Candidates who are unable to attain competency after three attempts shall be required to re-enroll in the medical micropigmentation training program.

(f) **Clinical certification examination.**
(1) Candidates shall be eligible to take the clinical certification examination upon satisfactory completion of the written certification examination. The clinical certification examination for medical micropigmentation shall be offered at selected Technology Center test sites and shall be offered two (2) times per year or as deemed necessary by the Medical Micropigmentation Advisory Committee. The clinical certification examination shall consist of three (3) components.
(2) Candidates shall provide all equipment and supplies for the clinical certification examination. Competency shall be verified by documentation of the clinical certification examination. A candidate must attain a score of 100% to pass the clinical certification examination. A candidate shall be permitted to retest one (1) clinical component up to two (2) times. Candidates who are unable to pass all three components within these guidelines shall be required to re-enroll in a medical micropigmentation program.

(g) **Application for certification.** Upon satisfactory completion of the medical micropigmentation training and certification testing process, the applicant is eligible to apply for a Medical Micropigmentation Certificate. In order to apply for a Certification, the candidate must submit the following to OSDH:
(1) Completed application;
(2) Notarized copy of the candidate's certificate of birth;
(3) Notarized copy of the candidate's driver's license or other similar form of photo ID;
(4) Notarized copy of the candidate's professional credentials; and
(5) Completed Training and Testing Verification Form.

(h) **Issuance of certificates.** The State Commissioner of Health shall award a certificate to eligible applicants as set forth in Section 5 of the Act within thirty days of receipt of the completed application and required documents.

SUBCHAPTER 9. STANDARDS FOR MEDICAL MICROPIGMENTATION

310:234-9-1.1. Medical Micropigmentation Records

An Oklahoma Certified Micropigmentologist shall provide the Oklahoma State Department of Health, Consumer Protection Division with the name, address, phone number, and licensure number of each of their supervising physicians; specifically identifying the Oklahoma State Board of Medical Licensure & Supervision, the Oklahoma State Board of Osteopathic Examiners and/or the Oklahoma State Board of Dentistry as the supervising physician's licensing authority. The Oklahoma Certified Micropigmentologist shall inform the Department of any and all changes thereto.

[OAR Docket #04-594; filed 4-8-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 281. ~~IONIZING RADIATION REGULATIONS~~DIAGNOSTIC X-RAY SYSTEMS

[OAR Docket #04-595]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 281. ~~Ionizing Radiation Regulations~~Diagnostic X-Ray Systems [AMENDED]
AUTHORITY:
Oklahoma State Board of Health; 63 O.S. 2001, Sections 1-104 and 1-1505
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INCORPORATIONS BY REFERENCE:
Incorporated Standards:
Additional Operational Controls for Mammography Systems incorporates "Quality Mammography Standards," 21 CFR Part 900 et. seq, effective April 28, 1999, promulgated pursuant to the federal Manmography Quality Standards Act. Subchapter 17.– Use of Teleradiology in Healing Arts incorporates the American College of Radiology, Technical Standards for Teleradiology (Rev. ed. 2002.)
Incorporating Rules:
310:281-11-9
Availability:
8:00 a.m. to 5:00 p.m., Monday through Friday, Consumer Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, (405) 271-5243
ANALYSIS:
Current rules regulate radioactive materials, x-ray therapy machines, and industrial x-ray machines, as well as diagnostic x-ray systems. These proposed rule changes remove subchapters, sections and subsections pertaining to radioactive materials, x-ray therapy machines, and industrial x-ray machines, which are now regulated by the Oklahoma State Department of Environmental Quality. Rule amendments add new and clarify other definitions. Drafted language modifies the location and use of personnel monitoring devices. The proposed rules update employee exposure limits to coincide with federal guidelines. The rules provide an additional subsection dealing with declared pregnant female employees. The proposed language involves deletion of the mammography sections and adoption of the "Quality Mammography Standards" Standards 21 CFR Parts 900 et. seq. There are incorporated changes to general requirements for all human diagnostic x-ray systems, which delimitate that kilovolt potential shall be within ± 10% of the indicated value set on the system. There are additions and deletions to the subsections pertaining to Computed Tomography (CT) systems. A new Subchapter 17 includes the addition of Teleradiology in Healing Arts to the rules by incorporated reference. Also, a new Appendix B is added, providing the minimum training requirements for operators of Computed Tomography x-ray systems.
CONTACT PERSON:
Ted Evans, Director, Consumer Protective Division, Consumer Health Services, Oklahoma State Department of Health, (405) 271-5243
DUE TO THE EXCESSIVE LENGTH OF THESE RULES, THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE OKLAHOMA STATE DEPARTMENT OF HEALTH, 1000 NE 10TH STREET, OKLAHOMA CITY, OKLAHOMA AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRAVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S. SECTION 255 (B):
SUMMARY:
In general, the changes to Chapter 281 removed obsolete language, updated and reorganized requirements and references for clarity and correct syntax. The new language amends or adds more than 30 sections of the rules. All tables, in this rule, were converted to text format. This proposal modifies the present Ionizing Radiation Regulations in order to correlate the regulations with the 1991 Nuclear Regulatory Commission 10 CFR Part 20 and the Conference of Radiation Control Program Directors' Suggested State Regulations for Control of Radiation (revised 2003). The proposed amended language removes all sections now regulated by the Oklahoma Department of Environmental Quality. The intent is to provide public and worker protection from over exposure to ionizing radiation produced by diagnostic x-ray systems. The title is changed from Ionizing Radiation Regulations to Diagnostic X-Ray Systems, because currently the Health Department only regulates diagnostic x-ray systems and not industrial x-ray machines or radioactive materials. There are general language revisions changing radiation machines or equipment to read diagnostics x-ray systems throughout this rule.

In Subchapter 1, the proposed changes involve the addition of definitions and language to clarify existing definitions. Also, revisions to Subchapter 1 included definitions, which were deleted because they do not pertain to diagnostic x-ray systems. These deleted definitions related to industrial x-ray machines or radioactive materials, which are regulated by Oklahoma Department of Environmental Quality.

Subchapter 3, section 4 requires that all changes in diagnostic x-ray systems at facilities are required to be accomplished at the time of permit renewal.

Subchapter 5 contains revisions to language, clarifying existing regulations.

Subchapter 7 in the regulations remains reserved.

Subchapter 9 consists of the Standards for Protection Against Radiation, which incorporates changes regarding the radiation dose standards for individuals in restricted areas, determination of accumulated occupational doses, exposure to pregnant employees, personnel monitoring, records of surveys, reports of theft or loss of diagnostic x-ray systems, and notification of incidents regarding radiation. Language pertaining to radiation therapy, radioactive material, or industrial x-ray machines was deleted in this subchapter because the Oklahoma Department of Environmental Quality regulates these areas. OAC 310:281-9-3(b) was deleted because the language

was unnecessary. A new subsection (c) was added to OAC 310:281-9-3, which pertains to the determination of occupational dose for individuals wearing protective lead clothing during diagnostic x-ray procedures for calculation of the whole body exposure. OAC 310:281-9-12(d) is new language referencing the location and use of individual monitoring equipment. OAC 310:281-9-40 is new language regarding how facilities should treat the exposure of declared or undeclared pregnant employees. This subsection also explains how to figure the dose equivalent (DE) to an embryo/fetus. All subsections related to radioactive materials, therapy machines and industrial x-ray machines were revoked because the Oklahoma Department of Environmental Quality now regulates these sections.

Revisions to Subchapter 11 incorporate sections dealing with surveys, dose measurements, spot checks, operating procedures, and preventive maintenance services of Computed Tomography (CT) X-ray Systems. Additional changes to CT X-ray Systems include setting mandatory annual inspections by a medical physicist, quarterly preventative services schedules, description of CT dose measurement phantoms and other general requirements. This Chapter also contains deletions of exposure limits for mammography and the addition of suggested exposure limits for CT X-ray Systems. All additional controls for mammography were deleted and the Federal Mammography Quality Standards Act of 1994 (reenacted in 1999) was adopted by reference, to replace them. This subsection now includes new mammography exposure limits. Under general requirements for all human diagnostic x-ray systems, the addition of accuracy limits of plus or minus 10% for kilovolts peak ("kVp") was implemented. New language was implemented in OAC 310:281-11-21(a)(6), which states all screening exams must have an order from an Oklahoma licensed practitioner. The exam order must be within the scope of the practitioner's license with the only exceptions being the screening mammography and/or bone density exams.

The revocation of Subchapters 13 and 15 are proposed since the Oklahoma Department of Environmental Quality presently regulates those subsections.

The new Subchapter 17 involves the addition of teleradiology in healing arts to the rules by incorporated reference.

Appendix A contains minor changes. The current Appendices B, C, and D are revoked because they deal with radioactive materials, which are currently regulated by the Oklahoma Department of Environmental Quality. The new Appendix B is inserted to provide the minimum requirements for individuals who operate Computed Tomography X-Ray Systems.

[OAR Docket #04-595; filed 4-8-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 400. LICENSED MARITAL AND FAMILY THERAPISTS

[OAR Docket #04-596]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Application for Licensure
310:400-7-2.1. [NEW]
Subchapter 9. Licensure Examinations
310:400-9-7. [AMENDED]
AUTHORITY:
Oklahoma State Board of Health; 59 O.S. 2001, Section 1925.5(A); 63 O.S. 2001, Section 1-106.1
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INCORPORATION BY REFERENCE:
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ANALYSIS:
The new language to Subchapter 7 provides for clarification regarding the re-application process for licensure after an application has been voided or a license has permanently expired or has been revoked. The amendments to Subchapter 9 provide for an additional testing opportunity for LMFT applicants in order to keep the licensure application active and to provide requirements for the frequency of exam(s) to be taken after the applicant has failed the exam.
CONTACT PERSON:
Nena West, Director, Professional Counselor Licensing, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6030; facsimile: (405) 271-1918; electronic mail: nenaw@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 7. APPLICATION FOR LICENSURE

310:400-7-2.1. Re-application procedures

(a) **Re-application for permanently expired license**

(1) Re-application after license expires for non-renewal shall include the following documents:

(A) Application form,

(B) Documents of Recommendation,

(C) Supervision Agreement, and

(D) New Application Fee.

(2) Applicant shall re-take two examinations:

(A) The Licensing Examination in Marital and Family Therapy (Professional Examination Service) or another equivalent examination as determined by the Department, and

(B) An oral and/or written examination covering psychopathology and the LMFT law and regulations as approved by the Department.

(3) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(4) All previously submitted and approved Supervised Experience shall carry over to a new application.

(5) Applicant shall obtain approved supervision until the exams are taken and passed. Failure to do so may constitute a violation of OAC Rule 310:400-17-7.

(b) **Re-application for revoked license**

(1) Re-application after license is revoked as a result of administrative action shall include the following documents:
(A) Application form,
(B) Official university or college transcript,
(C) Documents of recommendation.
(D) Internship/Practicum Documentation form,
(E) Supervision Agreement, and
(F) New Application Fee.
(2) Applicant shall re-take two examinations:
(A) The Licensing Examination in Marital and Family Therapy (Professional Examination Service) or another equivalent examination as determined by the Department, and
(B) An oral and/or written examination covering psychopathology and the LMFT law and regulations as approved by the Department.
(3) All previously submitted and approved Supervised Experience shall not carry over to a new application.

(c) **Re-application for voided application**
(1) Re-application after application is voided for failure to take scheduled examinations or after the eligible applicant fails an examination and does not take subsequent scheduled examinations shall include the following documents:
(A) Application form,
(B) Documents of Recommendation,
(C) Supervision Agreement, and
(D) New Application Fee.
(2) Applicant shall take two examinations:
(A) The Licensing Examination in Marital and Family Therapy(Professional Examination Service) or another equivalent examination as determined by the Department, and
(B) An oral and/or written examination covering psychopathology and the LMFT law and regulations as approved by the Department.
(3) The Internship/Practicum Documentation Form on file shall carry over to a new application.
(4) All previously submitted and approved Supervised Experience shall carry over to a new application.
(5) Applicant shall obtain approved supervision until the exams are taken and passed. Failure to do so may constitute a violation of OAC Rule 310:400-17-7.

SUBCHAPTER 9. LICENSURE EXAMINATIONS

310:400-9-7. Failure to apply

(a) The application may be voided if a person fails to apply for and take one of the first ~~two~~three examinations scheduled after the applicant has been mailed notification at last known address in writing of his/her approval for examination.
(b) The application may be voided if a person fails to apply for and take one of the first three examinations scheduled after the applicant has failed the exam and has been mailed notification at last known address in writing of his/her approval for examination.

[OAR Docket #04-596; filed 4-8-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 405. LICENSED PROFESSIONAL COUNSELORS

[OAR Docket #04-597]

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Subchapter 7. Application Procedures
310:405-7-4. [NEW]
310:405-7-5. [NEW]
310:405-7-6. [NEW]
310:405-7-7. [NEW]
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Oklahoma State Board of Health; 59 O.S. 2001, Section 1905(A); 63 O.S. 2001, Section 1-106.1
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ANALYSIS:
The new language to Subchapter 7 provides for clarification regarding the re-application process for licensure after an application has been voided or a license has permanently expired or has been revoked.
CONTACT PERSON:
Nena West, Director, Professional Counselor Licensing, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6030; facsimile: (405) 271-1918; electronic mail: nenaw@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 7. APPLICATION PROCEDURES

310:405-7-4. Re-application for permanently expired license

(a) Re-application after license expires for non-renewal shall include the following documents:

(1) Application form,

(2) Official transcripts, mailed from the university or college,

(3) Document of Recommendation forms,

(4) Supervision Agreement,

(5) Statement of Professional Disclosure, and

(6) New Application Fee.

(b) Applicant shall re-take two examinations:

(1) The National Counselor Examination or another equivalent examination as determined by the Department; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall carry over to a new application.

(e) Applicant shall obtain approved supervision until the exams are taken and passed as described in OAC Rule 310:405-11-5(h).

310:405-7-5. Re-application for revoked license

(a) Re-application after license is revoked for administrative action shall include the following documents:

(1) Application form,

(2) Official transcripts, mailed from the university or college,

(3) Document of Recommendation forms,

(4) Supervision Agreement,

(5) Statement of Professional Disclosure, and

(6) New Application Fee.

(b) Applicant shall re-take two examinations:

(1) The National Counselor Examination or another equivalent examination as determined by the Department; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall not carry over to a new application.

310:405-7-6. Re-application for voided application for failure to take scheduled examinations

(a) Re-application after application is voided for failure to take scheduled examinations or after the eligible applicant fails an examination and does not take subsequent scheduled examinations shall include the following documents:

(1) Application form,

(2) Official transcripts, mailed from the university or college,

(3) Document of Recommendation forms,

(4) Supervision Agreement,

(5) Statement of Professional Disclosure Form, and

(6) New Application Fee.

(b) Applicant shall take two examinations:

(1) The National Counselor Examination or another equivalent examination as determined by the Department; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall carry over to a new application.

(e) Applicant shall obtain approved supervision until the exams are taken and passed and/or until the supervision requirement is complete as described in OAC Rule 310:405-11-5(h).

310:405-7-7. Re-application for voided application for failure to complete supervised experience

(a) Re-application after application is voided for failure to complete the supervised experience requirement within sixty (60) months as described in OAC Rule 310:405-11-5(i) shall include the following documents:

(1) Application form,

(2) Official transcripts, mailed from the university or college,

(3) Document of Recommendation forms,

(4) Supervision Agreement,

(5) Statement of Professional Disclosure, and

(6) New Application Fee.

(b) Applicant shall re-take two examinations:

(1) The National Counselor Examination or another equivalent examination as determined by the Department; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall be voided with prior application and shall not carry over to a new application.

(e) Applicant shall obtain approved supervision until the exams are taken and passed and/or until the supervision requirement is complete as described in OAC Rule 310:405-11-5(h).

[OAR Docket #04-597; filed 4-8-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 555. NOTIFICATION OF COMMUNICABLE DISEASE RISK EXPOSURE ~~REGULATIONS~~

[OAR Docket #04-598]

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310:555-1-1. [AMENDED]
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"n/a"
ANALYSIS:
The proposed changes will ensure direct communication of source patient test results from the testing facility to the exposed person or the physician or designee who is providing post exposure follow up to the exposed person. Antiviral medications are available which can prevent transmission of HIV to the exposed person, but these medications must be initiated within hours, rather than days of the exposure in order to be effective. Today, with the availability of Rapid HIV testing, which can provide HIV test results on the source patient within 20 minutes, providers can use these test results to quickly evaluate the need to treat the exposed person with antiviral medications. A process which promotes direct notification of source results to either the person exposed, or to the provider who is providing post exposure evaluation and/or counseling is necessary to facilitate timely administration of appropriate prophylaxis. This process will apply to risk exposures to a healthcare worker, emergency responder or funeral worker occurring outside of employment at a health care facility.
CONTACT PERSON:
Jan Fox, R.N., Hepatitis Program Nurse Manager, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-4636; facsimile: (405) 271-5149; electronic mail: Janf@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 13, 2004:

310:555-1-1. Purpose

The rules in this Chapter implement a system of notification for risk exposures which are capable of transmitting ~~a communicable~~ an occupational risk disease to health care workers, emergency responders, ~~fire fighters, peace officers,~~ and funeral workers. The employers of those classes of workers are required by federal OSHA standards (29 CFR Part 1910.1030) to have management policies and systems to handle such exposures. Only workers at health care facilities have access to patient charts and laboratory results; further, these facilities have systems to handle such exposures. Therefore, in order to facilitate access to source patient information, the notification system established in this Chapter shall apply to risk exposures to health care workers, emergency responders and funeral workers occurring outside of employment at a health care facility.

310:555-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

~~**"Communicable disease"** for the purpose of these rules, are those infectious diseases which are transmitted from person to person by close or intimate contact with blood or body secretions and which may pose an occupational risk to emergency responders, health care workers, and funeral workers. Such diseases include, but are not limited to, Hepatitis B, Human Immunodeficiency Virus (HIV), meningococcus, measles, pertussis and tuberculosis.~~

"Designee providing post-exposure follow-up" means any person authorized by law and designated by the employer to be responsible for counseling the exposed health care worker, emergency responder or funeral worker regarding the potential risks, need for further evaluation, testing and treatment, and communicating source patient test results. Examples would be case managers, occupational health practitioners, infection control practitioners, etc. This person should be current with the latest issues regarding occupational exposures and are responsible to comply with 63 O.S. Supp. 2001, Section 1-502.1 et seq.

"Emergency responder" means fire fighters, certified or designated first responders, emergency medical technicians~~,~~ ~~paramedics~~ and peace officers.

"Funeral worker" means any person who prepares a corpse for burial or other disposition.

"Health care facility" means any hospital, medical center, clinic, medical examiner, ambulatory surgical center, home care agency, hospice, nursing facility, assisted living facility

and residential care facility or other inpatient or outpatient health care supplier to which a source patient is transported after a risk exposure.

"Health care facility designated person" means the person authorized by law and designated by the health care facility to be responsible for following up reported risk exposures.

"Health care worker" means any health care facility ~~hospital or nursing home~~ employee, physician, nurse or other health care provider whose job activities involve contact with patients or with any blood or body fluids from patients in an inpatient or outpatient health care facility, including the patient's home.

"Licensed health care professional" means a physician, a registered nurse, or a physician assistant (PA).~~or an emergency medical technician.~~

"Occupational Risk disease" for the purpose of these rules, are those infectious diseases which are transmitted from person-to-person by close or intimate contact with blood or body secretions and which may pose an occupational risk to emergency responders, health care workers, and funeral workers. Such diseases include, but are not limited to, Hepatitis B (HBV), Hepatitis C (HCV), Human Immunodeficiency Virus (HIV), meningococcus, measles, pertussis and tuberculosis.

"Potentially infectious body fluids" means blood or blood products; semen or vaginal secretions; pleural, synovial, cerebrospinal, pericardial, peritoneal and amniotic fluids; any fluid visibly contaminated with blood; and all body fluids in situations where it is difficult or impossible to differentiate between body fluids.

"Risk exposure" means an exposure which has been epidemiologically demonstrated to pose a risk for transmission of ~~a communicable~~ an occupational risk disease. Such an exposure would include a parenteral (e.g. needle stick or cut), permucosal (e.g. mouth-to-mouth resuscitation or splash to the eye or mouth) exposure to blood or other body fluids, or ~~a cutaneous exposure to large amounts of blood or prolonged~~ contact with blood to skin which is chapped, abraded or afflicted with dermatitis or exposure to respiratory secretions.

"Source patient" means the person to whom the health care worker, emergency responder, or funeral worker has had a risk exposure.

310:555-1-3. Applicability

The notification system established in this Chapter shall apply to employers of health care workers, emergency responders and funeral workers for risk exposures not occurring during employment at a health care facility.

310:555-1-4. Notification system

(a) Any health care worker, emergency responder or funeral worker who sustains a risk exposure, not occurring during employment at a health care facility, is responsible for immediately reporting that exposure. To initiate this notification system, the exposed worker shall complete Part I of the OSDH Communicable Disease Risk Exposure Report Form (ODH #207) and submit it to their employer or employer's designated person.

(b) The employer shall be responsible for having the circumstances of the exposure reviewed by a licensed health care professional to determine if a risk exposure occurred. The licensed health care professional should use guidelines of the Centers for Disease Control and Prevention to make this determination.

(c) If the licensed health care professional determines that a valid risk exposure has occurred, then the employer shall be responsible to submit within 24 hours of exposure, if possible, the Risk Exposure Report to:

(1) The health care facility's designated person at the institution to which the source patient was transported, or

(2) The source patient's attending physician, if the source patient was being cared for outside of a health care facility, or

(3) The health care facility that last had responsibility for a deceased source patient, such as hospital of death, medical examiner or attending physician.

(d) The health care facility or the source patient's attending physician, if the source patient was being cared for outside of a health care facility, shall be responsible for designating an appropriate person authorized by law (and at least one back-up person) to provide confidential follow-up of the Risk Exposure Report. Follow-up should include:

(1) Review of the source patient's medical record and consultation with the patient's attending physician to determine if the patient is known to have ~~a communicable~~an occupational risk disease or if the source patient has risk factors for ~~hepatitis B virus (~~HBV~~)~~, HCV, and/or ~~human immunodeficiency virus (~~HIV~~)~~ infection.

(2) Testing of the source patient for HBV, HCV and/or HIV should be pursued upon request of the exposed worker's employer under the following conditions:

(A) the health care facility has been provided with a completed written report of occupational exposure utilizing ODH Form 207, and

(B) ODH Form 207 has been signed by a licensed health care professional verifying that a risk exposure to the source patient's blood or other potentially infectious body fluid has occurred. In accordance with 63 O.S. ~~1991~~2001, Section 1-502.3(A), testing of a source patient's blood may be performed

(i) with their written consent,

(ii) without consent when ODH Form 207 is presented to the health care facility as noted above, or

(iii) upon court order.

(3) The source patient's blood, whenever available, ~~should~~shall be submitted for testing within 24 hours after ODH Form 207 has been received. ~~Extraordinary efforts should be made to have results communicated to the health care facility's designated person within the next 5 days. In some instances, special arrangements (e.g., telephone call) may need to be made in order to have results within 5 days.~~ When Rapid HIV Testing of the source patient is available and appropriate, efforts shall be made to have these results communicated to the health care facility's designated person immediately. All other

test results shall be communicated to the health care facility's designated person within the next 5 days. In some instances, special arrangements (e.g., telephone call) may need to be made in order to have results within 5 days.

(4) ~~The results will be released to the Oklahoma State Department of Health and other such agency as it may designate.~~ Positive test results for HIV, ~~and hepatitis B~~HBV, and HCV from source patients should be made available by the health care facility designee ~~to the Oklahoma State Department of Health within 24 hours of receipt of the results.~~ immediately, and not more than 24 hours of receipt of the results to the physician or designee providing post-exposure follow-up to the exposed worker named on ODH Form 207. In addition, the health care facility designated person may (without consent) release the results of the source patient's HIV, ~~and hepatitis B~~ HBV and HCV tests to ~~either of the following~~:

(A) the source patient (and his/her physician); ~~and/or~~

(B) ~~a physician providing post-exposure follow-up to~~ the exposed worker named on ODH Form 207~~.~~; and/or

(C) Oklahoma State Department of Health.

(e) The health care facility designated person ~~should~~shall complete Part II of the Risk Exposure Report and mail it to the Oklahoma State Department of Health within six (6) working days. ~~If a communicable disease or a high risk setting for transmission of a communicable disease is identified, an immediate telephone report shall be made to the Oklahoma State Department of Health Epidemiology Service (405-271-4636).~~

(f) ~~The OSDH~~The physician or designee providing post-exposure follow-up to the exposed worker ~~will~~shall be responsible for ~~informing~~ensuring the exposed ~~workers~~worker has been informed whether or not ~~they have~~he or she has been exposed to ~~a communicable~~an occupational risk disease and make recommendations for appropriate follow-up.

(g) All reasonable costs associated with follow-up and testing of the source patient or exposed worker(s) as directed by these rules shall be paid by the exposed worker's employer, unless such costs to the source patient are borne by other payment sources.

(h) All information on the OSDH Risk Exposure Report shall be strictly confidential in accordance with applicable state laws.

[OAR Docket #04-598; filed 4-8-04]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE CHAPTER 15. SALE AND OPERATION OF OIL AND GAS LEASES

[OAR Docket #04-557]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
385:15-1-4. Lands available for leasing [AMENDED]
385:15-1-5. Newspaper advertising requirement [AMENDED]
385:15-1-6. Public bid process [AMENDED]
385:15-1-7. Advertising deposit [AMENDED]
385:15-1-9. Performance fee, bond and bonus deadline [AMENDED]
385:15-1-14. Seismograph permits [AMENDED]
385:15-1-18. Forms available on request [AMENDED]
385:15-1-20. Bond requirements [AMENDED]
385:15-1-22. Well installation and maintenance requirements [AMENDED]
385:15-1-32. Deposit and fee schedule [AMENDED]

AUTHORITY:
64 O.S. Sections 92 and 281; Commissioners of the Land Office

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March 24, 2004
Effective:
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
385:15-1-5. Newspaper advertising requirement [AMENDED]
385:15-1-6. Public bid process [AMENDED]
385:15-1-9. Performance fee, bond and bonus deadline [AMENDED]
385:15-1-14. Seismograph permits [AMENDED]
385:15-1-18. Forms available on request [AMENDED]
385:15-1-20. Bond requirements [AMENDED]
385:15-1-22. Well installation and maintenance requirements [AMENDED]
Gubernatorial approval:
December 19, 2003
Register publication:
21 Ok Reg 633
Docket number:
04-307

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The amended rules govern the advertising requirements of the sale and operation of oil and gas leases and any costs or deposits necessary to lease oil and gas leases. The amendments including proposed rule and revocations, reflect the statutory change and amends the advertising for the public bid process for leasing oil and gas from Trust lands held by the Commissioners of the Land Office.

CONTACT PERSON:
Pary Shofner, Director of Minerals Management Division, 405.604.8160, at the Commissioners of the Land Office, 5801 North Broadway, Suite 200, Oklahoma City, OK 73118.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

385:15-1-4. Lands available for leasing

~~Any tract of School Land not currently under lease may be offered for oil and gas lease purposes at the earliest scheduled oil and gas lease sale, upon receipt of a written request accompanied by a check in the amount of $200.00 as an advertising deposit toward the cost of advertising the lease sale. Request should include the same information requested in the rule above (385:15-1-3) plus the following:~~

~~(1) Complete legal description of the tract or tracts requested~~

~~(2) Deposit of $200.00 toward the cost of advertising~~ Any tract of School Land not currently under lease may be offered for oil and gas lease purposes at the earliest scheduled oil and gas lease sale, upon receipt of a written request. Request should include the same information requested in the rule above (385:15-1-3) and the complete legal description of the tract or tracts requested.

385:15-1-5. Newspaper advertising requirement

~~Title 64 O.S. Section 281 requires that School Land oil and gas leases shall be made by public competition after not less than fifteen (15) days' notice by publication in two (2) newspapers authorized by law to publish legal notices, one (1) of which newspapers shall be published at the State Capitol, and the other in the county where the land is situated.~~ School lands or other lands owned by the state shall be offered by public competition after notice of the lease auction is published one time no less than thirty (30) days prior to the lease auction date in two newspapers authorized by law to publish legal notices. One of the newspapers shall be published in the county where the land is located or other newspaper by section 106 of Title 25 of the Oklahoma Statutes. The other shall be a newspaper of general circulation in this state.

385:15-1-6. Public bid process

The public bid process for school land oil and gas lease sales shall be as follows:

(1) **Separate tract requirement.** A separate bid showing the tract number and legal description must be filed on each tract. Each tract will be leased separately to the highest responsible bidder. Drilling contracts or production payments will not be considered, except in a special lease sale.

(2) **Sealed bid requirement.** Bids must be written and enclosed in one sealed envelope, and placed in another envelope bearing notation on the outside front face of the envelope "Bids for Oil and Gas Leases" and the date of sale. Such bids must be delivered to the office of the Secretary to the Commissioners of the Land Office, and if sent by mail shall be addressed to the Commissioners of the Land Office, 5801 N. Broadway, 200 Paragon Building, P. O. Box 26910, Oklahoma City, Oklahoma, 73126. (No bid will be considered that is not delivered prior to date and time of sale.)

(3) **Time of sale.** Bids will be received until 11:00 A.M. on date of sale, subject to the right of the Commissioners of the Land Office to reject any and all bids. (All bidders are invited to attend opening of bids which is held in the office of the Secretary to the Commissioners of the Land Office.)

(4) **Minimum bid accepted.** No bid of less than $5.00 per acre will be considered, except in a special lease sale.

(5) **Deposit required.** Each bid must be accompanied by a remittance in the sum of 25% of the amount bid, payable to the Commissioners of the Land Office. Upon acceptance of any bid and the awarding of the lease to the bidder, the successful bidder shall be liable for the full amount of the bid. The unsuccessful bidders will have their remittance check returned.

(6) **Bid forms by request.** Bid forms will be furnished on request.

(7) **Assignment of bids.** Oil and Gas Lease bids may not be assigned.

(8) **Special oil and gas lease sales.** The Commission will have a special oil and gas lease sale~~,~~ if they desire to consider bids other than ~~the highest cash bonus~~ standard lease terms. This notice of sale will be marked "Special Oil and Gas Lease Sale," and the terms and conditions of this sale will be as provided in the notice of said sale.

(9) **Bids become final.** All bids on mineral leases shall become final at the date and hour for opening bids and no bid may be withdrawn or rejected to correct an error by any bidder. (Adopted April 6, 1982, effective April 26, 1982).

385:15-1-7. Advertising deposit

~~Each person or entity requesting a lease sale shall include with their request an advertising deposit in the amount of $200.00 toward the costs of advertising the lease sale. The actual cost of advertising shall be paid by the successful bidder, if no successful bidder or the bid is rejected, said additional amount shall be paid by the requestor of the lease sale. If said costs are less than $200.00, the overpayment will be refunded.~~ At the discretion of the Director of Mineral Management Division an advertising deposit may be required. The Director of Mineral Management Division will set the amount of deposit, if required. The actual cost of advertising shall be paid by the successful bidder. If there is no successful bidder or the bid is rejected, advertising costs shall be paid by the requester of the lease sale. If said costs are less than the deposit, the overpayment will be refunded.

385:15-1-9. Performance fee, bond and bonus deadline

(a) All successful bidders of oil and gas leases subsequent to May 11, 1998 shall be required to pay a Performance Fee in an amount equal to .007 of the lease bonus but not to exceed an amount equal to $2.00 per net mineral acre. Said fee shall be placed in the CLO revolving fund under an oil and gas indemnity account with interest accrued.

(1) The lessee shall have thirty (30) days from the date of award of the lease to do the following:

(A) Pay the Performance fee;

(B) Execute the oil and gas lease and return it to the CLO;

(C) Pay the balance of the bonus and delay rental due;

(D) Pay any actual advertising costs that are in excess of the advertising deposit.

(2) The Lessee may have a longer period of time to complete ~~item No.~~ (a) ~~1~~ above if an extension is granted in writing by the Director of the Minerals Management ~~Division of the CLO~~ or his or her designee.

(b) All Lessees holding an interest in oil and gas leases executed prior to May 11, 1998, may terminate their bonding requirement pursuant to 385:15-1-20 upon the payment of a one-time Performance Fee in accordance with the following schedule:

(1) 1 to 5 leases owned: $300.00
(2) 6 to 10 leases owned: $325.00
(3) 11 to 15 leases owned: $350.00
(4) 15 to 20 leases owned: $400.00
(5) 21 to 60 leases owned: $450.00
(6) 61 to 180 leases owned: $500.00
(7) 181 or more leases owned: $550.00

(c) Said fee shall be placed in the CLO revolving fund under an oil and gas indemnity account with interest accrued. The payment of the Performance Fee shall cover all leases that were formerly covered under the Lessee bond, including the interest(s) of Lessee(s) added by virtue of an Appointment of Lease Operator form or the current Bond Appointment form. Bonded lessees electing not to pay said Performance Fee will be required to maintain their bond pursuant to 385:15-1-20 herein.

(d~~c~~) The oil and gas indemnity account shall be used to insure that the lessee faithfully operates the lease premises and complies with all lease terms and provisions and CLO oil and gas rules and regulations. This may include but is not limited to the payment of uncollectible royalty payments, plugging wells, cleaning up well sites, tank battery sites and pipelines, and the reclamation of soil and vegetation, ponds and water ways. Said fee shall not minimize or relieve the lessee of any liability or obligation that exists or may arise from the operations of the lease, nor limit in any manner the CLOs remedies at law.

(e~~d~~) Said Performance Fee shall be maintained until such time that the oil and gas indemnity account exceeds $250,000.00, at which time the performance fee will be discontinued until such time that it falls below $200,000.00, at which time the Performance Fee will be reinstated. The Secretary of the CLO will provide notice of any such discontinuance or reinstatement of said Performance Fee through the Notice of Oil and Gas Lease Sale that is published.

(f~~e~~) Claims against the revolving fund will be paid only upon the recommendation of the Director of the Mineral Management Division and the approval of the Secretary of the CLO. Said Director will insure that all other sources of payment of any claim, have been considered and/or exhausted before recommending payment from the fund. Said Director will also consider the primary purpose of creating said fund which is to preserve and protect the assets of the School Land Trust when no other source is available. The payment of any one claim shall not exceed 10% of the then existing revolving fund.

(g~~f~~) The appointment of Lease Operator (for bonding purposes) form, created pursuant to 385:15-1-12 has been terminated. Therefore, all Lessees holding an interest in oil and gas leases executed prior to May 11, 1998, whose bond requirement is not satisfied will be required to comply with one of the following:

(1) Pay the one-time Performance Fee based upon number of leases owned;

(2) Pay $1.00 per net acre owned with a minimum of $25.00 per lease owned;

(3) Post a Surety Performance Bond in an amount prescribed by the Commissioners pursuant to 385:15-1-20.

385:15-1-14. Seismograph permits

Any person or entity desiring to do seismograph exploration for oil and gas purposes may obtain a non-exclusive seismic permit upon the filing of an application together with a remittance of $200.00 as an application fee. Said permit will cover both the surface and mineral interest of the CLO, whatever that interest may be. The Minerals Management Division will appraise the acreage for a non-exclusive seismic permit. Said appraisal shall be made in a timely manner and the seismic permit fee shall not exceed 10 percent of the appraised value of an oil and gas lease covering the acreage to be explored plus the damages to the CLO's surface interest, if any. If the mineral interest is under oil and gas lease, applicant must obtain the written permission of the lessee and only pay CLO for damages to its surface interest, if any. The CLO retains the right to put any tract of land up for bid when it is deemed to be in the best interest of the trust. Said permit shall be for a period of ninety days with limited extension available upon written request. The seismic exploration permit will terminate upon issuance of an oil and gas lease covering the permitted acreage. In addition to the above mentioned fees and damages, the permittee shall pay any and all damages caused to CLO surface lessee's interest in the land and shall be responsible for any liability arising out of the seismic operations. ~~Ten percent of the seismic permit fee and the surface damages shall be placed in the CLO revolving fund to insure faithful performance of seismic operations and to preserve and protect CLO land. The payment of claims from said revolving fund will be administered pursuant to CLO rule 385:15-1-9. The remainder of the seismic permit fee and the surface damages shall be applied to the permanent fund.~~

385:15-1-18. Forms available on request

The following Commission Reports and other forms will be furnished on request:

(1) CLO FORM-7-1 Oil and Gas Lease
(2) CLO FORM-102 Assignment of Oil and Gas Lease
(3) CLO FORM-~~104~~ 7-4 Blanket Performance Bond
(4) CLO FORM-7-3 Division Order
(5) CLO FORM-107 Bid Form
(6) CLO FORM-108 Lessee's Monthly Report of Oil Produced and Sold

(7) CLO FORM-109 Lessee's Monthly Report of Gas and Casinghead Gas Produced and Sold
(8) CLO FORM-112 Uranium and Rare Earth Prospecting Permit
(9) CLO FORM-113 Salt Water Disposal Lease
(10) CLO FORM-114 Common Tank Battery Agreement
(11) CLO FORM-115 Seismograph Exploration Permit
(12) CLO FORM-116 Subordination of Mortgage
(13) CLO FORM-117 Assignment of Rentals and Royalties (Certificate of Purchase)

385:15-1-20. Bond requirements

(a) Amount of bond; forms. Each mineral lessee whose interest(s) is not covered by a performance fee must post a Performance Bond to cover the following agreements with this Department:

(1) Bond posted must be in the total sum required to cover any or all agreements in accordance with the following:

(A) Oil & Gas Lease Bond (one or more leases) - $10,000.00
(B) Salt Water Disposal Agreement - $10,000.00
(C) Mineral Lease on coal, copper, uranium or other mining leases (except oil & gas) - $12,500.00

(2) All bonds must be prepared on Commission forms. Bond forms will be supplied upon request. Maximum bond required for Oil and Gas Leases and related operations (on current Department form).

~~(b) Advertising agreement upon posting of bond. An agreement to pay cost of advertising tracts for oil and gas lease may be executed in lieu of posting $200.00 cash deposit required. Performance bond must be posted to cover this agreement.~~

(~~c~~b) **Release of bond.** Bonds will be released upon written request of the lessee or bonding company when all contracts covered thereby are satisfactorily terminated as determined by the CLO.

(c~~d~~) **Underwriter requirements.** All surety bonds must be made by a company authorized to do business in the State of Oklahoma.

(d~~e~~) **Cash deposit for loan of abstracts.** Firms desiring to borrow abstracts may post a cash deposit in the amount of $500.00 which is required, to insure the return of the abstracts borrowed. Upon return of said abstracts the deposit will be refunded.

(~~f~~e) **Cash Bond as Performance Bond.** A mineral lessee as defined in (a) above may post a bond by submitting cash in the amount of $10,000.00 as a Performance Bond with the Commissioners of the Land Office, from which the Commissioners of the Land Office may debit, or draw the entire sum, to pay for loss or damage resulting from the lessee's operations, or violations of the duties and obligations imposed by the lease. The bonds are not substitute liability, or liability limits but merely serve as minimal security for the debts and obligations. The lessee shall not be entitled to interest while this bond is held by the Commissioners of the Land Office.

385:15-1-22. Well installation and maintenance requirements

(a) **Earthen tank restrictions.** All earthen tanks used for storage of B.S. and ~~slat~~ salt water shall be constructed in accordance with Oklahoma Corporation Commission rules and shall be so located and constructed as to prevent damage to the surrounding surface area, or creeks and ravines, and shall not be located in any draw or ravine. Upon demand by the Commissioners of the Land Office, the oil and gas lessee shall, within fifteen days from receipt of such notice, be required to enclosed all earthen tanks or reservoirs for salt water, or B.S. and other installations, with substantial three-wire fence, and shall maintain same during the time such pits, reservoirs or installations exist.

(b) **Pipeline depth.** All pipelines must be buried and maintained below plow depth.

(c) **Identification of well.** Within thirty days of the completion of a producing oil or gas well, a sign shall be posted showing the name and number of the well and the legal description.

(d) **Surface casing.** All wells drilled for oil, gas or salt water disposal, shall set surface casing below all fresh water strata, and be cemented from bottom to top.

(e) **Enclosures of well property.** Upon demand by Commission all salt water tanks, oil tanks and other lease installations shall be enclosed with earthen dikes sufficient to protect the lease from damage by leakage and overflowing. The oil and gas lessee shall erect and maintain substantial gates or cattle guards on all entrances to the lease or any subdivision thereof.

(f) **Saltwater disposal well applications.** Salt water, other than that produced from the leased lands, may not be disposed of in wells on State land unless pursuant to written agreement with the Commission. Applications for salt water disposal agreements should be accompanied by a plat showing the location of all wells from which the salt water is produced, and the amount of salt water and oil produced by each well. (For fees and agreements, contact the Real Estate Management Division.)

(g) **Plugging requirements.** The lessee shall securely plug all dry, or abandoned, wells in the manner required by the rules and regulations of the Oklahoma Corporation Commission and the Laws of the State of Oklahoma.

(h) **Care of surface.** The lessee shall maintain all installations in a neat and workmanlike manner. All equipment or supplies not needed in day to day operation of the lease shall be removed from the lease. All dry or exhausted wells shall be plugged immediately upon abandonment. The lessee shall repair immediately any damages caused by his operation to terraces, waterways, or any other soil conservation practice.

(i) **Removal of equipment and restoration of surface after lease termination.** Upon termination of a lease, the lessee shall have ninety (90) days thereafter to restore surface area, remove any casing, production facilities or equipment and plug any well or wells on said lease unless an extension of time is granted in writing by the Commissioners of the Land Office, any material not removed in said time shall be forfeited to the State. An inspection will be made ninety (90) days after termination and a fee of One Hundred Dollars ($100.00) will

be charged if the requirements of this paragraph have not been met. Likewise, additional inspections will be made at thirty (30) day intervals until restoration of the surface and removal of material is completed. The fee will apply to each inspection.

385:15-1-32. Deposit and fee schedule

The following fee schedule establishes fees charged by the Commissioners of the Land Office:

(1) Deposit Schedule
- (A) Bidding Deposit: 25% of bid price
- (B) Advertising Deposit: ~~$200.00~~ See 385:15-1-7
- (C) Abstract Deposit: $500.00

(2) Fee Schedule:
- (A) Common Tank Battery Agreement: $250.00 per lease
- (B) Consent to Assignment (per lease): $25.00
- (C) Certification of Instrument: $10.00
  - (i) Plus charge per page): $ 0.10
- (D) Certificate of Records:
  - (i) Base Cert.: $75.00
  - (ii) Supp. Cert.: $50.00
  - (iii) charge per page: $ 0.10
  - (iv) Research time per hour: $15.00
- (E) Filing by cert, of purchase holder: $12.50
- (F) Performance (New Lease): $.007 of lease bonus
- (G) Oil and gas research time per hour: $15.00
- (H) Return Check Fee: $20.00
- (I) Seismographic Application: $200.00
- (J) Seismographic fee: 0 to 10% of lease value
- (K) Subordination agreement: $ 50.00
- (L) Tabulation of lease bids: $ 40.00
- (M) Transfer of Easement: $ 25.00

[OAR Docket #04-557; filed 4-5-04]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 1. ADMINISTRATION AND ORGANIZATION

[OAR Docket #04-523]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
435:1-1-2. Description of organization [AMENDED]
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The rule was amended to add the last three professions that by statute have been placed under the Board for regulation.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 14, 2004:

435:1-1-2. Description of organization

(a) The Board is created by the Oklahoma Legislature, 59 O.S. Section 481. The Board has the authority and duty to regulate and administer the practice of allopathic medicine in this state and related practice placed under the authority of the Board by the Oklahoma Legislature.

(b) The Board consists of nine (9) members who are qualified and appointed in accordance with the provisions of 59 O.S. Section 482. The two (2) lay members of the Board, appointed in accordance with 59 O.S. § 481, shall participate in all matters before the Board.

(c) The powers and duties of the Board are set forth in the Act, the Physical Therapy Practice Act, 59 O.S. Sections 887.1 through 887.17, the Registered Electrologist Act, 59 O.S. Sections 536.1 through 536.14, the Occupational Therapy Practice Act, 59 O.S. Sections 888.1 through 888.16, the Registered Dietitian Act, 59 O.S. Sections 1721 through 1740, the Athletic Trainers Act, 59 O.S. Sections 525 through 535, ~~and~~ the Physician Assistant Act, 59 O.S. Sections 519 through 524, the Respiratory Care Practice Act, 59 O.S. Sections 2026 through 2045, the Oklahoma Licensed Pedorthists Act, 59 O.S. Sections 2301 through 2308, and the Orthotics and Prosthetics Practice Act, 59 O.S. Sections 3001 through 3008 as amended.

[OAR Docket #04-523; filed 3-30-04]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #04-524]

RULEMAKING ACTION:
PERMANENT final adoption.

RULES:
Subchapter 4. Application and Examination Procedures for Licensure as Physician and Surgeon
435:10-4-6. Medical licensure examination [AMENDED]
435:10-4-7. Licensure by endorsement [AMENDED]
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ANALYSIS:
The rules were amended to specify that three failures on any licensing examination prohibits an applicant from being eligible for licensure without further requirements and that a score of incomplete shall be considered a failing score. The wording "unless prohibited by applicable law" was added for any exceptions that may fall under the American's with Disability Act.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 14, 2004:

SUBCHAPTER 4. APPLICATION AND EXAMINATION PROCEDURES FOR LICENSURE AS PHYSICIAN AND SURGEON

435:10-4-6. Medical licensure examination

(a) Upon submission and approval of a completed application for licensure by examination, and the payment of all fees, an applicant may sit for an examination approved by the Board. The Board has adopted the USMLE as its licensure examination. The passing score for the licensure examination is set at seventy-five percent (75%).

(b) In order to sit for the licensure examination, the applicant shall provide the Board with all information required by 59 O.S. § 494.1 on a form created or approved by the Board and have completed ten (10) months of the required post-graduate training as set out in 59 O.S. § 493.1.

(c) Submission of an application shall not guarantee an applicant the ability to sit for the licensure examination. No person shall sit for licensure examination until approved to do so by the Board.

(d) The Board recognizes as acceptable for licensure the USMLE, NBME, ~~and~~ FLEX and LMCC examinations. However, the Board will not accept test scores or combined FLEX scores from multiple sittings of the FLEX. In addition, the Board will accept the following combinations of those examinations:

(1) NBME part I or USMLE step 1, **plus** NBME part II or USMLE step 2, **plus** NBME part III or USMLE step 3;

(2) FLEX component 1 plus USMLE step 3; or

(3) NBME part I or USMLE step 1, **plus** NBME part II or USMLE step 2, **plus** FLEX component 2.

(e) The factoring of scores or combination of scores taken from separate examinations is acceptable only as set forth in (d)(1) through (d)(3) of this Section.

(f) All steps of the licensure examination must be passed within seven (7) years unless otherwise prohibited by applicable law.

(g) Beginning July 1, 1999 the following applies to all applicants regarding examination failures unless otherwise prohibited by applicable law:

(1) Any applicant who fails any part of ~~the USMLE~~ a licensing examination three times will not be eligible for a license. A score of incomplete shall be considered a failing score.

(2) If a combination of NBME, FLEX and/or USMLE is utilized, any applicant who has failed more than six (6) examinations will not be eligible for a license.

(3) If an applicant has achieved certification by an American Board of Medical Specialties (ABMS) Board, an exception to 435:10-4-6 (g)(1) and (2) may be granted by a vote of the Board.

(h) As with the initial application, the Board may make additional inquiry of the applicant to provide additional information as necessary.

435:10-4-7. Licensure by endorsement

(a) The Board may license an applicant by endorsement based upon the applicant's current license in another state, the District of Columbia, U.S. territory, or Canada and who has passed a medical licensure examination allowed by ~~59 O.S. § 493.3(A)(3)~~ 59 O.S. § 493.3(A)(2), and who has complied with all other current licensure requirements of the Act.

(b) The Board has approved for the purpose of a medical licensure examination the FLEX, USMLE, ~~and~~ National Board and LMCC examinations or acceptable combinations thereof. All steps of the licensure examination must be passed within seven (7) years unless otherwise prohibited by applicable law.

(c) Beginning July 1, 1999 the following applies to all applicants regarding examinations failures unless otherwise prohibited by applicable law:

(1) Any applicant who fails any part of ~~the USMLE~~ a licensing examination three times will not be eligible for a license. A score of incomplete shall be considered a failing score.

(2) If a combination of NBME, FLEX and/or USMLE is utilized, any applicant who has failed more than six (6) examinations will not be eligible for a license.

(3) If an applicant has achieved certification by an American Board of Medical Specialties (ABMS) Board, an exception to 435:10-4-7 (c) (1) and (2) may be granted by a vote of the Board.

(d) To apply for licensure by endorsement, an applicant shall submit an application as required by 435:10-4-4 and 435:10-4-5, as applicable.

(e) In addition, the applicant shall provide information to the Board, on a form created by the Board, in regard to the applicant's current license and previous examination.

(f) In the event an applicant is not qualified for licensure by endorsement, the applicant may, upon payment of applicable fees, sit for licensure examination authorized by this rule or apply for a special license as set forth in Subchapter 11 of this Chapter.

[OAR Docket #04-524; filed 3-30-04]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #04-529]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 5. Approval of Hospitals and Programs for Post-Graduate Training
435:10-5-1. Determination of hospitals and programs approved for post-graduate training [AMENDED]
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ANALYSIS:
Each year the Board approves post graduate training programs which are acceptable for licensure requirements in Oklahoma. This rule sets forth the criteria that shall be used in determining which institutions and programs will be approved for post-graduate training.

CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 14, 2004:

SUBCHAPTER 5. APPROVAL OF HOSPITALS AND PROGRAMS FOR POST-GRADUATE TRAINING

435:10-5-1. Determination of hospitals and programs approved for post-graduate training

In order to properly enforce the provisions of 59 O.S. 1971, Section ~~493~~ 493.1(c) relative to post-graduate training, the State Board of Medical Licensure and Supervision shall each year approve ~~the hospitals and~~ sponsoring institutions and their programs which are acceptable for post-graduate training in Oklahoma.

(1) In determining ~~the hospitals~~ which sponsoring institutions and programs ~~that~~ shall be approved for post-graduate training, this Board shall consider among other things, the ~~legal~~ qualifications of ~~physicians~~ physician educators serving in residencies ~~and fellowships~~ in said ~~hospitals~~ sponsoring institutions and ~~as well as~~ other facilities for giving first year post-graduate training. Physicians not eligible for full and unrestricted licensure in Oklahoma shall not be considered by this Board as qualified to train post-graduate residents.

(2) In determining the ~~hospitals~~ sponsoring institutions and programs that shall be approved for first year post-graduate training and residency programs, the Board shall consider as evidence of acceptability the ~~hospital's approval~~ sponsoring institution's accreditation by the ~~Liaison Committee on Graduate Medical Education of the American Medical Association~~ Accreditation Council for Graduate Medical Education (ACGME).

(3) Each training institution shall appoint one or more licensed medical doctors ~~responsible for meeting reporting requirements on July 1 of each year, covering the preceding 12 months, to wit:~~ Each sponsoring institution shall appoint an institutional official responsible for meeting reporting requirements. The following list of reportable incidents shall be reported to the Board within thirty (30) days of a final action on the part of the sponsoring institution or program:

(A) Whether any disciplinary actions relating to unprofessional conduct (as defined in Title 59 O.S., §509 and OAC 435:10-7-4) were taken against a resident physician in the post-graduate training program.

(B) Whether a resident physician has failed to advance in the residency program for ~~performance or behavioral~~ reasons of unprofessional conduct.

(C) Whether a resident ~~physician's practice~~ physician has been placed on restriction by the program

director for ~~performance or behavioral~~ reasons of unprofessional conduct.

(D) Whether any resident ~~physicians have~~ physician has been dismissed or terminated from the training program and the reasons for such ~~dismissals~~ action.

(E) Whether any resident ~~physicians have~~ physician has resigned from the training program ~~and the reasons for such resignations~~ while under investigation for program violations, misconduct, or unprofessional conduct.

(F) Whether any resident physician has been referred by the program director to a substance abuse program, unless the resident physician enrolls in an impaired physician program approved by the Board.

~~(G) Whether any resident physician has left the program for any length of time in excess of two weeks and the reason.~~

~~(H) A list of resident physicians who are recommended for advancement to the next level of the post-graduate training program.~~

(4) ~~Failure to comply with the reporting requirements are grounds for disciplinary action by the Board of Medical Licensure and Supervision against the program director and/or designated reporting physician.~~ Failure to report unprofessional conduct or the inability to practice safely may be grounds for disciplinary action against the supervising physician.

[OAR Docket #04-529; filed 3-30-04]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

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RULES:
Subchapter 17. Medical Micropigmentation
435:10-17-1. Purpose [AMENDED]
435:10-17-2. Definitions [AMENDED]
435:10-17-3. Duties and responsibilities [AMENDED]
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435:10-17-1. Purpose [AMENDED]
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435:10-17-3. Duties and responsibilities [AMENDED]
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ANALYSIS:
Amendments are being made to reflect changes in the law regarding the supervision required for those practicing medical micropigmentation.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 14, 2004:

SUBCHAPTER 17. MEDICAL MICROPIGMENTATION

435:10-17-1. Purpose

The purpose of this subchapter is to set forth the duties and responsibilities of an allopathic physician electing to employ and/or utilize a medical micropigmentologist ~~according to the provisions of House Bill 1964~~.

435:10-17-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

~~**"Direct supervision"** means that the supervising physician is present in the office before, during and after the procedure and includes the authorization and evaluation of the procedure with the physician/patient relationship remaining intact.~~

"Medical micropigmentologist" means a person credentialed according to the provisions of Title 63 O.S., Section 1-1450 et seq.

"Patient" means any person undergoing a micropigmentation procedure.

"Physician" means an allopathic physician licensed by the Oklahoma State Board of Medical Licensure and Supervision.

435:10-17-3. Duties and responsibilities

(a) To be eligible to serve as a supervising physician for a medical micropigmentologist a physician shall meet the following criteria:

(1) Have possession of a full and unrestricted license to practice allopathic medicine and surgery in the state of Oklahoma.

(2) The supervising physician shall be in full time practice with a minimum of twenty (20) hours per week of direct patient contact.

(b) Medical micropigmentation procedures may only be undertaken within the context of an appropriate doctor/patient relationship wherein a proper patient record is maintained.

(c) The supervising physician may employ and/or utilize no more than two (2) medical micropigmentologists at any one time.

(d) ~~The employment and/or utilization of a medical micropigmentologist requires direct supervision by the supervising physician~~ The supervising physician shall determine the level of supervision.

[OAR Docket #04-525; filed 3-30-04]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #04-530]

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RULES:
Subchapter 19. Special Volunteer Medical License [NEW]
435:10-19-1. Purpose [NEW]
435:10-19-2. Procedure for volunteer license [NEW]
435:10-19-3. Annual renewal [NEW]
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435:10-19-1. Purpose [NEW]
435:10-19-2. Procedure for volunteer license [NEW]
435:10-19-3. Annual renewal [NEW]
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ANALYSIS:
A new law effective 11-1-03 (HB1140) creates the special volunteer medical license. These rules are being adopted to establish the procedure for applying for, obtaining, and renewing the volunteer license.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 14, 2004:

SUBCHAPTER 19. SPECIAL VOLUNTEER MEDICAL LICENSE

435:10-19-1. Purpose

The purpose of this Subchapter is to set forth the requirements for receiving and maintaining a special volunteer medical license. This volunteer medical license shall be issued as provided for in Title 59 O.S., §493.5 for the sole treatment of indigent and needy persons without expectation of receiving any payment or compensation.

435:10-19-2. Procedure for volunteer license

(a) Application for a volunteer medical license shall be submitted on forms provided by the Board and document all information as required in Title 59 O.S., §493.5.

(b) The volunteer medical license shall be issued without the payment of an application fee.

(c) No person granted a volunteer medical license shall practice outside the scope of the license. Any practice outside the scope of the volunteer medical license shall be deemed to be unprofessional conduct and may be grounds for disciplinary action by the Board.

(d) All other provisions of the act and rules shall apply to holders of a volunteer medical license.

435:10-19-3. Annual renewal

(a) Holders of a volunteer medical license must apply for renewal on an annual basis on forms provided by the Board.

(b) Renewals issued by the Board will be without any continuing education requirements or renewal fee.

[OAR Docket #04-530; filed 3-30-04]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 15. PHYSICIAN ASSISTANTS

[OAR Docket #04-526]

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RULES:
Subchapter 1. General Provisions
435:15-1-1.1. Definitions [AMENDED]
Subchapter 9. Guidelines for the Utilization of Physician Assistants
435:15-9-4. Setting [AMENDED]
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The amendments will allow physician assistants to prescribe Schedule II drugs in state-owned Veterans Administration long-term care facilities with an in-house pharmacy to better serve the patients.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 14, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

435:15-1-1.1. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Board" means the State Board of Medical Licensure and Supervision.

"Committee" means the Physician Assistant Committee.

"On-site" means the following as it relates to the usage of Schedule II drugs:

(A) Hospital in-patients;
(B) Emergency room;
(C) Surgicenters licensed by the State Health Department; ~~or~~
(D) Medical clinics or offices in cases of emergency as defined by the supervising physician; or
(E) State-owned Veterans Administration long-term care facilities with an in-house pharmacy.

SUBCHAPTER 9. GUIDELINES FOR THE UTILIZATION OF PHYSICIAN ASSISTANTS

435:15-9-4. Setting

(a) **Office setting.**

(1) In office settings, it is assumed that the physician and the physician assistant function in the same clinical setting and that the physician is available to supervise and consult with the physician assistant about any matter in question, a point in the patient's history, an abnormal physical finding, etc. It is further assumed that the physician assistant immediately notifies the supervising physician of any medical emergency, patient complication or other patient problem encountered.

(2) It is assumed that the physician regularly and systematically checks the charts and notes of the patients seen by the physician assistant, checking for accuracy and completeness of such records, and in particular, the suitability of the plan of management. It is assumed that this type of review is conducted within 48 hours of the care being delivered. It is further assumed that the supervising physician reviews, at least on an annual basis, all existing protocols and orders governing the care given by the physician assistant. This review should be conducted on all protocols and orders for both the outpatient and inpatient settings.

(3) It is assumed that if the primary supervising physician is not available to supervise the physician assistant, another licensed physician, approved by the Board, will be available to provide such supervision. It is also assumed that there are established criteria covering those situations in which the physician must be consulted immediately, such as the patient with substernal chest pain, a child with a temperature over 104 degrees, a patient with severe abdominal pain and guarding, etc.

(b) **Hospital setting.**

(1) The physician assistant's functions in a hospital setting are regulated by the medical staff bylaws and regulations.

(2) The usual process is that the application for such privileges is filed by both the physician assistant and the supervising physician, reviewed for personal and professional qualifications by the credentials committee, and presented for approval to the medical staff. This process serves two purposes:

(A) Assuring the medical staff that the physician assistant meets professional and ethical standards.
(B) Publicizing the presence of the physician assistant to the medical staff and hospital administration.

(3) Initial workup of patients upon admission is often delegated to the physician assistant. This is an appropriate function if checked and countersigned by the supervising physician on his/her next visit to the hospital, which should usually occur within 24 hours. These workups should meet the standards set for workups performed by the physician staff of the hospital. It is assumed that any abnormalities or other findings are validated by the physician, and that his/her countersignature indicates his/her agreement with the findings recorded by the physician assistant.

(4) Initial orders may be delegated to a physician assistant. These activities are very important in that they involve the function of others, such as the R.N. and L.P.N. assigned to the ward. Copies of all standing orders that the physician has delegated to the physician assistant to order on his/her behalf should be on file in the hospital and available to the nurse accepting such orders as a means of assurance that these orders are emanating from the responsible physician and that they are within the authority which the physician has delegated to the physician assistant. All orders should be checked and countersigned by the responsible physician at his/ her next visit to the hospital, which should usually occur within 24 hours.

(5) Examples of orders that a physician assistant can be authorized to issue for a patient include, but are not limited to:

(A) Status orders - indicating the condition of the patient and usually used by the hospital staff to regulate visitors, to transmit to callers, etc. (i.e. "condition fair").

(B) Activity orders - indicating the degree of restriction of position or activity of the patient (i.e. "complete bedrest").

(C) Diet and fluid orders - indicating the amount and type of food and/or oral fluids (i.e. "low salt diet", "1200 calorie ADA diet", "force fluids", etc.).

(D) Test and procedure orders - indicating those tests and procedures necessary for care of the patient (i.e. "urinalysis in am", "schedule for IV urogram", etc.).

(E) Ward Observation and Measurement Orders - indicating those procedures to be carried out by hospital staff personnel (i.e. "BP twice daily", "record I & O").

(F) Medication Orders - indicating those drugs that are to be given to the patient usually by the nursing staff assigned to administer medications (i.e. "ampicillin 250 mg capsules by mouth four times daily").

(6) A glance at (b)(5) of this section reveals the enormous range of orders that may be necessary for the diagnosis and treatment of the patient in the hospital setting. Some are "routine" and could be delegated with very little supervision. Others might need very close supervision. The Board believes that a responsible physician might consider protocols of a "blanket type" covering those types of orders which would require less supervision. These might include orders of type (A), (B), (C), and (D) of (b)(5) of this section. Orders of type (E) of (b)(5) of this section might require more specification, but still may be of the blanket type. Medication orders from the list of drugs on the Oklahoma Physician Assistant Drug Formulary, Subchapter 11 of this Chapter, should also be included under the protocol.

(7) The protocol described in (6) of this subsection might take the form described in Appendix A of this Chapter.

(8) The protocol as listed in 435:15-9-4(b)(7) should cover the majority of those orders of a routine or "housekeeping" variety which are necessary for the efficient operation of a unit and for patient comfort, yet carrying little risk in case of error. Still other protocols could be written for specific clinical conditions that are frequently handled by the individual physician/physician assistant team. These protocols could be in the form of standard "sets" of orders for a given clinical diagnosis, such as a patient with an acute appendicitis, uncomplicated myocardial infarction, etc.

(9) There are also orders that must be written in an emergency to cover those rare but urgent situations arising in any hospital environment. These can never be adequately covered in a protocol, and the only advice which can be given is that the patient's interests must take precedence, and the physician assistant and other hospital personnel involved must work out each solution ad hoc. In all such cases, the physician must be contacted immediately and must personally take over the care of the patient as soon as possible.

(10) The physician assistant working in the hospital setting might be delegated any of a wide variety of procedures to be performed on patients under the care of the responsible physician. The delegation of these procedures implies that the physician is satisfied that the physician assistant has the requisite skill, and that the physician agrees with the technique and the safeguards under which the procedure is performed. The physician must not delegate tasks in which he/she is not capable of judging the quality of the skill and technique employed by the physician assistant.

(11) The physician assistant is often delegated the task of writing/dictating the discharge summary on patients under the care of the responsible physician. All such summaries should be carefully read and countersigned by the physician. The physician is reminded that this function is not only an excellent opportunity to review the case, but can also serve as an important review of the physician assistant's role in the hospital setting.

(c) **Emergency room setting.**

(1) The physician assistant may utilize the emergency room in the course of assisting the physician in the care of patients. For example, a patient may call when the office is closed and, for convenience, the emergency room may be the place of meeting. Such occasional or incidental use is not considered as different from settings listed in (a) and (b) of this section. It is assumed that the activities will be supervised by the responsible physician and that the

physician assistant has associate staff privileges to utilize the emergency room for such activities.

(2) The physician assistant may also be employed to work in an emergency room as a primary responsibility. There is ample documentation that a physician assistant can be very effectively and responsibly employed in this setting, but this should be carefully regulated by the facility.

(3) There are special problems in working as a physician assistant in the emergency room setting. The first is the fact that emergencies of a wide variety of severity may enter at any time, including multiple person disasters. Second, the patients are usually transient, with no previous relationship with the physician. They also usually come because of an unscheduled or unexpected illness or injury, and are more prone to be upset and/or hostile. These factors make the emergency room a frequent source of misunderstanding and litigation.

(4) The physician assistant in the emergency room setting must be clearly identified. When the physician assistant is working along side his/her supervising physician, the same understandings are assumed to exist as in the office setting. See 435:15-9-4(a).

(5) The Board is not opposed to the proper and responsible "semiautonomous" utilization of a physician assistant in emergency rooms. There are many small hospitals with such small medical staffs that full-time physician coverage in the emergency room is not possible. In these locations, the utilization of a well-trained physician assistant for such coverage is justified toward the provision of good emergency services, just as the provision of well-trained emergency medical technicians has been an improvement over non-trained ambulance drivers.

(6) If this is the case, then the physician assistant should be the best trained person possible, preferably with advanced training in emergency medicine (i.e. ACLS certification). The community should be well prepared by a public notice stressing the nature of the physician assistant's training and his/her relationship to area physicians. The physician coverage should be clearly specified and the responsibility clearly accepted by area physicians.

(d) **Nursing home and/or extended care facility.**

(1) The nursing home or similar long-term care facility shares some of the problems of the hospital, but has the advantage that there is less turnover of patients and the problems Such facilities are suitable for the utilization of a physician assistant, either on a full-time or part-time basis, under proper physician supervision.

(2) As in the hospital setting, (b) of this section, the initial workup of newly admitted patients is often delegated to a physician assistant. If this is the case, these workups should meet the standards set for workups performed by a physician. It is assumed that all abnormalities are validated by the responsible physician at his/her next visit indicating agreement with the findings as recorded by the physician assistant.

(3) The writing of orders and the performance of procedures should be subject to the same rules and restrictions described for the hospital setting in (b) of this section.

(e) **Remote patient care settings.**

(1) In an effort to address the shortage of available health care services in rural and inner city areas, the Legislature has authorized the use of physician assistants in practice settings remote from their supervising physicians. These settings, if supervised properly, will assist in expanding health care to areas of Oklahoma previously underserved by existing resources. However, they do require special consideration and constant interaction by both the physician assistant and the physician to assure that good quality medical care is delivered.

(2) It is recognized in remote patient care settings that the physician and the physician assistant are geographically separated during a majority of the time that the physician assistant is delivering patient care. However, the Board assumes that the physician and physician assistant are in frequent contact by telephone or other means of telecommunication whenever the remote site is delivering care to patients, and not just at times when a problem or question arises. The Board further assumes that the physician and physician assistant have practiced together a sufficient period of time to establish a close working relationship in order for the physician assistant to fully understand the physician's standards of care and requirements for consultation on any patient problem seen in the facility.

(3) Remote patient care settings also require an advanced level of knowledge and skills on the part of the physician assistant. This additional knowledge and skill must be documented to the Board in the approval to practice and should include experience in delivering a comprehensive range of care in a non-remote practice setting as well as additional training in emergency medicine procedures.

(4) The supervising physician must also recognize his/her additional role and responsibilities in utilizing a physician assistant in a remote patient care setting. The physician must always be immediately and easily available for consultation on patient problems and willing to personally see any patient upon request from the physician assistant. Further, the physician must exercise close and careful review of the care being delivered in such sites with frequent review of patient protocols, orders and chart entries.

(5) Finally, the Board requires that all remote patient care settings shall have, in writing and signed by the physician, policies which govern the delivery of care of most common illness/injuries likely to be seen in these settings. These policies shall include the historical and physical exam findings, laboratory and other diagnostic test findings, and the plan of treatment and follow-up necessary for each of the conditions defined. The Board further assumes that any patient problem seen in these facilities which is not covered by an existing written policy will be discussed

with and the treatment plan decided by the physician at the time of the patient's visit to the facility.

(f) **Anesthesia setting.**

(1) The physician assistant may perform pre- and post-procedural assessment of patients in accordance with guidelines established by the supervising physician.

(2) Physician assistants may administer topical anesthetics, local infiltration, or digital blocks. Physician assistants may administer wrist and ankle nerve blocks under the direct supervision of the supervising physician and following approval by the credentialing committee of the facility.

(3) Physician assistants may not administer general anesthesia.

(4) Physician assistants may administer intravenous sedation analgesia as defined in the current *Practice Guidelines for Sedation and Analgesia by Non-Anesthesiologists* of the American Society of Anesthesiologists. Administration of intravenous sedation analgesia by physician assistants must be performed under the direct supervision of the supervising physician. Specific education and training is required and must be documented and approved by the credentialing committee of the facility.

(g) **Veterans Administration Long-term Care Facilities.** Physician assistants may prescribe Schedule II drugs in state-owned Veterans Administration long-term care facilities with an in-house pharmacy.

[OAR Docket #04-526; filed 3-30-04]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

[OAR Docket #04-527]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 5. Regulation of Practice
435:20-5-9. Standards of Ethics and Professional Conduct [NEW]
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February 19, 2003
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Docket number:
03-303
INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
This new rule defines the standards of ethics and professional conduct for licensed physical therapists and physical therapist assistants. The American Physical Therapy Association and the Oklahoma Respiratory Care Practice Act were used as sources in the development of these standards.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 14, 2004:

SUBCHAPTER 5. REGULATION OF PRACTICE

435:20-5-9. Standards of ethics and professional conduct

In the conduct of their professional activities, the physical therapist and physical therapist assistant shall be bound by the following ethical and professional principles. Physical therapists and physical therapist assistants shall:

(1) Respect the rights and dignity of all individuals and shall provide compassionate care.

(2) Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the profession and its professionals.

(3) Comply with state and/or federal laws that govern and relate to physical therapy practice.

(4) Exercise sound professional judgment and perform only those procedures or functions in which they are individually competent and that are within the scope of accepted and responsible practice. A physical therapist shall not delegate to a less qualified person any activity that requires the unique skill, knowledge, and judgment of the physical therapist. A physical therapist assistant shall provide selected physical therapy interventions only under the supervision and direction of the evaluating physical therapist. A physical therapist assistant shall make judgments that are commensurate with their education and legal qualifications as a physical therapist assistant.

(5) Actively maintain and continually improve their professional competence and represent it accurately.

(6) Maintain high standards by following sound scientific procedures and ethical principles in research and the practice of physical therapy.

(7) Seek reasonable remuneration for physical therapy practice.
(8) Provide and make available accurate and relevant information to patients about their care and maintain patient confidentiality.
(9) May provide information to the public about societal benefits of physical therapy services. A physical therapist may advertise his/her services to the public.
(10) Refuse to participate in illegal or unethical acts, and shall refuse to conceal illegal, unethical or incompetent acts of others.
(11) Endeavor to address the health needs of society through pro bono services and/or community health services.
(12) Respect the rights, knowledge and skills of colleagues and other healthcare professionals.

[OAR Docket #04-527; filed 3-30-04]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 40. REGISTERED ELECTROLOGISTS

[OAR Docket #04-528]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
435:40-1-4.1. Infection Control Standards [NEW]
435:40-1-6. Curriculum of study and internship requirements [AMENDED]
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ANALYSIS:
Rule 435:40-1-4.1 is a new rule that sets infection control standards for licensed electrologists. These standards emphasize the need to minimize the risk of exposure to blood or body fluids and to reduce the risk of transmitting infection or disease. Rule 435:40-1-6 is being amended to add the requirements for the preceptorship and preceptors.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 14, 2004:

435:40-1-4.1. Infection control standards
(a) **Purpose.** These standards have been developed for electrology students, licensed practicing electrologists, and approved electrology instructors in Oklahoma. These standards emphasize the need to consider all patient/clients as potentially infectious, minimize the risk of exposure to blood or body fluids, reduce the risk of transmitting infection or disease from patient/client to patient/client, practitioner to patient/client, and patient/client to practitioner.
(b) **Description.** Electrology is a superficially invasive procedure, which does not generate splashes or sprays of blood and body fluids. It is NOT necessary to wear masks, eye protection, a face shield, or gowns while practicing electrolysis. Electrolysis needles can become contaminated with blood, serum, or other material because of the insertion of the needles into the hair follicle and skin. All needles must be either single-use, pre-sterilized, disposable needles OR be properly sterilized in an autoclave or dry heat sterilizer according to the standards that follow. Any critical instrument re-used between patient/clients must be sterilized and monitored, for effectiveness, according to these standards. Each instrument or piece of equipment must be properly disposed of, disinfected, or sterilized depending on its use and contamination. Cleaning of surfaces, instruments, and equipment must precede appropriate disinfection or sterilization. During the treatment, a new pair of non-sterile, medical grade, disposable exam gloves must be worn by the electrologist to reduce the risk of transmitting disease or infection between the practitioner and the patient/client
(c) **Blood-borne pathogens.**
(1) The three blood-borne pathogens of great concern to healthcare workers who could be at risk to blood and body fluids containing visible blood are Hepatitis B virus (HBV), Hepatitis C virus (HCV), and HIV/AIDS.
(2) HIV/AIDS is a threat to healthcare workers, but not as much as Hepatitis B. The average seroconversion rate from exposures to HIV is 0.3%.
(3) Hepatitis C is becoming more prevalent. Technology has allowed for the diagnosis of this disease since the late 1980's. The likelihood of contracting this virus from an exposure is not as great as Hepatitis B, but the prognosis for Hepatitis C is believed to be quite poor. Literature suggests nearly all persons who contract Hepatitis C will suffer effects of chronic liver disease, sometimes as late as 30 years after contracting the virus.
(4) Hepatitis B viruses also attack the liver. Most persons who contract Hepatitis B are symptomatic for a short while, but then recover from the illness. Only a small percentage of persons who contract Hepatitis B remain "carriers". It is presently the greatest threat to healthcare workers. Approximately one-third of all persons exposed

to Hepatitis B Virus through a blood/body fluid exposure contract this illness.

(5) Practitioners and electrology students should be vaccinated against HBV.

(6) Risks among health care professionals vary during the training and working career, but are often highest during the training period. For this reason, vaccination should begin before starting training and be completed during training. If the student refuses to be vaccinated, they must sign a waiver before beginning training.

(7) The immunization regimen consists of three doses of vaccine. The first dose is provided initially, followed at one month and six months.

(8) In 1986 the Food and Drug Administration (FDA) approved a new recombinant hepatitis B vaccine. It consists of highly purified hepatitis B surface antigen that is produced by cells of bakers' yeast. The vaccine is a result of a genetic recombinant technique and contains no human source materials; therefore there is no risk of acquiring a disease from the vaccine.

(9) Students and non-immunized practicing electrologists should contact their personal physician or the City/County Health Department for appropriate immunization against hepatitis B.

(d) **Standards for hand washing.** Hand washing is one of the most important procedures for preventing the transmission of infections. Hand washing accomplishes a physical removal of microorganisms and a chemical inactivation of residual microorganisms on the surface of the skin. Fingers are thought to be the most important part of the hand in terms of the transfer and spread of pathogenic micro flora. The 1985 CDC Guidelines for Hand Washing and Hospital Environmental Control recommends that plain soap can be used for routine hand washing. The 1995 APIC Guideline for Hand Washing and Hand Antisepsis in Health Care Settings recommends a vigorous rubbing of all surfaces of lathered hands and fingers for 10 to 15 seconds, followed by thorough rinsing under a stream of water. Hand washing products can become contaminated or support the growth of microorganisms. Liquid products should be stored in closed containers and dispensed from either disposable containers or containers that are washed and dried thoroughly before refilling.

(1) A sink with hot and cold running water is located in each treatment room

(2) Hands are washed:

(A) Before and after treatment of each patient/client

(B) Before donning gloves and immediately after gloves are removed

(C) Immediately if accidental bare-handed contact with blood, body fluids, secretions, excretions, non-intact skin, mucous membranes or contaminated equipment occurs.

(3) Hand washing includes use of plain soap. Reusable liquid containers are cleaned and dried before being refilled with fresh soap

(4) Hand washing technique includes:

(A) Use of plain soap and water

(B) A vigorous rubbing together of all surfaces of lathered hands, especially between fingers and fingernail areas, for 10 to 15 seconds

(C) A thorough rinsing under a stream of water

(D) Hands are dried thoroughly with a clean disposable paper towel

(E) Faucets are turned off with the paper towel

(F) Paper towel is disposed of in the appropriate receptacle in the treatment room

(e) **Standards for use of gloves.**

(1) Each patient/client must be treated with fresh unused gloves. Determine patient/client allergies before wearing latex gloves. Several conditions have been connected to latex sensitivity, including such allergic reactions as asthma, eczema, hay fever, allergies to cosmetic powders or foods, and frequency or duration of glove use/exposure. Non-sterile gloves are appropriate for electrology procedures and should be worn when hands are likely to become contaminated with potentially infective material such as blood, all body fluids, secretions, excretions, non-intact skin, and mucous membranes.

(2) The consistent wearing of gloves will decrease the risk of potential exposure. Wearing gloves will also protect the patient/client from potential exposure to the microbial flora of the electrologist, including blood-borne organisms should there be cuts, scrapes, or micro-lesions on the electrologist's hands. When gloves are worn, hand washing is recommended after removal because gloves may become perforated during use and bacteria can multiply rapidly on gloved hands. Gloves that are torn or knowingly perforated during a treatment should be removed immediately and hands washed before donning fresh gloves.

(3) Wearing latex powder-free, reduced protein content gloves will reduce the risk of a latex allergy. When wearing latex gloves, do not use oil-based hand creams or lotions, which causes glove deterioration, unless they have been shown to reduce latex-related problems and maintain glove barrier protection. If the electrologist or patient/client is allergic to latex, there are other non-latex glove materials available such as vinyl.

(4) Washing gloves while treating the same patient/client is not recommended. This can cause "wicking", the enhanced penetration of liquids through microscopic holes in the gloves. Deterioration of the glove material can also occur with the use of disinfecting agents or oils. Wearing gloves will not guarantee protection as gloves may have micro tears.

(5) Use a fresh pair of non-sterile, medical grade, disposable exam gloves during the treatment of each patient/client. Gloves are disposed of in an appropriate receptacle in the treatment room.

(6) Wash hands in accordance with the above hand washing standards before putting on gloves and immediately after gloves are removed.

(f) **Standards for patient/client health history.** A complete past and current health history is obtained from each patient/client before treatment. The general health status of the patient/client may be a factor in susceptibility to infection and

normal healing. It will also have an affect on the outcome of the treatment plan due to any hormonal disorders or disease states. Professional interpretations require careful observation and good judgment. The patient/client's health status should be updated and evaluated on an on-going basis and referred to an appropriate physician as indicated.

(g) **Standards for patient/client skin preparation.**

(1) Treatment should be delayed if actual or potential signs or symptoms of infection are present. The practitioner should refer to the appropriate physician when the health history or skin assessment indicates

(2) Before treatment, the treatment area should be thoroughly cleansed to remove makeup or grime if present and reduce the bacterial count on the skin.

(3) Wipe the treatment area with an antiseptic skin preparation.

(4) After treatment, the treatment area should be wiped with an appropriate product, taking into consideration the patient/client's skin type and any skin allergies.

(5) Patient/clients are instructed on appropriate post-treatment care to promote healing.

(h) **Standards for cleaning and sterilization of instruments/items.**

(1) Coordinating the cleaning, sterilization, and disinfection of instruments/items to maintain asepsis technique is required. Precautions should be taken to avoid puncture injuries from instruments.

(2) All instruments that will penetrate tissue should be either pre-sterilized disposable or thoroughly cleaned and then sterilized before reuse to reduce the risk of transmission of infection and disease.

(3) The endodontic dry heat sterilizer (glass bead sterilizer) is no longer cleared to market by the Food and Drug Administration (FDA). The endodontic dry heat sterilizer should not be used in the practice of electrology.

(4) Some high-level disinfectants, including glutaraldehyde-based germicides, are not recommended as an applicable method of sterilization of instruments and items, based on their toxicity level, instability, and impracticality. Sterilization with liquid chemical germicides is not capable of being biologically monitored. If a medical device is heat-stable, the proper method of reprocessing is by using a heat-based method such as a steam autoclave or dry heat oven.

(5) Carbon rollers are porous and cannot be sterilized or disinfected, therefore, they should not be used.

(6) Cleaning is the basic first step for all decontamination. Cleaning physically removes debris and reduces the number of microorganisms present. Cleaning is the removal of organic material or soil from objects and is usually done by using protein-dissolving enzyme detergent and water. Generally, cleaning is designed to remove rather than kill microorganisms. Technology has provided cleaning products and devices that are especially appropriate for the cleaning of instruments used in electrology. A meticulous physical cleaning is always done before sterilization or disinfection. For sterilization or disinfection, refer to the manufacturers' instructions for exposure times and conditions as well as recommendations for rinsing and subsequent handling of processed items.

(7) Low-level and intermediate-level disinfectants used in the practice of electrology should be registered with the Environmental Protection Agency (EPA), whereas high-level disinfectants/liquid chemical sterilants are cleared by the FDA for use in sterilizing or disinfecting medical and dental instruments. Disinfectants are to be used according to the manufacturer's instructions.

(8) An intermediate-level disinfectant is capable of killing M. tuberculosis var. bovis, but not bacterial spores. It will also inactivate organisms such as most vegetative bacteria and fungi as well as viruses such as hepatitis B virus (HBV) and HIV. Examples of intermediate-level disinfectants include alcohols (70 to 90% ethanol or isopropanol), chlorine compounds, and certain phenolic or iodophor preparations.

(9) A high-level disinfectant inactivates some, but not necessarily all, bacterial spores. It will kill M. tuberculosis var. bovis, bacteria, fungi, and viruses. High-level disinfection is the minimum treatment recommended by the CDC guidelines for reprocessing of semi-critical instruments or devices. Examples of high-level disinfectants includes glutaraldehyde-, chlorine dioxide-, hydrogen-peroxide, orthophthaldehyde-, and peracetic acid-based formulations.

(10) Chlorine solutions in concentrations of 0.05 to 0.5% free chlorine are generally considered intermediate-level disinfectants for specific site disinfection. Solutions of 0.5% (household bleach contains approximately 5% sodium hypochlorite) have broad-spectrum germicidal activity, and exhibit sporicidal activity, are tuberculocidal, inactivate vegetative bacteria, and are fungicidal and virucidal. Klein and Deforest (1965) reported that all 25 viruses were inactivated in 10 minutes by as little as 0.02% available chlorine. Bleach solutions used to process tips for epilator needle holder are freshly made by mixing one tablespoon household bleach to one quart tap water. Discard bleach solution after each use.

(11) Critical items.

(A) Instruments

(i) Needles

(I) Single-use, pre-sterilized, disposable

(II) Pre-sterilized, re-useable

(ii) Forceps

(B) Processing

(i) Single-use and re-useable needles

(I) Stored in a manner that will maintain sterile condition, away from wetness or humidity extremes.

(II) Not to be recapped, bent, or manipulated by hand prior to disposal to avoid accidental puncture injury.

(III) Place in a sharps container immediately after use, or when opened and found damaged, or when not used before expiration date.

(IV) When the sharps container is full, it is to be sealed securely and disposed of properly

as specified by state and local health regulations as an item of regulated medical waste. According to the Oklahoma Dept. of Labor's OSHA division, sharps containers can be disposed of in the regular trash only after being filled with cement. They recommend a more practical solution of taking them to a local hospital or clinic that will include it with their regular biohazard waste materialsto be picked up by a biohazard waste company. They may charge a small fee for this service.

(ii) Forceps and re-useable needles

(I) Forceps are cleaned and then sterilized before their initial use.

(II) Used critical items are placed in an ultrasonic unit, empty covered container or a holding container, which holds either a liquid detergent solution or protein-dissolving enzyme detergent, following manufacturer's instructions for dilution.

(III) The holding container is held under warm running water to rinse off detergent and debris, then drained.

(IV) Forceps and re-useable needles are then placed in the basket of an ultrasonic unit using transfer forceps. If a protein-dissolving enzyme detergent was not used in the holding container, it must be used now in the ultrasonic unit for proper cleaning, following manufacturer's instructions for dilution and immersion time.

(V) Basket is removed from ultrasonic unit, rinsed under running water and drained. Forceps are dried with disposable paper towels. Needles are drained and air-dried on disposable paper towels.

(VI) Forceps and needles are packaged individually or in small multiples for the sterilization process. If sterilized in multiples, any instruments not used whose package has been opened must be resterilized.

(VII) Place packaged instruments in an autoclave or dry heat sterilizer using a chemical indicator on each package or one with each individual load. This only indicates items have been exposed to a sterilization process, it does not guarantee sterility. Biological indicators are used no less than once a month (per sterilizer) according to manufacturer's instructions to ensure proper mechanical function. Lab reports are filed in a permanent Sterility Assurance file to be kept in your office records.

(VIII) Autoclaves and dry heat sterilizers are loaded, operated and maintained according to manufacturer's instructions. Sterilizers must have visible physical indicators (thermometers, timers).

(IX) Cleaned, dried and packaged instruments are sterilized by either dry heat at 340 degrees F (170 C) for 1 hour; 320 degrees F (160 C) for 2 hours or by following directions by the manufacturer of the unit or by autoclave (steam under pressure) for 15-20 minutes at 250 degrees F (121 C); 15 psi (pounds per square inch). The above temperature and exposure times for dry heat sterilizers and autoclaves relate only to the time of exposure after attainment of the specific temperature and do not include a penetration or heat-up lag time. Exposure time does not include drying and cool-down time. Follow the manufacturer's instructions for the unit you have if times and temperatures differ from those given above.

(12) Semi-critical items.

(A) Instruments

(i) Tips for epilator needle holders

(ii) Anaphoresis/cataphoresis rollers

(B) Processing

(i) Tips for epilator needle holders

(I) Must be processed before initial use and after use between each patient/client. Tips that are contaminated (e.g. dropping or touching unsterile surface) must be reprocessed before use.

(II) Follow same processing directions described earlier for re-useable critical items concerning holding container and ultrasonic cleaning.

(III) Package tips individually or in small multiples for sterilization in an auto-clave or disinfect by submersing in a fresh solution of an intermediate- level disinfectant for 10 minutes or follow manufacturer's directions. Dry the tips with disposable paper towels.

(IV) Store tips in a clean, dry, covered container to prevent contamination.

(ii) Anaphoresis/cataphoresis rollers.

(I) Must be processed before initial use and after use between each patient/client.

(II) Rollers are cleaned, dried and disinfected in the same manner as tips.

(13) Non-critical Items.

(A) Instruments/Items

(i) Indifferent electrodes

(ii) Needle cords

(B) Processing

(i) These items are cleaned, dried and subjected to a low-level disinfection after each treatment.

(ii) Low-level disinfectants are capable of inactivating most bacteria, some Viruses and fungi, but not bacterial spores or M. tuberculosis var. bovis. Examples are quaternary ammonium compounds and certain iodophors or phenolics.

(i) **Standards for environmental control and housekeeping.**

(1) A variety of microorganisms are normal contaminants of environmental surfaces, most of which are non-pathogens. Conscientious sanitation and disinfection techniques control cross-infection.

(2) Hospital-grade disinfectants registered with the Environmental Protection Agency (EPA) should be used for environmental surface cleaning. Product labels give the EPA registration number and should give adequate safety and precautionary information. Manufacturer's instructions on the use of the product should be followed. Information on specific manufacturer label claims and the classification of disinfectants can be obtained by writing the Anti Microbial Division, EPA 751 OC, Office of Pesticides Programs, 401 M Street SW, Washington, DC 20460. http://www.epa.gov/.

(3) Adequate levels of safety for surfaces of medical equipment (non-critical surfaces) may be achieved by simple washing or scrubbing with detergent and warm water or, depending on the equipment surface and the nature and degree of contamination, cleaning followed by an application of an intermediate- to low-level chemical germicide. Follow manufacturer's instructions for application and exposure times of disinfectant products.

(4) Cleaning schedules and methods vary according to the type of surface to be cleaned and the amount and type of soil present. Items on countertops should be maintained in a sanitary manner. Sinks and toilet facilities should be clean at all times. Environmental surfaces in the treatment room should be cleaned on a regular basis. Equipment surfaces, doorknobs, telephones, and treatment tables should be cleaned on a regular basis. Protective barrier film or appropriate disinfectants should be used on surfaces touched during the treatment. Treatment tables should be covered with either cloth or paper drapes and changed after each patient/client. Floors and carpets should be vacuumed and cleaned regularly. Walls, blinds and curtains should be cleaned when visibly soiled.

(j) **Standards for potential exposures to blood-borne pathogens.**

(1) Health care workers who have percutaneous or mucous membrane exposure to blood and other body fluids are at risk for infection, including HBV, HCV AND HIV infection. The Centers for Disease Control and Prevention (CDC) concludes in a continuing study that, while HIV infection is a real risk to health care workers, the risk is low and can be minimized by taking appropriate precautions.

(2) Identified risk factors for HIV and HCV transmission are almost identical to those for HBV transmission. Despite the similarities in modes of transmission, the risk of HBV infection in health care settings far exceeds that for HIV or HCV infection.

(3) The following steps are to be taken when a puncture injury has occurred:

(A) Remove and discard gloves.

(B) Milk the puncture site to expel blood. Clean the wound vigorously with one-half teaspoon of soap and water for 10 to 15 seconds, using friction.

(C) Immediate contact is made to practitioner's personal physician for appropriate consultation, and for necessary post-exposure strategies.

(D) Documentation of the exposure is made including: date, route of exposure, circumstance under which exposure occurred, name of source patient/client, HIV and/or hepatitis status of source patient/client, status of practitioner's testing, follow-up testing and any necessary post-exposure prophylaxis.

435:40-1-6. Curriculum of study and internship requirements

~~The purpose of this section is to set out the curriculum of study and internship requirements for examination and licensure as a registered electrologist.~~

~~(1) The applicant shall successfully complete a minimum of one year curriculum of study and internship established by the Board which shall include successful completion of a minimum of 600 hours of study and clinical practice under the direct supervision of a registered electrologist, licensed in Oklahoma who has been approved by the Board as a preceptor. At least 50 of the 600 hours shall be spent in each modality (Galvanic, Thermolysis, and the Blend).~~

~~(2) Electrologists who supervise applicants shall be approved by the Board as a preceptor.~~

~~(3) Applicants shall be taught on modern equipment, in good working condition, as cerified by submission of the equipment manufacturer's recommended maintenance schedule and proof of continued compliance with that schedule. Submittals shall be on forms approved by the Board and reviewed by the Committee for acceptability.~~

(a) **Preceptorship.**

(1) Applicants for licensure as registered electrologists shall successfully complete a minimum of one year curriculum of study and internship established by the Board.

(2) The preceptorship shall include successful completion of a minimum of 600 hours of study and clinical practice under the direct supervision of a preceptor. At least 50 of the 600 hours shall be spent in each modality (Galvanic, Thermolysis, and the Blend).

(b) **Preceptors.**

(1) Preceptors shall be registered electrologists approved by the Board.

(2) The preceptor must be licensed to practice electrolysis in the state of Oklahoma and must have actively practiced in the state for at least four years (at least two years immediately prior to beginning as a preceptor).

(3) Preceptors shall make training facilities available for inspection upon request by members of the Board, the Committee or their representative.

(4) Preceptors shall teach on modern equipment, in good working condition, as verified by submission of the equipment manufacturer's recommended maintenance

schedule and proof of continued compliance with that schedule. Submittals shall be on forms approved by the Board and reviewed by the Committee for acceptability.
(5) Hygienic practices must conform to the Oklahoma Infection Control Standards for Electrologists.

[OAR Docket #04-528; filed 3-30-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 16. STANDARDS AND CRITERIA FOR COMMUNITY RESIDENTIAL MENTAL HEALTH FACILITIES

[OAR Docket #04-548]

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Subchapter 5. Services
450:16-5-1. [AMENDED]
450:16-5-2. [AMENDED]
Subchapter 11. Safety
450:16-11-2. [AMENDED]
Subchapter 13. Quality of Life
450:16-13-2. [AMENDED]
450:16-13-3. [AMENDED]
450:16-13-12.1. [AMENDED]
450:16-13-12.2. [NEW]
450:16-13-16. [AMENDED]
450:16-13-27.1. [AMENDED]
Subchapter 15. Resident Rights
450:16-15-1. [AMENDED]
450:16-15-2. [REVOKED]
450:16-15-3. [REVOKED]
450:16-15-4. [REVOKED]
450:16-15-5. [REVOKED]
Subchapter 21. Personnel, Staffing and Training
450:16-21-1. [AMENDED]
450:16-21-4. [AMENDED]
Subchapter 29. Enhanced Residential Care
450:16-29-2. [AMENDED]
450:16-29-2.1. [AMENDED]
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ANALYSIS:
Pursuant to 43A O.S. § 3-315 these rules contain the minimum standards for certification of community residential mental health programs under contract with and certified by ODMHSAS. These entities are residential living facilities for mental health consumers. In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 16 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, clarify quality of life issues in residential care facilities, delete redundant or superfluous language, and correct scrivener's errors.
CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-6765.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

450:16-1-1. Purpose

This chapter sets forth the Standards and Criteria used for determining certification of mental health residential care facilities. (43A O.S. § 3-315) The rules regarding factors relating to the certification processes, including, but not necessarily limited to, applications, fees, requirements for, levels of, required scoring levels, and administrative sanctions, are found in OAC 450:1, Subchapter 9.

450:16-1-2. Definitions

The following words or terms when used in this chapter shall have the following meaning, unless the context clearly indicates otherwise:

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a caretaker responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a caretaker responsible for providing these services to a resident.

"ADL" means activities of daily living.

"Administrator" means the person who is in charge of a community residential mental health facility and who devotes at least one-third (1/3) of his or her full working time

to on-the-job supervision of the community residential mental health facility.

"Adults who have a serious mental illness" are persons eighteen (18) years of age or older who meet the following criteria:

(A) Currently or at any time during the past year have had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet criteria specified within DSM-IV with the exception of "V" codes, substance abuse disorders, and developmental disorders, unless they co-occur with another diagnosable serious mental illness; AND

(B) Based on a client assessment scale, has at least moderate to severe impairment in the following areas:

(i) Feeling, mood and affect,
(ii) Thinking,
(iii) Family relationships,
(iv) Interpersonal skills,
(v) Role performance,
(vi) Socio-legal, or
(vii) Self care/basic needs.

"Clubhouse" means a psychiatric rehabilitation program currently certified as a Clubhouse through the International Center for Clubhouse Development (ICCD).

"CMHC" means community mental health center.

"Continuity of care agreements" means an agreement between the community residential mental health facility and providers of critical and comprehensive community based behavioral health services, including but not limited to a provider of inpatient behavioral health care and a local provider of community-based behavioral health services. Continuity of care agreements shall specify the responsibility of each entity related to assuring continuous and coordinated care on behalf the residents.

"Corporal punishment" means any physical punishment including, but not limited to punching, slapping, kicking, spanking, or whipping.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the community residential mental health facility or the routine care of a resident. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to residents, staff and visitors; medication errors; residents that are absent without leave (AWOL); neglect or abuse of a resident; fire; unauthorized disclosure of information; damage to or theft of property belonging to a resident or the community residential mental health facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

~~**"Continuity of care agreements"** means an agreement between the community residential mental health facility and providers of critical and comprehensive community based behavioral health services, including but not limited to a provider of inpatient behavioral health care and a local community mental health center. Continuity of care agreements shall specify the responsibility of each entity related to assuring continuous and coordinated care on behalf the residents.~~

"Direct care staff" means any staff member who, in the performance of his or her routine duties has contact with residents and is required to meet the training requirements for community residential mental health staff as listed in the "Standards and Criteria for Community Mental Health Residential Facilities".

"Enhanced residential care facility" means a community residential mental health facility meeting all statutory and regulatory requirements of the ODMHSAS and OSDH and which specifically serves only "Adults who have a serious mental illness" who cannot be accommodated in a non-enhanced community residential mental health facility.

"General psychosocial rehabilitation program" or **"PSR"** means a type of psychiatric rehabilitation program which focuses on long term recovery and maximization of self- sufficiency, role function and independence. General psychosocial rehabilitation programs may be organized within a variety of structures which seek to optimize the participants' potential for occupational achievement, goal setting, skill development and increased quality of life.

"Health care services" means services provided by health care professionals and includes, but is not limited to dentists, optometrists, and podiatrists.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, client profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and clients that provide the ability to monitor the course of client services throughout the statewide ODMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, community residential mental health facilities, prevention programs, and centers for the homeless which are operated or funded in part by ODMHSAS.

"Medication administration technician course" is an educational program from an institute of higher learning which has been reviewed and approved by the OSDH pursuant to 310:680-11-1 and affords the student a certificate of training in the administration of medication and measuring and documenting vital signs.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"OSDH" means Oklahoma State Department of Health.

"Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs, or general supervision of the physical and mental well-being of a person who is currently unable to maintain a private, independent residence, or who has limited abilities in the managing of his

or her person, whether or not a guardian has been appointed for such person.

"Registered/licensed dietitian" means a person who is registered as a dietitian by the American Dietetic Association and licensed by the Oklahoma Board of Medical Licensure and Supervision.

"Resident" means a person residing in a residential care facility certified by ODMHSAS.

"Resident committee" or **"Resident government"** means any established group within the facility comprised of residents, led by residents and meets regularly to address resident concerns to support the overall operations of the facility.

"Residential care facility" or **"RCF"** means any house, home, establishment or institution licensed pursuant to the provisions of the Oklahoma Residential Care Home Act 63 O.S., §§ 1-819 through 1-840, other than a hotel, fraternity or sorority house, or college or university dormitory, is certified pursuant to 43 O.S. § 3-315 as a Community Residential Mental Health Facility and offers or provides residential accommodations, food service and supportive assistance to its residents or houses any resident requiring supportive assistance that are ambulatory, essentially capable of managing their own affairs and not routinely requiring nursing care or intermediate care.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of the individual's body.

"Seclusion" means the placement of an individual or individuals alone in a room or other area from which egress is prevented by a physical barrier.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms or violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Socialization activities" means all activities which encourage interaction and the development of communication, interpersonal, social and recreational skills , and can include client education.

"Special need (persons with)" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf or hard of hearing, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Supportive assistance" means the service rendered to any person which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. The term "supportive assistance" shall not be interpreted or applied so as to prohibit the participation of residents in housekeeping or meal preparation tasks as a part of the written treatment plan for the training, habilitation or rehabilitation of the resident prepared with the participation of the resident, the mental health or drug or alcohol services case manager assigned to the resident and the administrator of facility, or his or her designee. Supportive assistance shall not include medical service.

"Volunteer" means any individual providing direct services to residents, and who is not on the facility's payroll, but fulfills a defined role within the facility. This definition does not include special entertainment/visiting groups

SUBCHAPTER 5. SERVICES

450:16-5-1. Continuity of care agreements, other service providers

(a) The RCF shall have negotiated formal written agreements with other behavioral health inpatient and outpatient service providers to assure availability of continuous community based services to residents who will potentially need those services. The agreements must define responsibilities of each service entity. The Agreement(s) shall be renewed on an annual basis. If the Agreement is not obtained, the RCF shall show documentation of efforts to obtain the Agreement(s). At a minimum, there shall be agreements in place to sufficiently meet the emergency mental health needs of clients as well as insure continuous access to and collaboration with an array of outpatient behavioral psychiatric and rehabilitation services. ~~At a minimum, each RCF must have an current agreement with a local community mental health center or another provider that offers a similarly comprehensive array of services.~~

(b) To ensure continuity of care with all components of services, these Agreements shall address the roles and responsibilities of the RCF, the local provider of community-based ~~mental~~ behavioral health services ~~center~~, an inpatient behavioral health provider, and any other party.

(c) Compliance with 450:16-5-1 shall be determined by a review of documentation, including agreement(s) signed by all necessary parties; or agreement(s) signed by some of the parties with further notes from the RCF stating the date of attempts to have the agreement(s) signed by the other providers.

450:16-5-2. Service schedules and documentation

(a) A monthly calendar of scheduled recreational and social activities shall be developed and posted in each building occupied by residents throughout the RCF.

(b) ~~The monthly calendars~~ Calendars of ~~scheduled~~ actual recreational and social activities shall be filed at the end of each month and maintained.

(c) Compliance with 450:16-5-2 shall be determined by a review of the RCF monthly activity calendars of planned

events; case managers, treatment provider staff, and resident interviews.

SUBCHAPTER 11. SAFETY

450:16-11-2. Annual fire and life safety inspection

(a) The RCF shall obtain an annual fire and safety inspection from the State Fire Marshall or local authorities which results in the facility being allowed to continue to operate.

(b) Compliance with 450:16-11-2 shall be determined by a review of the RCF's annual fire and safety inspection report.

SUBCHAPTER 13. QUALITY OF LIFE

450:16-13-2. Nutrition

(a) To insure proper nutrition, meals must be well balanced and, if required by OSDH, approved by a registered/licensed dietitian.

(b) Compliance with 450:16-13-2 shall be determined by a review of documentation on staff training by ~~dietician~~ dietitian in menu substitutions if facilities provide special diets, review of menu with documentation of ~~dietician's~~ dietitian's approval, observation of at least one (1) meal, resident interviews, and review of OSDH inspection reports

450:16-13-3. Meal servings

(a) Residents shall receive meal servings adequate to satisfy nutritional needs and satisfy hunger.

(b) Compliance with 450:16-13-3 shall be determined by a review of menu with documentation of dietician's ~~dietician's~~ dietitian's approval; observation of at least one (1) meal; resident interviews, staff and CMHC staff interviews~~;~~, and review of OSDH inspection reports.

450:16-13-12.1. Bathroom tubs and showers

(a) Bathroom tubs ~~and~~, showers and sinks shall be clean and in good repair.

(b) Compliance with 450:16-13.1 shall be determined by on-site observation; and, if applicable, a review of OSDH on-site inspection reports.

450:16-13-12.2. Toilets

(a) Toilets shall be in clean, good repair, and provide privacy for residents.

(b) Compliance with 450:16-13.1 shall be determined by on-site observation; and, if applicable, a review of OSDH on-site inspection reports.

450:16-13-16. Frequency of activities held away from residential care facility

(a) Activities shall be provided by the RCF, away from the facility, two (2) or more times per week for those who do not attend ~~day treatment~~ Clubhouse or general psychosocial rehabilitation programs or for those who choose to attend the activities away from the facility.

(b) Compliance with 450:16-13-16 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events and facility attendance sheets or compliance with 450:16-20-8, if an Enhanced Residential Care facility.

450:16-13-27.1. Bed linens

(a) The RCF shall provide bed linens, to minimally include blankets, if requested by the resident, bedspreads, upper and bottom bed sheets, and pillow cases. All bed linens shall be clean and in good repair.

(b) Compliance with 450:16-13-27.1 shall be determined by on-site observation of residents' beds; and a review of OSDH reports.

SUBCHAPTER 15. RESIDENT RIGHTS

450:16-15-1. Resident rights

~~(a) All residents shall have and enjoy all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged by due process of law by a court of competent jurisdiction.~~ Each facility certified by or under contract with ODMHSAS shall ~~insure clients have the rights specified as follows~~ comply with the applicable rules in Title 450, Chapter 15. Consumer Rights.

~~(1) All residents have the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity.~~

~~(2) All residents have the right to a safe, sanitary, and humane living environment.~~

~~(3) All residents have the right to a humane psychological environment protecting them from harm, abuse, and neglect.~~

~~(4) Each resident has the right to an environment which provides reasonable privacy, promotes personal dignity, and provides opportunity for the client to improve his or her functioning.~~

~~(5) Each resident has the right to receive treatment services suited to his or her condition and needs for treatment without regard to his or her race, religion, sex, ethnic origin, age, degree of disability, handicapping condition, legal status, or ability to pay for the services.~~

~~(6) Each resident, on admission, has the absolute right to communicate his or her change of address with a relative, friend, clergy, or attorney, by telephone or mail.~~

~~(7) Each resident shall have and retain the right to confidential communication with an attorney, personal physician, or clergy.~~

~~(8) Each resident has the right to uncensored, private communications including, but not limited to, letters, telephone calls, and personal visits. Copies of any personal letter, sent or received, by a resident shall not be kept in his or her clinical record.~~

~~(9) No resident shall ever be neglected or sexually, physically, verbally, or otherwise abused.~~

~~(10) Each resident has the right to easy access to his or her personal funds on deposit with the facility, and shall be entitled to an accounting for said funds. A limitation on access to such funds may be made when it is determined, and documented, as essential to prevent the resident from unreasonably and significantly dissipating their assets.~~

~~(11) Each resident has the right to have his or her own clothing and personal possessions. This right may be forfeited, or limited, only if the personal property is determined to be potentially dangerous to the client, or others, or if the property is determined to be functionally unsafe.~~

~~(12) Each resident shall have the right to practice his or her own religious beliefs, and afforded the opportunity for religious worship. No client shall ever be coerced into engaging in, or refraining from, any personal religious activity, practice, or belief.~~

~~(13) The records of each resident shall be treated in a confidential manner.~~

~~(14) Each resident has the right to refuse to participate in any research project or medical experiment without informed consent of the resident, as defined by law. A refusal to participate shall not affect the services available to the resident.~~

~~(15) A resident may voluntarily participate in work therapy, and shall be paid just compensation for such participation. However, each resident is responsible for personal care and housekeeping tasks without compensation.~~

~~(16) The community residential mental health facility shall provide residents who are leaving at the request of the community residential mental health facility all funds and property belonging to him or her at the time of his or her departure.~~

~~(17) Each resident shall have the right to establish and to participate in a resident committee or resident government.~~

~~(18) Each resident has the right to assert grievances with respect to any alleged infringement of these stated rights of residents, or any other subsequently statutorily granted rights.~~

~~(19) No resident shall ever be retaliated against, or subject to, any adverse conditions because of having asserted his or her rights as aforestated in this section.~~

~~(b) Each affected facility shall have written policy and implementing procedures, and shall provide documented staff training to insure the implementation of each and every resident right stated in this section.~~

~~(c) Each affected facility shall have written policy and implementing procedures to insure each resident enjoys, and has explained to him or her, these rights; and these rights are visibly posted in both resident and public areas of the facility.~~

~~(d) The ODMHSAS Office of Consumer Advocacy, in any investigation or monitoring shall have access to clients, RCF records and RCF staff as set forth in OAC 450:15-7-3(b).~~

~~(e) Compliance with 450:16-15-1 shall be determined by a review of facility policy and procedures; posted notices of resident rights; interviews with staff and residents; review of grievances by residents or others; and any other supporting facility documentation, such as written statements by the residents that rights had been read to them and they understood.~~

450:16-15-2. Resident right to fee information [REVOKED]

~~(a) To insure that the residents have access to the information pertaining to RCF's fee schedule, each resident shall have access to written information about the RCF's fee schedule. The RCF shall provide a written description of the services provided by the RCF, the rates charged for these services, and items for which a resident may be separately charged. THE RCF shall obtain and document in writing the resident's consent prior to their accrual. This policy shall also be available to those individuals who are seeking service. This information shall be visibly posted.~~

~~(b) Compliance with 450:16-15-2 shall be determined by a review of resident files; and posted information.~~

450:16-15-3. Resident right to information, refused services [REVOKED]

~~(a) A resident, or potential resident, has the right to know why services are refused; and can expect an explanation concerning the reason he or she was refused certain services.~~

~~(b) Compliance with 450:16-15-3 shall be determined by a review of resident files; and resident interviews.~~

450:16-15-4. Resident rights regarding group visitations [REVOKED]

~~(a) Group RCF visitation shall be planned for limited interruption of routine activities, unless the group visitation is the activity. Residents shall have advance notice of visitations and never be referred to by full name without their consent.~~

~~(b) Written policies shall be established concerning the protection of resident's rights and privacy during RCF visitation by groups.~~

~~(c) Planning shall provide for limited interruption of routine activities. Individual residents shall have advance knowledge of such visitations and shall never be referred to by full name without their consent.~~

~~(d) Compliance with 450:16-15-4 shall be determined by a review of the RCF's policies and procedures.~~

450:16-15-5. Resident's grievance policy

~~(a)~~ Each RCF shall ~~have a written grievance policy and procedure providing for, but not limited to, the following:~~ shall comply with the applicable rules in Title 450, Chapter 15. Consumer Rights.

~~(1) Written notice of the procedure provided to the resident and, if involved with the resident, to family members or significant others.~~

~~(2) Time frames for the grievance policy's procedures which allow for resolution within fourteen (14) days.~~

~~(3) Name(s) of the individual(s) who are responsible for coordinating the grievance policy and the individual responsible for or authorized to make decisions for resolution of the grievance. In the instance where the decision maker is the subject of a grievance, decision making authority shall be delegated.~~

~~(4) Procedure by which a notice is provided to the resident advising that he or she has a right to make a complaint to the ODMHSAS Office of Consumer Advocacy.~~

~~(5) Mechanism to monitor the grievance process and improve performance based on outcomes.~~

~~(6) Annual review of the grievance policy and its implementing procedures, with revisions as needed to improve.~~

~~(b) Compliance with 450:16-15-5 shall be determined by a review of the RCF's grievance policy and implementing procedures, posted notices of client rights, interviews with staff and residents, review of the RCF's records of grievances filed by residents and/or family and significant others, and any other supporting facility documentation.~~

SUBCHAPTER 21. PERSONNEL, STAFFING AND TRAINING

450:16-21-1. Staff orientation

(a) The RCF shall provide new direct care staff with an orientation within ~~ninety (90)~~ thirty (30 days of hire which, at least, consists of instructions on:

(1) Orientation of RCF policies and procedures to include residents' rights, confidentiality, and abuse policy.

(2) Orientation of ODMHSAS standards and criteria for RCF.

(3) Techniques and philosophies which addresses appropriate non-violent intervention and potentially aggressive interpersonal conflicts, staff attitudes which promote dignity and enhanced self-esteem, keys to effective communication skills, verbal and non-verbal interaction and non-violent intervention. This training must be one-hour in length, at a minimum.

(b) Compliance with 450:16-21-1 shall be determined by a review of staff personnel files; and orientation procedures and materials.

450:16-21-4. Residential care staff training requirements, administrator

(a) The administrator of the RCF shall annually receive a total of twenty-four (24) hours of training credit annually, provided by an Oklahoma institution of higher learning. This training will consist of eight (8) hours of mental health-related subjects~~;~~, three (3) ~~hours,~~ of the eight (8) hours of mental-health related training must be in techniques and philosophies within a training curriculum that has been pre-approved by the Director of DMHSAS Provider Certification which addresses appropriate non-violent intervention and potentially aggressive interpersonal conflicts, staff attitudes which promote dignity and enhanced self-esteem, keys to effective communication skills, verbal and non-verbal interaction and non-violent intervention; and, sixteen (16) hours required by the OSDH, in addition to CPR (cardiopulmonary resuscitation), and first aid provided by certified instructors.

(b) Compliance with 450:16-21-4 shall be determined by a review of the administrator's personnel file.

SUBCHAPTER 29. ENHANCED RESIDENTIAL CARE

450:16-29-2. On-duty staff

(a) The Enhanced RCF shall have no less than two (2) staff persons awake and accessible by residents on duty each shift.

(b) Compliance with 450:16-29-2 shall be determined by observation during the site visit; and a review of the Enhanced RCF documentation, e.g., staffing schedule; and resident, staff and CMHC staff interviews.

450:16-29-2.1. Required staff

(a) The Enhanced RCF shall employ at least one ~~a~~ full-time licensed registered nurse.

(b) Compliance with 450:16-29-2.1 shall be determined by a review of the RCF's documentation.

450:16-29-4. Referrals for admission to Enhanced RCF

(a) Individuals to be served by an Enhanced ~~Enhance~~ RCF shall be referred only by a ODMHSAS hospital or a community mental health center

(b) Compliance with 450:16-29-4 shall be determined by a review of Enhanced RCF documentation; and interviews with Enhanced RCF and CMHC staff.

450:16-29-7. Admission criteria for Enhanced RCFs

(a) The Enhanced RCF shall have written admission criteria.

(1) This written admission criteria shall be on file and accessible at the Enhanced RCF to ODMHSAS staff.

(2) The criteria shall indicate the Enhanced RCF serves individuals who cannot be accommodated in a RCF ~~as demonstrated by at least two (2) prior failed RCF placement attempts within two (2) years resulting in hospitalization~~, a lesser intensive residential service setting or based on the judgment of the individual's treatment team from the referring CMHC or the ODMHSAS inpatient unit that a RCF or other placement would not provide the structured environment needed by the consumer at this time.

(b) Compliance with 450:16-29-7 shall be determined by a review of, the written admission criteria, resident interviews, client records showing prior failed placements, ICIS client data cores, correspondence or minutes of meetings between the RCF and CMHC, and CMHC staff interviews.

450:16-29-8. Enhanced RCF activities

(a) Enhanced RCF activities shall include a minimum of three (3) separate weekly scheduled, structured and supervised group activities conducted on two (2) different days of each week. These group activities shall total at least twelve (12) hours of activity per week, which shall include at least two (2) activities away from the RCF.

(1) Group activities shall be accessible to all residents.

(2) Activities shall be in addition to exercise and daily living skills training.

(3) Activities shall be age appropriate.

(4) Activities should be based on resident's individual and collective preferences.

(b) Compliance with 450:16-29-8 shall be determined by a review of activities calendar, residents' files, and interviews with residents, staff and CMHC staff.

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TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 17. STANDARDS AND CRITERIA FOR COMMUNITY MENTAL HEALTH SERVICES CENTERS

[OAR Docket #04-549]

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Part 9. Medication Clinic Services
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Part 15. Adult Day Programs
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The International Standards for Clubhouse Development, October 2002 edition.
Incorporating rules:
450:17-1-2
450:17-3-146
Availability:
8:30 a.m. to 4:30 p.m., Monday through Friday in the Community Based Services Division of the ODMHSAS, 1200 N.E. 13th Street, Oklahoma City, Oklahoma 73117, 405/522-3849, and at www.iccd.org.
ANALYSIS:
Pursuant to 43A O.S. §§ 3-306 and 3-306.1 these rules contain the minimum standards for certification of community mental health centers and are promulgated to carry out the provisions of the Unified Community Mental Health Services Act. Community mental health centers provide behavioral health treatment to individuals with a mental illness or a substance abuse disorder or both. In accordance with the Administrative Procedures Act, the proposed rule revisions to Chapter 17 are part of the Department's review of Title 450. These actions are intended to comply with statutory changes, amend or repeal rules, delete redundant or superfluous language, and correct scrivener's errors.
CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-6765.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

450:17-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a staff responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a resident.

"Adults who have a serious mental illness" are persons eighteen (18) years of age or older who meet the following criteria:

(A) Currently or at any time during the past year have had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet criteria specified within DSM-IV with the exception of "V" codes, substance abuse disorders, and developmental disorders, unless they co-occur with another diagnosable serious mental illness; and

(B) Based on a client assessment scale, has moderate impairment in at least four, severe impairment in two or extreme impairment in one of the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Family relationships;
(iv) Interpersonal skills;
(v) Role performance;
(vi) Socio-legal; or
(vii) Self care and basic needs; or

(C) Has a duration of illness of at least one year and at least moderate impairment in two, or severe impairment in one of the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Family relationships;
(iv) Interpersonal skills;
(v) Role performance;
(vi) Socio-legal; or
(vii) Self care and basic needs.

"Case management services" means planned linkage, advocacy and referral assistance provided in partnership with a consumer to support that consumer in self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a treatment plan developed with and approved by the consumer and qualified staff. "Children who have a serious emotional disturbance" are persons under eighteen (18) years of age who meet the following criteria:

(A) Possess a diagnosable, serious disorder under DSM-IV such as pervasive developmental disorder, childhood schizophrenia, schizophrenia of adult-type manifesting in adolescence, conduct disorder, affective disorder, other disruptive behaviors, or other disorders with serious medical implications such as eating disorders, or persistent involvement with alcohol or drugs; and

(B) Based on a client assessment scale, has moderate impairment in at least four, severe impairment in two, or extreme impairment in one in the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Substance use;
(iv) Family relationships;
(v) Interpersonal skills;
(vi) Role performance;
(vii) Socio-legal;
(viii) Self care and basic needs; or
(ix) Caregiver resources; or

(C) Has a duration of illness for at least one year and has a functioning level of moderate impairment in at least two, or severe impairment in one of the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Family relationships;
(iv) Interpersonal skills;
(v) Role performance;
(vi) Socio-legal; or
(vii) Self care and basic needs.

"Creating A Positive Environment" or **"CAPE"** means a specific curriculum designed by ODMHSAS to train staff in verbal and non-verbal communication techniques in the management of selected and potentially problematic behaviors and to foster attitudes that promote the consumer's dignity and self-esteem in facility treatment settings.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Clubhouse" means a psychiatric rehabilitation program currently certified as a Clubhouse through the International Center for Clubhouse Development (ICCD).

"Community living programs" means a range of ~~rehabilitative~~ supportive housing options for persons not in crisis who need assistance with obtaining and maintaining an independent ~~a special~~ living situation ~~arrangement and are broad enough to allow each consumer an opportunity to live in an atmosphere offering the degree of case management necessary while also providing incentives and encouragement for consumers to assume increasing responsibility for their lives~~ and may include transitional housing and permanent supported housing ~~independent living training programs, supervised permanent supported apartments and housing, and family placement~~.

"Community mental health center" or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consumer" means an individual, adult or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer advocacy" includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

"Consumer committee" or **"consumer government"** means any established group within the facility comprised of consumers, led by consumers and meets regularly to address consumer concerns to support the overall operations of the facility.

"Crisis Intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are mentally ill.

"Crisis stabilization" means emergency, psychiatric, and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, referral provided in a ODMHSAS certified facility having nursing and medical support available.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"DSM" means the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

~~**"Day treatment"** is a structured, comprehensive program designed to improve or maintain consumers' ability to function in the community.~~

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination and a determination that emergency detention is warranted for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Facility" means community mental health center.

"General psychosocial rehabilitation " or **"PSR"** means a type of psychiatric rehabilitation program which focuses on long term recovery and maximization of self-sufficiency, role function and independence. General psychosocial rehabilitation programs may be organized within a variety of structures which seek to optimize the participants' potential for occupational achievement, goal setting, skill development and increased quality of life.

"Hard of hearing" is any degree of hearing loss which interferes with the individual's ability to communicate without some form of specialized accommodation which may include, but not be limited to: hearing aids, sign language interpreters, assistive listening devices, or communication through speech reading. The hearing loss of those individuals needing special services may range from mild, 25 to 45 decibels in the better functioning ear, to profound, 90 decibels or more.

"Historical timeline" means a method by which a specialized form is used to gather, organize and evaluate information about significant events in a consumer's life, experience with mental illness, and treatment history.

"Homebased services to children and adolescents" means intensive therapeutic services provided in the home to children for the purpose of reduction of psychiatric impairment and preventing removal of the child to a more restrictive setting for care. Services include a planned combination of procedures developed by a team of qualified mental health professionals, including a physician.

"Independent living skills, assistance in development of" means all activities directed at assisting individuals in the development of skills necessary to live and function within the community, e.g., consumer education on topics such as hygiene, cooking, budgeting, meal planning, housecleaning and when clinically indicated, side-by-side work with the consumer in a normalized setting and prevocational and vocational activities.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence

service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Independent living training" means a supervised place of temporary transitional residence for mental health consumers participating in an independent living training program before moving to a more independent living situation. These facilities are intended for participation by mental health consumers who have recently been released from an institution, and who need short-term training and support before entering an independent living situation.

"Job development services" means strategies which market the CMHC rehabilitation services and assist employers in facilitating the successful employment of individuals with psychiatric disabilities. Marketing, in this context, is defined as an ongoing, continuous approach which enables the rehabilitation unit to identify employer needs, refocus resources and management structures as needed and improve services to consumers and employers which satisfy those needs for the purpose of job development services such as developing long-term relationships between the agency and employers which will lead to more and better job opportunities for persons with psychiatric disabilities.

"Licensed mental health professional" or **"LMHP"** means:

(A) a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology;

(B) a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions;

(C) a licensed clinical psychologist;

(D) a licensed professional counselor as defined in Section 1906 of Title 59 of the Oklahoma Statutes;

(E) a person licensed as a clinical social worker pursuant to the provisions of Section 1250 et seq. of Title 59 of the Oklahoma Statutes;

(F) a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes;

(G) a licensed behavioral practitioner as defined in Section 1931 of Title 59 of the Oklahoma Statutes; or

(H) an advanced practice nurse as defined in Section 567.3a of Title 59 of the Oklahoma Statutes specializing in mental health.

"Linkage" refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CMHC and other providers.

"Medical resident" means a physician who is a graduate of a school of medicine or osteopathy and who is receiving specialized training in a teaching hospital under physicians who are certified in that specialty.

"Medication error" means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

"Permanent supported ~~apartment or~~ housing ~~programs~~" means a permanent residential program for mental health consumers in which the agency facilitates placement of, and provides intensive case management services to, individuals who reside in an apartment or house, either individually or shared, and may include congregate or scattered site housing. Staffs are not required on-site, but are on-call for residents. These facilities are intended for Mental Health consumers who desire and are evaluated as being capable of, living in a house or apartment without on-site supervision.

"Program ~~for~~ of Assertive Community Treatment" or **"PACT"** is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological written description of services provided to a consumer and documentation of the consumer's response related to the intervention plan.

"Psychosocial evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

~~**"Psychosocial rehabilitation"** means a program focused around a clubhouse or other center offering services to members in the areas of socialization and recreation, vocation, residential and education. These services are directed toward helping members develop needed skills and provide environmental supports necessary to function in the community.~~

"Rehabilitation assessment services" means a process utilized to determine the individual's functional work-related abilities and vocational preferences for the purpose of rehabilitation assessment the identification of the skills and environmental supports needed by the individual in order to function more independently in an employment setting, and to determine the nature and intensity of services which may be necessary to obtain and retain employment.

"Residential treatment" means a structured, 24-hour supervised treatment program for individuals who are mentally ill with a minimum of twenty-one (21) hours of therapeutic services provided per week with the emphasis on stabilization

and rehabilitation for transfer to a less restrictive environment. Stay in the program is time limited.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms or violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"~~Serioius~~ Serious Emotional Disturbance" or **"SED"** means a child from birth to eighteen years of age who does not have a primary diagnosis of a developmental disorder(s) and meets the following criteria:

(A) possesses a diagnosable, serious disorder under DSM-IV such as pervasive developmental disorder, childhood schizophrenia, schizophrenia of adult-type manifesting in adolescence, conduct disorder, affective disorder, other disruptive behaviors, or other disorders with serious medical implications such as eating disorders, or persistent involvement with alcohol or drugs; and

(B) has a functioning level which includes: a moderate impairment in at least four; severe impairment in two; or extreme impairment in one of the following areas; OR has an illness with a duration of at least one year and has a functioning level of moderate impairment in at least two; or a severe impairment in one of the following areas:

(i) Feeling, mood and affect include: an uncontrolled emotion that is clearly disruptive in its effects on other aspects of a child's life; frustration, anger, loneliness and boredom persist beyond the precipitating situation; and symptoms of distress are pervasive and do not respond to encouragement or reassurance;

(ii) Thinking processes include: daily life is disrupted due to impaired thoughts and thinking process; an inability to distinguish between fantasy and reality exists; and unusual thoughts or attachments to objects are present;

(iii) Substance use includes: frequent difficulties due to substance use and repeated use of substances causing difficulty at home or in school;

(iv) Family situation includes: disruption of family relationships or family does not function as a unit and experiences frequent turbulence; relationships that exist are psychologically devastating; the child does not have family support and is abused or neglected;

(v) Interpersonally the child will: have a severe inability to establish or maintain a personal social support system; lacks close friends or group affiliations; is socially isolated; and lacks age appropriate social skills;

(vi) Role performance consists of: frequent disruption of role performance and the individual is unable to meet usual expectations; has persistent behavior problems; and has failure, or been suspended or expelled from school;

(vii) Socio-legal issues include: inability to maintain conduct within the limits prescribed by law, rules and strong mores; shows little concern for consequences of actions; and delinquent acts or frequent contact with law enforcement exists;

(viii) Self care and basic needs are such that the ability to care for self is considerably below expectation.

(ix) Caregiver resources are: the caregiver has difficulties in providing for the child's basic needs; or the developmental needs are such that there is a negative impact on the child's level of functioning; OR

"Service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance abuse services [43A O.S. § 3-302(1)].

"Socialization" means all activities which encourage interaction and the development of communication, interpersonal, social and recreational skills and can include consumer education.

"Special need, persons with" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf or hard of hearing, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Supervised ~~apartment or~~ housing programs" means a temporary or permanent residential program for mental health consumers, in which the consumer resides in one of a group of apartments. These facilities are intended for use by mental health consumers who desire and are evaluated as being capable of living in an apartment setting, without on-site staff.

"Supportive services" refers to assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

"Transitional housing program" means a type of Community Living Program in which the consumer's stay in the residence is considered temporary and time-limited in nature. The actual program model may include a range of approaches, including but not limited to independent living programs and supervised housing programs.

"Vocational placement services" means a process of developing or creating an appropriate employment situation

matched to the functional abilities and choices of the individual for the purpose of vocational placement services such as the identification of employment positions, conducting job analysis, matching individuals to specific jobs, facilitating job expansion or advancement and communicating with employers about training needs.

"Vocational preparation services" means services that focus on development of general work behavior for the purpose of vocational preparation such as the utilization of individual or group work-related activities to assist individuals in understanding the meaning, value and demands of work; to modify or develop positive work attitudes, personal characteristics and work behaviors; to develop functional capacities; and to obtain optimum levels of vocational development.

"Volunteer" means any person who is not on the program's payroll, but provides direct services and fulfills a defined role within the program and includes interns and practicum
students.

450:17-1-6. Services

All facilities providing services shall have a group of services herein designated as core services. CMHCs may have specific additional services herein designated as optional services. Optional services may be an ODMHSAS contractual requirement(s).

(1) Core services are:
(A) Screening, intake and referral;
(B) Emergency services, which include crisis intervention, emergency examinations, and emergency detention if the CMHC is also certified as a community based structured crisis center or provides acute inpatient services;
(C) Medication clinic services;
(D) Case management (adult and juvenile);
(E) Adult ~~day~~ psychiatric rehabilitation programs;
(F) Outpatient counseling;
(G) ~~Admitting to state operated inpatient psychiatric units~~; and
~~(H)~~ Services to homeless individuals.

(2) Optional services are:
(A) Homebased services to children and adolescents;
(B) Day treatment services to children and adolescents;
(C) Vocational employment services;
(D) Community living programs;
(E) ~~Independent living training programs;~~
~~(F) Supervised apartment or housing programs;~~
~~(G) Permanent sponsored apartment or housing programs;~~
~~(H)~~ Crisis stabilization;
(~~I~~F) Inpatient services within the CMHC setting; and
(~~J~~G) Program ~~for~~ of Assertive Community Treatment.

SUBCHAPTER 3. REQUIRED SERVICES

PART 1. REQUIRED SERVICES

450:17-3-2. Core community mental health services

(a) Each CMHC shall provide the following services:
(1) Screening intake and referral services;
(2) Emergency services;
(3) Outpatient counseling;
(4) Case management services;
(5) ~~Admitting to ODMHSAS operated psychiatric hospitals;~~
~~(6)~~ Adult psychiatric rehabilitation ~~day~~ programs;
(~~7~~6) Medication clinic services;
(~~8~~7) Service to homeless individuals.

(b) Compliance with 450:17-3-2 shall be determined by a review of the following:
(1) On-site observation;
(2) Staff interviews;
(3) Written materials;
(4) Program policies;
(5) Evaluations;
(6) ICIS data; and
(7) Clinical records.

PART 9. MEDICATION CLINIC SERVICES

450:17-3-83. Medication clinic, error rates

(a) ~~Medication administration or dispensing or medication orders and prescriptions shall be accomplished with no more than three percent (3%) error rate each month. Random selection of at least one third (1/3) of the months within the period under review shall be surveyed by the CMHC in accordance with facility policies.~~ The facility's performance improvement program shall specifically, objectively, and systematically monitor medications administration or dispensing or medication orders and prescriptions to evaluate and improve the quality of consumer care.

(b) Compliance with 450:17-3-83 shall be determined by a review of the following: facility policies; PI logs; data; and reports.

PART 11. CASE MANAGEMENT

450:17-3-101.1. Case management services, child, adolescent and family

(a) Case management services shall be offered to children and their families to assure access to needed services. This includes referral, linkage and advocacy. These services may be offered to any child or family who presents for service at a community mental health center but must be offered to a child identified as Seriously Emotionally Disturbed~~, or when a child being served by the CMHC is admitted to acute or residential treatment~~.

(b) The case manager shall know the local available services, the procedures and criteria for assessing local services. The case manager shall act as an advocate for the child and family in obtaining needed community resources, including coordination of efforts with the child's school.
(c) The case manager shall develop a case management service plan based on the needs of the child and family.
(d) The case management services shall be specified in the child's case management service plan. The inability to make face-to-face contact shall be documented in the child's case record.
(e) Compliance with 450:17-3-101.1 shall be determined by review of case records of consumers, and their families, receiving juvenile case management services.

450:17-3-103. Case management services for the hospitalized consumer

(a) Case managers shall maintain contact with hospitalized consumers. Individuals in an inpatient psychiatric unit setting shall be provided face-to-face case management assessment upon discharge. This shall occur as soon as possible, but shall not exceed one (1) week post-discharge.
(b) Case managers from the CMHC to which the consumer will be discharged shall assist the consumer and psychiatric inpatient unit with discharge planning for consumers returning to the community.
(c) Each CMHC shall assign at least one (1) staff member who is responsible for linkage between psychiatric inpatient unit and the CMHC. Linkage shall include, but not be limited to, the following activities, pursuant to appropriately signed releases and adherence to applicable privacy provisions:

(1) Regular visits or communication with the psychiatric inpatient unit to monitor progress of those consumers hospitalized from the CMHC's service area.
(2) Attendance at meetings established for the purpose of improving communication and coordination between the inpatient unit and the CMHC.
(3) Provide knowledge and communication to other CMHC staff regarding psychiatric inpatient unit admission and discharge procedures.

(d) Compliance with 450:17-3-103 shall be determined by a review of the following: clinical records; staff interviews; information from ODMHSAS operated psychiatric inpatient unit; meetings minutes (CMHC or state-operated psychiatric inpatient unit); and a review of a minimum of ten (10) clinical records of consumers hospitalized within the past twelve (12) months.

PART 13. ODMHSAS OPERATED PSYCHIATRIC HOSPITALS

450:17-3-122. Persons presenting at a state-operated inpatient psychiatric unit for purpose of admission, pre-screening of [REVOKED]

~~(a) The CMHC shall insure all persons the CMHC refers to the state-operated inpatient psychiatric unit for admission have been pre-screened.~~

~~(1) Pre-screening shall be performed by or arranged by the CMHC.~~
~~(2) CMHC staff shall be actively involved in the emergency service and referral process to the state-operated inpatient psychiatric unit.~~
~~(3) Referral to the state-operated inpatient psychiatric unit by the CMHC shall only occur after all other community resources are explored with the individual and family if family is available.~~
~~(4) Prior notification to the state-operated inpatient psychiatric unit of all referrals from CMHC is required.~~
~~(5) CMHCs shall work actively with local sheriffs and courts regarding appropriate referral process and appropriate court orders.~~

~~(b) Compliance with 450:17-3-122 shall be determined by a review of the following: CMHC clinical records; state-operated psychiatric inpatient unit information and admission records; and PI monitoring information from the CMHC.~~

PART 15. ADULT ~~DAY PROGRAMS~~ RECOVERY AND REHABILITATION PROGRAMS

450:17-3-141. ~~Day programs - day treatment and psychosocial~~ Psychiatric rehabilitation programs

(a) This section governs day programs for ~~individuals who have~~ persons living with serious mental illness ~~health-related problems~~. These standards reflect ~~cover~~ two recovery focused ~~types of day~~ programs: ~~day treatment and~~ General psychosocial rehabilitation model (PSR) and Clubhouse model.
(b) The CMHC shall provide either, or both, the PSR model or Clubhouse model ~~day treatment or psychosocial treatment services in an environment and with the staff that enhance the achievement of consumers' goals~~. CMHC policy and procedures shall reflect that these models incorporate the following core principles:

(1) Recovery is the ultimate goal of psychiatric rehabilitation. Interventions must facilitate the process of recovery.
(2) Psychiatric rehabilitation practices help people re-establish normal roles in the community and their integration into community life.
(3) Psychiatric rehabilitation practices facilitate the development of personal support networks.
(4) Psychiatric rehabilitation practices facilitate an enhanced quality of life for each person receiving services.
(5) People have the capacity to learn and grow.
(6) People receiving services have the right to direct their own affairs, including those that are related to their psychiatric disability.

(7) People are to be treated with respect and dignity.
(8) Psychiatric rehabilitation practitioners make conscious and consistent efforts to eliminate labeling and discrimination, particularly discrimination based upon a disabling condition.
(9) Culture and ethnicity play an important role in recovery. They are sources of strength and enrichment for the person and the services.
(10) Psychiatric rehabilitation interventions build on the strength of each person.
(11) Psychiatric rehabilitation services are to be coordinated, accessible, and available as long as needed.
(12) Services are to be designed to address the unique needs of each individual, consistent with the individual's cultural values and norms.
(13) Psychiatric rehabilitation practices actively encourage and support the involvement of persons in normal community activities, such as school and work, throughout the rehabilitation process.
(14) The involvement and partnership of persons receiving services and family members is an essential ingredient of the process of rehabilitation and recovery.
(15) Psychiatric rehabilitation practitioners should constantly strive to improve the services they provide.

~~(c) The consumer to staff ratio shall not be greater than 14 consumers to one (1) staff person unless a specifically justified based on program structure and acuity of the individuals served~~ Psychiatric rehabilitation programs are required to maintain minimum staff ratios to assure participants have choices in activities and staff with whom they work. The following staffing ratios shall be maintained for each location at which a psychiatric rehabilitation program is in operation.

(1) Ten (10) or fewer participants in attendance; at least one staff member present provided arrangements for emergency back up staff coverage are in place and described in the program's policy and procedures;
(2) Eleven (11) to twenty eight (28) participants in attendance; at least two staff members present; or,
(3) Programs with twenty nine (29) or more participants shall maintain a 14:1 participant-to-staff ratio.

(d) Compliance with 450:17-3-141 shall be determined by on-site observation; interviews with participants; interviews with staff; a review of policy and procedures; and a review of ~~ICIS data and~~ clinical records; or proof of compliance with 450:17-3-146.

450:17-3-142. Day programs - day treatment [REVOKED]

~~(a) Day treatment programs shall utilize therapeutic modalities oriented toward enriching the consumer's life, and enhancing the consumer's ability to live in the community on an independent or semi-independent basis. These therapeutic modalities shall minimally:~~

~~(1) offer day treatment services on a scheduled basis, a minimum of three (3) hours per day for at least two (2) days per week;~~
~~(2) provide and enhance social skills development through activities which encourage interaction, and the development of communication and interpersonal skills;~~
~~(3) encourage independent living skills development;~~
~~(4) Include recreational and leisure activities, with emphasis placed on the development of and access to community resources;~~
~~(5) include cognitive education, including but not limited to education about their psychiatric illness and condition;~~
~~(6) insure consumers have input into the planning of program activities. This input shall be documented; and,~~
~~(7) have an established schedule to be provided on a routine weekly or monthly basis.~~

~~(b) Compliance with 450:17-3-142 shall be determined by a review of the following: program schedules of the CMHC; activity schedules of the CMHC; and needs assessment of services by the CMHC.~~

450:17-3-144. ~~Day programs -~~ General psychosocial rehabilitation (PSR) ~~program~~

(a) The ~~psychosocial rehabilitation program~~ PSR shall be designed to provide an array of services ~~within the framework of the psychosocial rehabilitation model based upon member need~~ that focus on long term recovery and maximization of self-sufficiency, role functioning, and independence as distinguished from the symptom stabilization function of acute care. Program services shall seek to optimize the participant's potential for occupational achievement, goal setting, skill development, and increased quality of life, therefore maximizing the individual's independence from institutional care and supports in favor of community and peer support.

(b) The program shall be open a minimum of ~~six (6)~~ five (5) hours per day for at least three (3) days per week.

(c) Proof of completion of orientation in the PSR model shall be kept on file for all program staff members. The CMHC policies and procedures shall document a plan by which employees who are staff members in the PSR program are to oriented to the PSR model.

(d) Program participants shall be referred to as members, as opposed to patients or clients. Members choose the way they utilize the program. Participation is voluntary; there shall be no artificial reward systems such as, but not limited to, token economy and point systems.

(e) ~~This~~ The program shall incorporate the following functions:

(1) ~~All consumers involved in the program shall have equal access to program services and opportunities~~ **Recovery Orientation.** The service elements include a Recovery oriented treatment plan, member goal setting, employment and educational support services, and a staff philosophy of recovery that permeates all service elements and activities.
(2) ~~The amount of consumer involvement in the program is based on the individual consumer needs~~ **Empowerment Orientation.** The service elements include peer

support, leadership skill development, member participation on agency boards, and participation in consumer advocacy groups. All PSR programs shall establish an advisory committee consisting of members and a staff person, which will address issues such as program development and planning, and program problem solving.

(3) ~~The program shall establish its own name identity as determined by the consumers.~~ **Competency Orientation.** The service elements include curriculum based life skills training (covering self-management of illness, independent living skills, social skills, and work related skills), a multi-dynamic learning approach and an explicit focus on generalization to contexts beyond the immediate learning task and transfer of skills to real life situations. Service elements also include a work units component that adheres to the following standards:

(A) Members and staff work side-by-side.

(B) The work completed is work generated by the PSR program. No work for outside individuals or agencies is acceptable.

(C) All work in the PSR program is designed to help members regain self-worth, purpose and confidence; it is not intended to be job specific training.

(D) The program is organized into one or more work units, each of which has sufficient staff, members and meaningful work.

~~(4) Consumers and staff shall be given the opportunity to work together in every function of the program.~~

~~(5) Consumers shall be given the opportunity to be involved in all the functions of the program administration intake and orientation, outreach, hiring and training of staff, work unit planning, advocacy and evaluation of program effectiveness.~~

~~(6) The program shall provide or arrange for consumer education opportunities which focus both on basic education and advanced education for example; GED, Adult Basic Education, etc.~~

~~(7) Consumers shall have access to an active prevocational/vocational component, including providing for or arranging for an employment placement program.~~

~~(8) The program shall include recreational and social programs and activities scheduled during evening times or on weekends as planned by the consumers.~~

(f) Compliance with 450:17-3-144 shall be determined by on-site observation; interviews with members; ~~consumers,~~ interviews with staff; ~~and~~ a review of policy and procedures; and a review of clinical records.

450:17-3-144.1. Exception day program, psychosocial rehabilitation program scoring [REVOKED]

~~(a) When a facility's psychosocial rehabilitation day program is accredited by the International Center for Clubhouse Development (ICCD) the requirements for section 450:17-3-144 shall be considered met, provided the following conditions are met:~~

~~(1) The CMHC has previously forwarded a copy of the current accreditation by the ICCD with its renewal application.~~

~~(2) The period of accreditation is for at least six (6) months following the certification site visit.~~

~~(b) However, the CMHC shall subsequently forward the following to ODMHSAS:~~

~~(1) At least sixty (60) days prior to expiration of ICCD accreditation a copy of the application to ICCD for re-accreditation of its adult day program, psychosocial rehabilitation program.~~

~~(2) A copy of the re-accreditation visit schedule received from ICCD.~~

~~(3) Within sixty days of the ICCD re-accreditation visit, a copy of the decision of ICCD regarding re-accreditation.~~

~~(4) Any interim notice or decision of ICCD regarding the CMHC's accreditation status.~~

450:17-3-146. Clubhouse Model

(a) The Clubhouse program shall be certified as a Clubhouse through the International Center for Clubhouse Development (ICCD). A Clubhouse shall be considered certified when a copy of the Clubhouse's current ICCD certification has been received by ODMHSAS Provider Certification. When a Clubhouse is renewing certification, a Clubhouse will continue to be considered certified provided the following conditions are met:

(1) At least (60) days prior to expiration of ICCD certification a copy of the application to ICCD for re-certification has been received by ODMHSAS Provider Certification.

(2) A copy of the re-certification visit schedule from the ICCD has been received by ODMHSAS Provider Certification.

(3) Within one-hundred and twenty (120) days of the ICCD re-certification visit, a copy of the re-certification letter from the ICCD reflecting that the Clubhouse has been recertified has been received by ODMHSAS Provider Certification.

(4) Any interim notice or decision of ICCD regarding re-certification status has been received by ODMHSAS Provider Certification.

(b) Compliance with 450:17-3-146 shall be determined by receipt of the identified documentation needed to support that a Clubhouse program is ICCD certified.

SUBCHAPTER 5. OPTIONAL SERVICES

PART 11. COMMUNITY LIVING PROGRAMS

450:17-5-56. Community living programs

(a) Community living programs shall include at least one of the following two types of supportive ~~provide a range of rehabilitative~~ housing options for persons not in crisis who need assistance with obtaining and maintaining an independent ~~a special~~ living situation ~~arrangement. The following specific program types are included~~:

(1) ~~Independent living~~ Transitional housing; or

(2) ~~Supervised~~ Permanent Supported housing;

~~(3) Permanent supported housing; and~~

~~(4) Permanent congregate housing.~~

(b) A community living program shall have written policies and procedures specifying how, and by whom, the following services shall be performed:

(1) Medical treatment for residents on both emergency and routine bases;

(2) Mental health and substance abuse services on both emergency and routine bases;

(3) ~~Social~~ Daily living, social and occupational evaluation and progress planning;

(4) Daily living and social skills training;

(~~4~~5) Occupational and vocational training;

(~~5~~6) Assistance to consumers in locating appropriate alternative living arrangements as clinically indicated or requested;

(~~6~~7) Resolution of inappropriate admissions or placements; and

(~~7~~8) A mechanism for orientation and education of new residents, which shall include, at least:

(A) Emergency procedures including fire, health and safety procedures;

(B) Consumer rights and responsibilities; and

(C) Program expectations and rules.

(c) To insure a clean and safe environment for residents, the following shall apply for all CMHC managed housing facilities:

(1) The apartment or house and furnishings shall be clean and in good repair, and free of unpleasant odors, and insect and rodent infestations.

(2) The apartment or house shall contain safe heating and air conditioning systems, which are in proper working conditions. Each apartment or house shall have an annual fire and safety inspection by the State or local Fire Marshal's office.

(3) Apartments or houses shall be inspected by CMHC staff on a regular basis to ensure that fire and safety hazards do not exist, and cleanliness standards are met.

(4) The program shall develop and maintain emergency policy and procedures which shall include but are not limited to:

(A) Fire response and evaluations;

(B) Response to external or internal disasters; and

(C) Personal accident or illness.

(d) Compliance with 450:17-5-56 shall be determined by on-site observation; interviews with residents, staff, and appropriate CMHC staff; and a review of facility documentation including a review of the CMHC written policy and procedures.

450:17-5-59.1. Transitional housing programs

(a) The length of stay for Transitional housing programs shall be temporary and transitional in nature.

(b) Transitional housing programs shall include at least one of the following two types of housing programs:

(1) Independent living training programs; or

(2) Supervised housing programs.

(c) To ensure the safety of residents, transitional housing programs shall develop and maintain emergency plans and procedures which shall include, but are not limited to:

(1) Fire response and evaluation;

(2) Response to external or internal disasters; and

(3) Personal accident or illness.

(d) Response to the emergency plans and procedures shall be contained in the program's policy and procedures and there shall be documentation indicating each consumer is made aware of such plans and procedures.

(e) Compliance with 450:17-5-59.1 shall be determined by a review of the program's written policy and procedures, and consumer records.

450:17-5-60. Independent living training programs

(a) Independent living programs shall:

(1) Define general parameters for length of stay in the independent living program; and

(2) Develop and implement a component of governance by the residents.

(b) Compliance with 450:17-5-60 shall be determined by on-site observation; interviews with residents, staff, and appropriate CMHC staff; and a review of the following: policy and procedures, facility documentation, and residents' council minutes.

450:17-5-61. Independent living training program, staffing

(a) There shall be paid staff on duty twenty-four (24) hours a day, with backup coverage in case of staff unscheduled absences, illness or emergencies.

(b) The number and composition, and training and expertise of the staff of the program shall be sufficient to supervise, provide and maintain the services as defined in the program's goals and objectives and to ensure the safety of the consumers.

(c) Compliance with 450:17-5-61 shall be determined by on-site observation; interviews with residents, staff, and appropriate CMHC staff; and a review of facility documentation (staff schedules).

450:17-5-62. Independent living training program, licensure

(a) Independent living programs shall be licensed by the Oklahoma State Department of Health if required.

(b) Compliance with 450:17-5-62 shall be determined by evidence of a valid State Department of Health Certificate of Licensure if required.

450:17-5-63. Independent living facilities and supervised apartments, disaster and accident planning and preparedness [REVOKED]

~~(a) To ensure the safety of residents, the program shall develop and maintain emergency plans and procedures which shall include, but are not limited to:~~

~~(1) Fire response and evaluation;~~

~~(2) Response to external or internal disasters; and~~

~~(3) Personal accident or illness.~~

~~(b) Response to the plans and procedures shall be contained in the program's policy and procedures and there is documentation indicating each consumer is made aware of such plans and procedures.~~

~~(c) Compliance with 450:17-5-63 shall be determined by consumer interviews; and a review of the program's written policy and procedures, and consumer records.~~

450:17-5-64. Supervised ~~apartment and~~ housing programs

(a) Supervised housing programs are grouped apartments or other residential settings with staff available as needed~~.~~. ~~Housing is temporary or transitional. Supervised supported apartment and housing programs are programs in which the individual is assisted in finding an apartment or housing within the community, and~~ but there is not necessarily twenty-four (24) hour on-site supervision. In these programs, the following shall be available for all consumers, and shall be specified on the consumer's treatment plan, according to individual consumer needs:

(1) The program shall offer or make available day program services for those residents who are unemployed or are not actively involved in other structures programs;

(2) The program shall offer or make available at least one (1) evening or weekend socialization and recreational activity per week; and

(3) The program shall offer independent living skills training at least eight (8) hours per week. This shall include working side-by-side with the consumer to instruct in the development of independent living skills.

(b) Compliance with 450:17-5-64 shall be determined by interviews with residents, staff, or appropriate CMHC staff; and a review of facility documentation.

450:17-5-65. Community Living environment [REVOKED]

~~(a) To insure a clean and safe environment for residents, the following apply:~~

~~(1) The apartment or house and furnishings shall be clean and in good repair, and free of unpleasant odors, insect and rodent infestations.~~

~~(2) The apartment or house and furnishings shall be clean and in good repair, and which are in proper working condition. Each apartment shall have an annual fire and safety inspection by the state or local Fire Marshal's office.~~

~~(3) Apartments or houses shall be inspected by CMHC staff on a regular basis to ensure that fire and safety hazards do not exist, and cleanliness standards are met.~~

~~(4) The program shall develop and maintain emergency policy and procedures which shall include but are not limited to:~~

~~(A) Fire response and evaluations;~~

~~(B) Response to external or internal disasters; and~~

~~(C) Personal accident or illness.~~

~~(b) Compliance with 450:17-5-65 shall be determined by on-site observation; interviews with residents, staff, and appropriate CMHC staff; and a review of facility documentation.~~

450:17-5-66. Permanent supported ~~apartment or~~ housing programs~~, consumer housing assistance~~

(a) The CMHC, acting as facilitator for the consumer in obtaining housing, shall:

(1) Locate housing placement alternatives and facilitate the renting of apartments or houses, including negotiation with landlords when applicable; and

(2) Initially offer and make available financial assistance to individuals without the resources necessary to acquire an apartment or house.

(b) Permanent supported housing programs include at least one of the following two (2) types of housing programs:

(1) Permanent scattered site housing programs; or

(2) Permanent congregate housing programs

(c) Compliance with 450:17-5-66 shall be determined by interviews with residents, staff, and appropriate CMHC staff; and a review of CMHC policy and procedures.

450:17-5-67. Permanent supported ~~apartment or~~ housing programs, ~~socialization and recreation~~ monthly contacts and activities

(a) ~~The CMHC shall offer, or arrange for, socialization and recreational opportunities at least twice a week for individuals in permanent supported apartment or housing programs; and socialization activities shall be equally available to all residents.~~ The CMHC permanent supported ~~apartment or~~ housing programs shall make ongoing monthly contact with each tenant, either on or offsite.

(b) ~~Compliance with 450:17-5-67 shall be determined by interviews with residents, staff, and appropriate CMHC staff; and a review of CMHC policy and procedures, and consumer records.~~ Day program services for unemployed individuals or individuals not involved in other structured day programs shall be available.

(c) The CMHC shall offer, or arrange for, socialization and recreational opportunities at least twice a week for individuals in permanent supported housing programs; and socialization activities shall be equally available to all residents.

(d) The program shall offer independent living skill training based upon documented consumer need as validated by functional skills assessment. This training shall include working

side by side with consumers to provide instruction in the development of independent living skills.

(e) Compliance with 450:17-3-67 shall be determined by on-site observation, tenant interviews, interviews with appropriate CMHC staff, and review of ~~facility documentation of the~~ program policy and procedures, and consumer records.

450:17-5-67.1. Permanent supported apartment or housing programs, monthly contacts and activities [REVOKED]

~~(a) The CMHC permanent supported apartment or housing programs shall make ongoing monthly contact with each tenant, either on or offsite.~~

~~(b) Day program services for unemployed individuals or individuals not involved in other structured day programs shall be available.~~

~~(c) The program shall offer at least one (1) evening activity per week.~~

~~(d) The program shall offer independent living skill training based upon documented consumer need as validated by functional skills assessment. This training shall include working side by side with consumers to provide instruction in the development of independent living skills.~~

~~(e) Compliance with 450:17-3-67.1 shall be determined by on-site observation, tenant interviews, interviews with appropriate CMHC staff, and review of facility documentation of the program.~~

450:17-5-67.2. ~~Permanent supported apartment or~~ Consumer housing assistance programs~~, consumer housing assistance, documentation of~~

(a) The CMHC ~~permanent supported apartment or~~ consumer housing assistance programs shall facilitate the acquisition of permanent, scattered site housing in the community, which in any given apartment complex has no more than fifty-percent (50%) of its residents with psychiatric disabilities.

(b) Consumer choice shall be documented in the selection of housing.

(c) The consumer shall be the lessee, and the services provider shall not be the landlord.

(d) Services initially provided shall be intensive and move to lower levels of care based on the needs of the tenant and such shall be reflected in the treatment or housing plan.

(e) Compliance with 450:17-3-67.2 shall be determined by the following: on-site observation; interviews with tenants, staff and appropriate CMHC staff; and a review of facility and consumer record documentation.

450:17-5-67.3. Permanent congregate housing programs

(a) Permanent congregate housing programs are programs in which the individual is assisted in finding an apartment or housing within the community~~, and there is not twenty-four (24) hour on-site supervision~~. In these programs, the following shall be available for all consumers, and shall be specified on the consumer's treatment plan as appropriate according to individual consumer needs:

(1) At least one (1) weekly social or recreational activity shall be offered in the evening.

(2) Eight (8) hours of services per week shall be offered.

(3) The eight (8) hours of services provided on-site shall be based on tenant preference, and these may include group therapy, independent living skills training, education groups, recreation or social skills training.

(b) Compliance with 450:17-5-67.3 shall be determined by the following: on-site observation; interviews with tenants, staff and appropriate CMHC staff; and a review of facility and consumer record documentation.

PART 19. PROGRAM ~~FOR~~ OF ASSERTIVE COMMUNITY TREATMENT

450:17-5-127. Program ~~for~~ of assertive community treatment

If a CMHC chooses to provide a program ~~for~~ of assertive community treatment (PACT) as an optional service, the CMHC must become certified as a PACT and comply with OAC Title 450, Chapter 55, Standards and Criteria for Programs ~~for~~ of Assertive Community Treatment.

SUBCHAPTER 7. FACILITY CLINICAL RECORDS

450:17-7-8. Treatment plan

(a) The treatment plan shall provide evaluation, formation of measurable treatment objectives and ongoing changes in goals and objectives based upon consumer's progress or identification of new problems.

(b) An initial treatment plan shall be completed after the first assessment or treatment session on all consumers.

(c) The CMHC shall have policy and procedures that dictate timeframes by when comprehensive treatment plans must be completed for each program service to which a consumer is admitted.

(d) Comprehensive treatment plan contents shall:

(1) Describe assets and liabilities;

(2) Reflect consideration of clinical needs;

(3) Specify services necessary to meet the needs;

(4) Include referrals for needed services;

(5) Contain specific goals;

(6) Contain measurable time framed objectives;

(7) Specify frequency of treatment;

(8) Designate person(s) responsible for providing treatment;

(9) Delineate specific discharge criteria;

(10) Include substantiated diagnosis in terminology of the current DSM ~~IV or a subsequent DSM~~ published by the American Psychiatric Association; and

(11) Describe the consumer's involvement in, and consumer's response to the treatment plan ~~and the consumer's~~

~~signature~~ as evidenced by a statement dated and signed by the consumer verifying his or her involvement in the treatment planning process and his or her agreement with the plan, proposed interventions, and target dates for completion.

(e) Treatment plans shall be dated and signed by all members of the treatment team who participate in the planning or in providing the services.

(1) Treatment plan updates shall contain:

(A) Change in goals and objectives based upon consumer's progress or identification of new problems;

(B) Change in primary clinician assignment;

(C) Change in frequency or types of services provided; and

(D) A statement documenting review, including an explanation if no changes are made in the plan.

(2) The CMHC shall have policy and procedures that dictate timeframes by when treatment plan updates must be completed for each program service to which a client is admitted.

(f) Compliance with 450:17-7-8 shall be determined by a review of the clinical records.

SUBCHAPTER 11. CONSUMER RIGHTS

450:17-11-1. Consumer rights, inpatient and residential

~~(a) All consumers shall have and enjoy all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction. Each facility either operated by, or certified by, or under contract with ODMHSAS providing inpatient mental health or substance abuse services shall insure consumers have the rights specified as follows. For purposes of this section, inpatient and residential type services include inpatient psychiatric units, residential care homes, halfway houses, supervised apartments and any other service in which the consumer resides in the facility, or a place owned, lease, operated by, or under contract with the facility, overnight~~ The CMHC shall comply with applicable rules in Title 450, Chapter 15. Consumer Rights.

~~(1) All consumers have the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity.~~

~~(2) All consumers have the right to a safe, sanitary, and humane living environment.~~

~~(3) All consumers have the right to a humane psychological environment protecting them from harm, abuse, and neglect.~~

~~(4) Each consumer has the right to an environment which provides reasonable privacy, promotes personal dignity, and provides opportunity for the consumer to improve his or her functioning.~~

~~(5) Each consumer has the right to receive treatment services suited to his or her condition and needs for treatment without regard to his or her race, religion, sex, ethnic origin, age, degree of disability, handicapping condition, legal status, or ability to pay for the services.~~

~~(6) Each consumer, on admission, has the absolute right to communicate with a relative, friend, clergy, or attorney, by telephone or mail, at the expense of the facility if the consumer is indigent.~~

~~(7) Each consumer shall have and retain the right to confidential communication with an attorney, personal physician, or clergy.~~

~~(8) Each consumer has the right to uncensored, private communications including, but not limited to, letters, telephone calls, and personal visits. Copies of any personal letter, sent or received, by a consumer shall not be kept in his or her clinical record.~~

~~(9) No consumer shall ever be neglected or sexually, physically, verbally, or otherwise abused.~~

~~(10) Each consumer has the right to be treated in the least restrictive environment (level of care), and to have the maximum freedom of movement consistent with the clinical condition and legal status of the consumer.~~

~~(11) Each consumer has the right to easy access to his or her personal funds on deposit with the facility, and shall be entitled to an accounting for said funds. A limitation on access to such funds may be made when it is determined, and documented, as essential to prevent the consumer from unreasonably and significantly dissipating his or her assets.~~

~~(12) Each consumer has the right to have his or her own clothing and personal possessions. This right may be forfeited, or limited, only if the personal property is determined to be potentially dangerous to the consumer, or others, or if the property is determined to be functionally unsafe or illegal.~~

~~(13) Each consumer shall have the right to practice his or her own religious beliefs, and afforded the opportunity for religious worship. No consumer shall ever be coerced into engaging in, or refraining from, any personal religious activity, practice, or belief.~~

~~(14) Each consumer has the right to be provided with prompt, competent, appropriate treatment services and an individualized treatment (service) plan.~~

~~(A) The consumer shall be afforded the opportunity to participate in his or her treatment plan.~~

~~(B) The consumer may consent, or refuse to consent, to the proposed treatment.~~

~~(C) The consumer's right to consent, or refuses to consent may be abridged for those consumers adjudged incapacitated by a court of competent jurisdiction, and in emergency situations where the consumer, or others, are in imminent danger.~~

~~(D) When the consumer permits, the consumer's family or significant others shall be involved in the treatment and treatment planning.~~

~~(15) The records of each consumer shall be treated in a confidential manner.~~

~~(16) Each consumer has the right to refuse to participate in any research project or medical experiment without informed consent of the consumer, as defined by law. A refusal to participate shall not affect the services available to the consumer.~~

~~(17) A consumer may voluntarily participate in work therapy, and shall be paid just compensation for such participation. However each consumer is responsible for personal care and housekeeping tasks without compensation.~~

~~(18) A consumer being discharged shall have plans for outpatient treatment, sufficient medication, suitable clothing for the reason, housing information and referral and, if the consumer permits, family or significant others' involvement in the discharge plan.~~

~~(19) Each consumer shall have the right to establish and to participate in a consumer committee, or consumer government, by unit, any other administrative consumer unit, or facility wide.~~

~~(20) Each consumer has the right to request the opinion of an outside medical or psychiatric consultant, at the expense of the consumer; or the right to an internal facility consultation, at no cost to the consumer.~~

~~(21) Each consumer has the right to assert grievances with respect to any alleged infringement of these stated rights of consumers, or any other subsequently statutorily granted rights.~~

~~(22) No consumer shall ever be retaliated against, or subject to, any adverse conditions or treatment services solely or partially because of having asserted his or her rights as aforestated in this section.~~

~~(b) The CMHC shall have written policy and implementing procedures, and shall provide documented staff training to insure the implementation of each and every consumer right stated in this section.~~

~~(c) The CMHC shall have written policy and implementing procedures to insure each consumer enjoys, and has explained to him or her, these rights; and these rights are visibly posted in both consumer and public areas of the facility.~~

~~(d) Compliance with 450:17-11-1 shall be determined by a review of facility policy and procedures; posted notices of consumer rights; interviews with staff and consumers; review of grievances by consumers or others; and any other supporting facility documentation.~~

450:17-11-2. Consumer rights, outpatient services [REVOKED]

~~(a) All consumers receiving outpatient services shall have and enjoy all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction. Each facility either operated by, or certified by, or under contract with ODMHSAS providing outpatient mental health or substance abuse services shall insure consumers have the rights specified as follows. For purposes of this section, outpatient services includes all services where the consumer does not reside in, or stay overnight in, the facility providing services to him or her.~~

~~(1) All consumers have the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity.~~

~~(2) Each consumer has the right to receive services in a safe, sanitary, and humane living environment.~~

~~(3) Each consumer has the right to receive services in a humane psychological environment protecting them from harm, abuse, and neglect.~~

~~(4) Each consumer has the right to receive services in an environment which provides privacy, promotes personal dignity, and provides opportunity for the consumer to improve his or her functioning.~~

~~(5) Each consumer has the right to receive services without regard to his or her race, religion, sex, ethnic origin, age, degree of disability, handicapping condition, legal status, or ability to pay for the services.~~

~~(6) No consumer shall ever be neglected or sexually, physically, verbally, or otherwise abused.~~

~~(7) Each consumer has the right to be provided with prompt, competent, appropriate treatment services and an individualized treatment plan.~~

~~(A) The consumer shall be afforded the opportunity to participate in his or her treatment and treatment planning; and may consent, or refuse to consent, to the proposed treatment.~~

~~(B) The consumer's right to consent, or refuse to consent, may be abridged for those consumers adjudged incapacitated by a court of competent jurisdiction, and in emergency situations defined by law.~~

~~(C) When the consumer permits the consumer's family or significant others shall be involved in the treatment and treatment planning.~~

~~(8) The records of each consumer shall be treated in a confidential manner.~~

~~(9) Each consumer has the right to refuse to participate in any research project or medical experiment without informed consent of the consumer, as defined by law. A refusal to participate shall not affect the services available to the consumer.~~

~~(10) A consumer may voluntarily participate in work therapy, and shall be paid just compensation for such work.~~

~~(11) Each consumer has the right to request the opinion of an outside medical or psychiatric consultant, at the expense of the consumer; or the right to an internal facility consultation, at no cost to the consumer.~~

~~(12) Each consumer has the right to assert grievances with respect to any alleged infringement of these stated rights of consumers, or any other subsequently statutorily granted rights.~~

~~(13) No consumer shall ever be retaliated against, or subject to, any adverse conditions or treatment services solely or partially because of having asserted his or her rights as aforestated in this section.~~

~~(b) Each affected facility shall have written policy and implementing procedures, and shall provide documented staff training to insure the implementation of each and every consumer right stated in this section.~~

~~(c) Each affected facility shall have written policy and implementing procedures to insure each consumer enjoys, and has explained to him or her, these rights; and these rights are visibly posted in both consumer and public areas of the facility.~~
~~(d) Compliance with 450:17-11-2 shall be determined by a review of facility policy and procedures; posted notices of consumer rights (outpatient services); interviews with staff and consumers; review of grievances by consumers or others; and any other supporting facility documentation.~~

450:17-11-3. Consumer's grievance policy

~~(a) Each CMHC shall have a written grievance policy and procedure providing for, but not limited to, the following:~~ The CMHC shall comply with applicable rules in Title 450, Chapter 15. Consumer Rights.

~~(1) written notice of the grievance and appeal procedure provided to the consumer or guardian and, if involved with the consumer, to family members or significant others;~~
~~(2) Time frames for the grievance policy's procedures which allow for resolution within fourteen (14) days;~~
~~(3) Name(s) of the individual(s) who are responsible for coordinating the grievance policy and the individual responsible for or authorized to make decisions for resolution of the grievance. In the instance where the decision maker is the subject of a grievance, decision making authority shall be delegated;~~
~~(4) Procedure by which a written notice is provided to a consumer advising that he or she has the right to make a complaint to the ODMHSAS Consumer Advocacy Division;~~
~~(5) Mechanism to monitor the grievance process and improve performance based on outcomes; and~~
~~(6) Annual review of the grievance policy and its implementing procedures, with revisions as needed to improve.~~

~~(b) Compliance with 450:17-11-3 shall be determined by a review of the following: the CMHC's grievance policy and implementing procedures; posted notices of consumer rights; interviews with staff and consumers; the CMHC's records of grievances filed by consumers or family and significant others; and any other supporting facility documentation.~~

SUBCHAPTER 15. PERFORMANCE IMPROVEMENT AND QUALITY MANAGEMENT

450:17-15-5. Incident reporting

(a) The facility shall have written policies and procedures requiring documentation and reporting of critical incidents.
(b) The documentation for critical incidents shall contain, minimally:

(1) the facility, name and signature of the person(s) reporting the incident;
(2) the name(s) of the consumer(s), staff member(s) or property involved;
(3) the time, date and physical location of the critical incident ;
(4) the time and date the incident was reported and name of the staff person to whom it was reported;
(5) a description of the incident;
(6) resolution or action taken, date action taken, and signature of appropriate staff; and
(7) severity of each injury, if applicable. Severity shall be indicated as follows:

(A) No off-site medical care required or first aid care administered on-site;
(B) Medical care by a physician or nurse or follow-up attention required; or
(C) Hospitalization or immediate off-site medical attention was required;

(c) Critical incidents shall be reported to ODMHSAS with specific timeframes, as follows:

(1) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or mail to ODMHSAS Provider Certification within twenty-four (24) hours of the incident being documented.
(2) Critical incidents involving allegations constituting a sentinel event or consumer abuse shall be reported to ODMHSAS immediately via telephone or fax, but not more than twenty-four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

(d) Compliance with 450:17-15-5 shall be determined by a review of facility policy and procedures; copies of incidents reports at the facility; and reports of incidents submitted to ODMHSAS.

SUBCHAPTER 19. HUMAN RESOURCES

450:17-19-3. Utilization of volunteers

(a) In facilities where ~~six or more~~ volunteers are utilized~~, there shall be an organized volunteer program~~, specific policies and procedures shall be in place to define the purpose, scope, and training, supervision and operations related to the use of volunteers.
(b) A qualified staff member shall be assigned the role of, or responsibility as, the volunteer coordinator.
(c) ~~The authority and responsibility of the volunteer coordinator shall be described in the written policies and procedures.~~
~~(d) The program shall have written volunteer policies and procedures.~~
~~(e)~~ Volunteer policies and procedures shall be reviewed ~~(~~by the governing authority~~)~~ upon revision.
~~(f) The volunteer policy and procedure statement shall include:~~

~~(1) A plan for recruitment of volunteers;~~
~~(2) Selection criteria;~~
~~(3) A method for screening volunteers;~~
~~(4) A determination of the agency's need for volunteer services;~~

~~(5) A system for the coordination of recruitment, selection, training and referral of volunteers to specific assignments, when more than one unit of the facility uses volunteers;~~

~~(6) Volunteer assignments which are available in the program, including descriptions of duties to be performed;~~

~~(7) Methods of supervision of volunteers.~~

~~(g) The programs shall have written goals and objectives for the volunteer coordinator and staff.~~

(~~h~~d) There shall be ~~a~~ documentation to verify ~~written~~ orientation ~~program for all~~ of each ~~volunteers~~ volunteer which shall enable ~~them~~ him or her to have knowledge of program goals and familiarity with routine procedures.

(~~i~~e) The volunteer orientation shall include explanations, at a minimum, of the following:

(1) The importance of maintaining confidentiality and protecting consumer's rights, as well as the legal ramifications of State and Federal regulations concerning confidentiality;

(2) The facility's policies and procedures;

(3) Any other necessary information to ensure that volunteer staff members are knowledgeable enough to carry out the responsibilities of their position; and

(4)Documentation of volunteer's understanding of policies, goals and job.

~~(j) The volunteer records shall maintain the following:~~

~~(1) application;~~

~~(2) job description;~~

~~(3) verification of current qualifications, as specified in the job description;~~

~~(4) assignment record;~~

~~(5) record of number of hours worked;~~

~~(6) record of participation in training;~~

~~(7) a record of service evaluations prepared by the volunteer coordinator; and~~

~~(8) a daily assignment schedule, including time of day and unit to which volunteers are assigned.~~

(~~k~~f) Compliance with 450:17-19-3 shall be determined by a review of volunteer policies and procedures; designation of a volunteer coordinator; written orientation plan; orientation program; written goals and objectives; volunteer personnel files; and volunteer records.

SUBCHAPTER 23. FACILITY ENVIRONMENT

450:17-23-1. Facility environment

(a) The CMHC shall meet accreditation, inspection, safety and building code regulations required by local, state and federal authorities and laws which results in the facility being allowed to continue to operate.

(b) CMHC staff shall know the exact location, contents and use of first aid supply kits and fire fighting equipment. First aid supplies and fire fighting equipment shall be maintained in appropriately designated areas within the facility.

(c) There shall be posted written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather.

(d) Facility grounds shall be maintained in a manner to provide a safe environment for consumers, personnel, and visitors.

(e) The director of the CMHC or designee shall appointment of a safety officer.

(f) The facility shall have an emergency preparedness program designed to provide for the effective utilization of available resources so that consumer care can be continued during a disaster. The emergency preparedness program is evaluated annually and is updated as needed.

(g) Policies for the use and control of personal electrical equipment shall be developed and implemented.

(h) There shall be an emergency power system to provide lighting throughout the facility.

(i) The CMHC director shall ensure there is a written plan to cope with internal and external disasters. External disasters include, but are not limited to, tornados, explosions, and chemical spills.

(j) The CMHC shall be inspected annually by:

(1) Representatives of the Oklahoma State Fire Marshall (if required);

(2) Designated fire and safety officials of the municipality who exercise fire and safety jurisdiction in the facility's location.

(k) Compliance with 450:17-23-1 shall be determined by visual observation; posted evacuation plans; and a review of policy, procedures and other supporting documentation provided.

[OAR Docket #04-549; filed 4-2-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 23. STANDARDS AND CRITERIA FOR COMMUNITY-BASED STRUCTURED CRISIS CENTERS

[OAR Docket #04-550]

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Subchapter 1. General Provisions
450:23-1-2. [AMENDED
Subchapter 9. Consumer Rights
450:23-9-1. [AMENDED]
450:23-9-2. [AMENDED]
Subchapter 21. Facility Environment
450:23-21-1. [AMENDED]
450:23 21-3. [NEW]
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43A O.S. §§ 2-101, 2-202, 3-306 and 3-317; Board of Mental Health and Substance Abuse Services.
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ANALYSIS:
Pursuant to 43A O.S. § 3-317 these rules contain the minimum standards for certification of Community-Based Structured Crisis Centers which provide non-hospital emergency services for mental health or substance abuse crisis intervention. In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 23 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance service provision, delete redundant or superfluous language, and correct scrivener's errors.
CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-6765.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

450:23-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the defined meaning, unless the context clearly indicates otherwise:

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a staff responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a resident.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Community-based Structured Crisis Center" or **"CBSCC"** means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization as authorized by O.S. 43A 3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Consumer" means an individual who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Creating A Positive Environment" or **"CAPE"** means a specific curriculum designed by ODMHSAS to train staff in verbal and non-verbal communication techniques in the management of selected and potentially problematic behaviors and to foster attitudes that promote the consumer's dignity and self-esteem in facility treatment settings.

"Crisis intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are experiencing a mental health or substance abuse crisis.

"Crisis stabilization" means emergency psychiatric and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment and referral.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination and a determination that emergency detention is warranted for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based

on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Intervention plan" means a description of services to be provided in response to the presenting crisis situation that incorporates the identified problem(s), strengths, abilities, needs and preferences of the individual served.

"Licensed mental health professional" or **"LMHP"** means:

(A) psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology;

(B) a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions;

(C) a licensed clinical psychologist;

(D) a licensed professional counselor as defined in Section 1906 of Title 59 of the Oklahoma Statutes;

(E) a person licensed as a clinical social worker pursuant to the provisions of Section 1250 et seq. of Title 59 of the Oklahoma Statutes;

(F) a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes;

(G) a licensed behavioral practitioner as defined in Section 1931 of Title 59 of the Oklahoma Statutes; or

(H) an advanced practice nurse as defined in Section 567.3a of Title 59 of the Oklahoma Statutes specializing in mental health.

"Linkage services" means the communication and coordination with other service providers that assure timely appropriate referrals between the CBSCC and other providers.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous performance improvement, continuous improvement, organization-wide performance improvement and total quality management.

"Persons with special needs" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf/hearing impaired, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Progress notes" mean a chronological description of services provided to a consumer, the consumer's progress, or lack of, and documentation of the consumer's response related to the intervention plan.

"Psychosocial evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of the individual's body.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms or violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Triage" means a dynamic process of evaluating and prioritizing the urgency of crisis intervention needed based on the nature and severity of consumers' presenting situations.

SUBCHAPTER 9. CONSUMER RIGHTS

450:23-9-1. Consumer rights, Community-based Structured Crisis Center

~~(a) All consumers shall have and enjoy all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction.~~ Each CBSCC either operated by, certified by, or under contract with ODMHSAS providing CBSCC services shall ~~insure consumers have the rights specified as follows:~~ comply with applicable rules in Title 450, Chapter 15. Consumer Rights.

~~(1) All consumers have the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity.~~

~~(2) All consumers have the right to receive services in a safe, sanitary and humane environment.~~

~~(3) All consumers have the right to a humane psychological environment protecting them from harm, abuse, and neglect.~~

~~(4) Each consumer has the right to an environment which provides reasonable privacy promotes personal dignity.~~

~~(5) Each consumer has the right to receive treatment services suited to his or her and needs for treatment without regard to his or her race, religion, sex, ethnic origin, age, degree of disability, handicapping condition, legal status, pay source or ability to pay for the services.~~

~~(6) Each consumer, on admission, has the absolute right to communicate with a relative, friend, clergy, or attorney, by telephone or mail, at the expense of the CBSCC if the consumer is indigent.~~

~~(7) Each consumer shall have and retain the right to confidential communication with an attorney, personal physician, or clergy.~~

~~(8) Each consumer has the right to uncensored, private communications including, but not limited to, telephone calls, and personal visits.~~

~~(9) No consumer shall ever be neglected or sexually, physically, verbally or otherwise abused.~~

~~(10) Each consumer has the right to be treated in the least restrictive environment (level of care), and to have the maximum freedom of movement consistent with the clinical condition and legal status of the consumer.~~

~~(11) Each consumer has the right to easy access to his or her personal funds on deposit with the CBSCC, and shall be entitled to an accounting for said funds. A limitation on access to such funds may be made when it is determined, and documented, as essential to prevent the consumer from unreasonably and significantly dissipating his or her assets.~~

~~(12) Each consumer has the right to have his or her own clothing and personal possessions. This right may be forfeited, or limited, only if the personal property is determined to be potentially dangerous to the consumer, or others, or if the property is determined to be functionally unsafe or illegal contraband.~~

~~(13) Each consumer shall have the right to practice his or her own religious beliefs, and afforded the opportunity for religious worship. No consumer shall ever be coerced into engaging in, or refraining from, any personal religious activity, practice, or belief.~~

~~(14) Each consumer has the right to be provided with prompt, competent, appropriate treatment services and an individualized intervention plan.~~

~~(A) The consumer shall be afforded the opportunity to participate in his or her intervention plan.~~

~~(B) The consumer may consent, or refuse to consent, to the proposed treatment.~~

~~(C) The consumer's right to consent, or refuse to consent may be abridged for those clients adjusted incapacitated by a court of competent jurisdiction, and in emergency situations where the consumer, or others, ware in imminent danger.~~

~~(D) When the consumer authorizes, the consumer's family or significant others shall be involved in the treatment and treatment planning.~~

~~(15) The records of each consumer shall be treated in a confidential manner.~~

~~(16) Each consumer has the right to refuse to participate in any research project or medical experiment without informed consent of the consumer, as defined by law. A refusal to participate shall not affect the services available to the consumer.~~

~~(17) A consumer being discharged shall have plans for outpatient treatment, sufficient medication, suitable clothing for the season, housing information and referral; and, if the consumer authorizes, family or significant others' involvement in the discharge plan.~~

~~(18) Each consumer shall have the right to establish and to participate in a consumer committee, or consumer government, by ward, unit, any other administrative consumer unit, or facility-wide.~~

~~(19) Each consumer has the right to request the opinion of an outside medical or psychiatric consultant, at the expense of the consumer; or the right to an internal CBSCC consultation at no cost to the consumer or both.~~

~~(20) Each consumer has the right to assert grievances with respect to any alleged infringement of these stated rights of clients, or any other subsequently statutorily granted rights.~~

~~(21) No consumer shall ever be retaliated against, or subject to, any adverse conditions or treatment services solely or partially because of having asserted his or her rights as aforestated in this section.~~

~~(b) Each affected CBSCC shall have written policy and implementing procedures, and shall provide documented staff training to insure the implementation of each and every consumer right stated in this section.~~

~~(c) Each affected CBSCC shall have written policy and implementing procedures to insure each consumer enjoys, and has explained to him or her, these rights; and these rights are visibly posted in both consumer and public areas of the CBSCC.~~

~~(d) Compliance with 450:23-9-1 shall be determined by review of the following: consumer rights; interviews with staff and clients; review of grievances by clients or others; and any other supporting CBSCC documentation.~~

450:23-9-2. Consumers' grievance policy

Each CBSCC shall ~~have a written Consumers' Grievance Policy providing which includes but is not limited to the following:~~ comply with applicable rules in Title 450, Chapter 15. Consumer Rights.

~~(1) Written notice of the procedure provided to the consumer and, if involved with the consumer, to family members or significant others.~~

~~(2) Notice to the consumer of his or her right to make a complaint to the Office of Consumer Advocacy;~~

~~(3) Time frames for the grievance policy's procedures which allow for expedient resolution of the grievance within a maximum of five (5) working days.~~

~~(4) Name(s) of the individual(s) who are responsible for coordinating the grievance policy and the individual responsible for or authorized to make decisions for resolution of the grievance. In the instance where the decision maker is the subject of a grievance, decision making authority shall be delegated.~~

~~(5) Procedure by which a notice is provided to the resident advising that he or she has a right to make a complaint to the ODMHSAS Office of Consumer Advocacy.~~

~~(6) Mechanism to monitor the grievance process and improve performance based on outcomes.~~

~~(7) Annual review of the grievance policy and its implementing procedures, with revisions as needed to improve.~~

~~(b) Compliance with 450:23-9-2 shall be determined by a review of the following:~~

~~(1) a review of the CBSCC's grievance policy and implementing procedures;~~

~~(2) posted notices of consumer rights;~~

~~(3) interviews with staff and consumers;~~

~~(4) review of the CBSCC's records of grievances filed by consumers or family and significant others; and~~

~~(5) any other supporting CBSCC documentation.~~

SUBCHAPTER 21. FACILITY ENVIRONMENT

450:23-21-1. Facility environment

(a) The CBSCC shall meet inspection, safety, and building code regulations required by local, state and federal authorities and laws.

(b) CBSCC staff shall know the exact location, contents, and use of first aid supply kits and fire fighting equipment and fire detection systems. All fire fighting equipment shall be annually maintained in appropriately designated areas within the facility.

(c) The CBSCC shall post written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather.

(d) Facility grounds shall be maintained in a manner, which provides a safe environment for consumers, personnel, and visitors.

(e) The CBSCC Facility Director or, designee, shall appoint a safety officer.

(f) The CBSCC shall have an emergency preparedness program designed to provide for the effective utilization of available resources so consumer care can be continued during a disaster. The CBSCC shall evaluate the emergency preparedness program annually and update as needed.

(g) Policies for the use and control of personal electrical equipment shall be developed and implemented.

(h) The CBSCC shall have an emergency power system to provide lighting throughout the facility.

(i) The CBSCC Facility Director shall ensure there is a written plan to respond to internal and external disasters. External disasters include, but are not limited to, tornadoes, explosions, and chemical spills.

(j) All CBSCCs shall be inspected annually by designated fire and safety officials of the municipality who exercise fire/safety jurisdiction in the facility's location which results in the facility being allowed to continue to operate.

(k) The CBSCC shall have a written Infection Control Program and staff shall be knowledgeable of Center for Disease Control (CDC) Guidelines for Tuberculosis and of the Blood Borne Pathogens Standard, location of spill kits, masks, and other personal protective equipment.

(l) The CBSCC shall have a written Hazardous Communication Program and staff shall be knowledgeable of chemicals in the workplace, location of Material Safety Data Sheets, personal protective equipment; and toxic or flammable substances shall be stored in approved locked storage cabinets.

(m) Compliance with 450:23-21-1 shall be determined by visual observation, posted evacuation plans and a review of policy/procedures, regulatory or internal inspection reports, training documentation and other supporting documentation provided.

450:23-21-3. Medication, error rates

(a) The facility shall have an ongoing performance improvement program that specifically, objectively, and systematically monitors medications administration or dispensing or medication orders and prescriptions to evaluate and improve the quality of consumer care.

(b) Compliance with 450:23-21-3 shall be determined by a review of the facility policies, PI logs, data and reports.

[OAR Docket #04-550; filed 4-2-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 30. CLINICAL CARE

[OAR Docket #04-551]

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PERMANENT final adoption

RULES:
Subchapter 9. Role of State-Operated Inpatient Psychiatric Units
450:30-9-3.1. [AMENDED]
450:30-9-5. [AMENDED]
450:30-9-9. [NEW]
450:30-9-10. [NEW]
450:30-9-11. [NEW]

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In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 30 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance service provision and supervision, delete redundant or superfluous language, and correct scrivener's errors.
CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-6765.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 9. ROLE OF STATE-OPERATED INPATIENT PSYCHIATRIC UNITS

450:30-9-3.1. Voluntary formal and informal admissions to a state-operated inpatient psychiatric unit

The executive director of the state-operated inpatient unit may receive and retain as a consumer, when there are available accommodations, any person eighteen (18) years of age or over, who meets the admission criteria defined in 450:30-9-3, and who voluntarily makes a written application for inpatient treatment.

(1) Any person presenting to a state-operated inpatient psychiatric unit for voluntary admission shall be evaluated by a licensed mental health professional, as defined by 43A O.S. §1-103 (11), who is employed by the state-operated inpatient psychiatric unit to determine that the requested admission is appropriate in accordance with the facility's admission criteria. If the licensed mental health professional determines that admission is necessary and an appropriate referral by a community mental health center has not been made, the licensed mental health professional will seek consent from the person making application for admission to contact the local community mental health center to discuss the admission of the consumer and review options for consideration in lieu of admission to the facility.

(2) A person being admitted to the state-operated inpatient psychiatric unit on a voluntary status must be able to grant consent for the admission. The licensed mental health professional shall ensure that the person signing the request for voluntary admission is competent to grant consent. If the person is unable or not competent to give consent, then the individual may be admitted through the civil involuntary commitment process.

(3) The written application for voluntary admission shall include:

(A) the name of facility to which the request is made~~,~~;

(B) the current date and time~~,~~;

(C) the name and address of the person making the request~~,~~;

(D) the signatures of the person making the request; ~~and~~

(E) the licensed mental health professional conducting the evaluation~~,~~; and

(F) the signature of a witness or notary.

(4) An individual presenting for voluntary admission with pending criminal charges against him or her shall not be admitted if he or she is confined in a jail or adult lock-up facility.

(5) An individual voluntarily admitted to the state-operated inpatient psychiatric unit shall not be detained for a period exceeding seventy-two (72) hours, excluding weekends and holidays, from receipt of notice of the consumer's desire to leave such inpatient treatment facility.

(6) The state-operated inpatient psychiatric unit shall refer, with appropriate signed consent by the individual, persons who do not meet the criteria for admission and are refused admission to an appropriate agency or service. Appropriate documentation of the referral and reason for the non-admission shall be made.

450:30-9-5. Detoxification referrals

The state-operated inpatient psychiatric unit may develop procedures by which referrals for admission to the unit for detoxification are accepted from an alcohol and drug program provided an adequate signed consent for release of information is secured from the consumer. Conditions under which a state-operated inpatient psychiatric unit may accept a referral from an alcohol and drug program are as follows:

(1) The individual shall meet admission criteria as defined in 450:30-9-3 and 450:30-9-3.1;

(2) Detoxification services are not provided or currently available locally; and

(3) The specific alcohol and drug program referring the individual to the state-operated inpatient psychiatric unit for detoxification services agrees to participate in discharge planning, with properly signed consent by the consumer, to assure continuity from state-operated inpatient psychiatric unit services to community based services.

450:30-9-9. Mechanical Restraints

(a) Mechanical restraints shall not be used on a non-consenting individual unless an inpatient psychiatric facility licensed physician personally examines the individual and determines

their use to be required for the safety and protection of the consumer or other persons. This shall not prohibit the emergency use of restraint pending notification of the physician.

(b) The inpatient psychiatric facility shall have a written protocol for the use of mechanical restraints which includes, but is not limited to:

(1) Criteria to be met prior to authorizing the use of mechanical restraints;

(2) Signature of the licensed physician authorizing use;

(3) Time limit of said authorizations;

(4) Circumstances which automatically terminate an authorization;

(5) Setting a time period, not to exceed every fifteen (15) minutes, an individual in mechanical restraints shall be observed and checked by a designated staff under the on-site supervision of a registered nurse;

(6) Requiring in every use of mechanical restraints documentation the specific reason for such use, the actual start and stop times of use, authorizing inpatient psychiatric facility licensed physician signature, and record of times the consumer was observed and checked and by whom;

(7) A chronological log including the name of every consumer placed in mechanical restraints, and the occurrence date. In accordance with 43 A O.S. § 4-106, the inpatient psychiatric facility director, or designee shall be responsible for insuring compliance with record keeping mandates;

(8) A process of peer review to evaluate use of mechanical restraints; and

(9) The items listed in (1) through (6) of this rule shall be made a part of the consumer record.

450:30-9-10. Consumer rights

The state-operated inpatient psychiatric unit shall comply with the applicable rules in Title 450, Chapter 15. Consumer Rights.

450:30-9-11. Consumer grievance policy

The state-operated inpatient psychiatric unit shall comply with the applicable rules in Title 450, Chapter 15. Consumer Rights.

[OAR Docket #04-551; filed 4-2-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 50. CERTIFIED BEHAVIORAL HEALTH CASE MANAGERS

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450:50-3-1. [NEW]
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450:50-3-4. [NEW]
450:50-3-5. [NEW]
450:50-3-6. [NEW]
Subchapter 5. Behavioral Health Case Manager Certification Training [NEW]
450:50-5-1. [NEW]
450:50-5-2. [NEW]
450:50-5-3. [NEW]
450:50-5-4. [NEW]
Subchapter 7. Rules of Professional Conduct [NEW]
450:50-7-1. [NEW]
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450:50-3-1. [NEW]
450:50-3-2. [NEW]
450:50-3-3. [NEW]
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450:50-5-1. [NEW]
450:50-5-2. [NEW]
450:50-5-3. [NEW]
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ANALYSIS:
In accordance with the Administrative Procedures Act the proposed permanent rules implement 43A O.S. § 3-318, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify behavioral health case managers. Section 3-318 became effective on November 1, 2002. In 2003 the Department promulgated emergency rules and standards for certification of behavioral health case managers addressing criteria for certification and renewal, including minimum education requirements, examination and supervision requirement, continuing education requirements and rules of professional conduct which will expire in July 2004.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

450:50-1-1. Purpose

This Chapter implements 43A O.S. § 3-318, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify behavioral health case managers. Section 3-318 requires the Board to promulgate rules and standards for certification of behavioral health case managers addressing criteria for certification and renewal, including minimum education requirements, examination and supervision requirement, continuing education requirements and rules of professional conduct.

450:50-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise.

"Board" means the State Board of Mental Health and Substance Abuse Services.

"Case management" means the application of principles and practices of linking, advocacy and referral in partnership with a consumer to support the consumer in self-sufficiency and community tenure.

"Certified behavioral health case manager" means any person who is certified by the Department of Mental Health and Substance Abuse Services to offer behavioral health case management services as one of the three (3) classifications of case manager within the confines of a mental health facility, domestic violence or sexual assault facility or drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services.

"Certified Behavioral Health Case Manager-Adult" or **"CBHCM-A"** means any person who offers behavioral health case management services to adults within the confines of a behavioral health setting and is certified pursuant to the rules and standards set forth by the Board of Mental Health and Substance Abuse Services.

"Certified Behavioral Health Case Manager-Child, Adolescent and Family" or **"CBHCM-CAF"** means any person who offers behavioral health case management services to children, adolescents and their families within the confines of a behavioral health setting and is certified pursuant to the rules and standards set forth by the Board of Mental Health and Substance Abuse Services.

"Certified Behavioral Health Case Manager-Dual Certification" or **"CBHCM-DC"** means any person who offers behavioral health case management services to adults and children, adolescents and families within the confines of a behavioral health setting and is certified pursuant to the rules and standards set forth by the Board of Mental Health and Substance Abuse Services.

"Commissioner" means the Commissioner of Mental Health and Substance Abuse Services.

"Consumer" means an individual who is receiving or has received services (evaluation or treatment) from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in Title 450, Chapters 16, 17, 18, 19 and 23 of the Oklahoma Administrative Code as client(s) or patient(s) or resident(s) or a combination thereof.

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Provisionally Certified Behavioral Health Case Manager" means a person who has completed the Department-sponsored training in case management, and is under supervision for completion of the competency-based case management project.

"Supervisor" means a person who is a certified behavioral health case manager and meets the requirements established by the Board to supervise a provisionally certified behavioral health case manager in the completion of the competency-based case management project.

450:50-1-3. Authority of the Commissioner and Department

(a) The Commissioner shall have the authority and duty to issue, renew, revoke, deny, suspend and place on probation certifications to offer behavioral health case management and shall have authority to reprimand certified behavioral health case managers.

(b) The Department shall have authority to:

(1) Receive and deposit fees as required by 43A O.S. § 3-318(C);

(2) Examine all qualified applicants for certified behavioral health case management; and

(3) Investigate complaints and possible violation of the rules and standards of behavioral health case managers.

SUBCHAPTER 3. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION APPLICATION

450:50-3-1. Qualifications for certification

(a) Each applicant for certification as a behavioral health case manager shall:

(1) Be employed at a mental health facility, domestic violence or sexual assault facility, or a drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services;

(2) Attend the requisite case management certification training offered by the Department for the specific classification of certification (adult, child, adolescent and family or dual) sought by the applicant;

(3) Complete the competency-based case management project;

(4) Be possessed of good moral character;

(5) Be at least 21 years of age; and

(6) Otherwise comply with rules promulgated by the Board implementing 43A O. S. § 3-318.

(b) In addition to the qualifications specified by subsection (a) of this rule, an applicant for a certification as a behavioral health case manager shall:

(1) Possess one of the following:

(A) a bachelor's degree in a behavioral health related field which includes but is not limited to psychology, social work, occupational therapy, family studies, human resources/services counseling, human developmental psychology, gerontology, early childhood development, chemical dependency studies, school guidance and counseling, rehabilitative services, sociology, criminal justice, earned from a regionally accredited college or university recognized by the United States Department of Education; or

(B) a current license as a registered nurse in Oklahoma; or

(C) a current certification as an alcohol and drug counselor in Oklahoma; and

(2) Complete a minimum of six (6) weeks of supervised full time experience providing behavioral health case management services under the supervision of a case management supervisor in accordance with section 450:50-3-2 of this chapter.

450:50-3-2. Applications for certification, dual certification, provisional certification

(a) Applications for certification as a behavioral health case manager shall be made in writing to the Department on a form and in a manner prescribed by the Commissioner. The application shall be accompanied by the application fee and official education transcripts.

(b) An application shall include the following documents:

(1) Application form completed in full according to its instructions;

(2) Official university transcript(s) or documentation of current status as a licensed mental health professional in the state of Oklahoma in lieu of official university transcript(s) to evidence completion of a completed bachelor's degree, or documentation of current certification as an alcohol and drug counselor in the state of Oklahoma, or current licensure as a registered nurse in the state of Oklahoma; or, documentation of certification pursuant to OAC 450:50-3-6;

(3) Documentation of employment at a mental health facility, a domestic violence or sexual assault facility, or a drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services;

(4) Supervision agreement between the applicant and a case management supervisor on a form prescribed by the Department; and

(5) Fees.

(c) A complete application must be submitted at least seven (7) days prior to attending case management certification training.

(d) An applicant, who meets the requirements for certification and otherwise complied with this Chapter shall be eligible for certification.

450:50-3-3. Duration of certification

(a) Certification issued pursuant to this Chapter shall require renewal every two (2) years from the year of issuance unless revoked. Certified behavioral health case managers must renew their certification prior to December 31 of the renewal year and every two (2) years thereafter.

(b) A certification may be renewed by ODMHSAS upon application and payment of fees. Renewal shall be accomplished by submitting the renewal application, annual report of continuing education and accompanying documentation, and renewal fee.

(c) A certification not renewed by the December 31 deadline will be suspended. A suspended certification may be renewed by submitting required fees and documentation of continuing education within 12 months of the expiration date. Certificates not renewed within the 12 months will not be reinstated.

450:50-3-4. Fees

(a) **Application Fee.** Twenty-five dollars ($25.00) shall be submitted with the application form.

(b) **Renewal Fee.** Fifteen dollars ($15.00) shall be submitted with the renewal application and required continuing education documentation.

(c) **Late Renewal Fee.** An additional twenty-five dollars ($25.00) shall be submitted with the Renewal Fee ($15.00), renewal application, and required continuing education documentation if the certification is renewed after the December 31 deadline.

(d) **Replacement Fee.** Ten dollars ($10.00) shall be submitted to replace a certificate that has been lost, damaged or in need of revision.

450:50-3-5. Fitness of applicants

(a) The purpose of this section is to establish the fitness of the applicant as one of the criteria for approval of certification as a Certified Behavioral Health Case Manager and to set forth the criteria by which the Commissioner will determine the fitness of the applicants.

(b) The substantiation of any of the following items related to the applicant may be, as the Commissioner determines, the basis for the denial of or delay of certification of the applicant:

(1) Lack of necessary skill and abilities to provide adequate services;

(2) Misrepresentation on the application or other materials submitted to the committee; or

(3) A violation of the rules of professional conduct set forth in this Chapter.

(c) The following materials may be used to determine fitness of the applicant:

(1) Evaluations of supervisors or instructors;

(2) Evaluation of competency-based project supervisor;

(3) Allegations of consumers; and

(4) Transcripts or other findings from official court, hearing or investigative procedures.

(d) The Department may require explanation of negative references prior to issuance of certification.

450:50-3-6. Grandfathering

Until June 30, 2003, the Commissioner upon receipt of an applicant's completed application form, fees and applicable official university or college transcripts, shall issue certifications for behavioral health case management to individuals who prior to March 1, 2003 had a minimum of an associates degree or 60 hours of college course work in any field, has attended 24 hours of case management training sponsored by ODMHSAS and two (2) years experience in providing behavioral health case management services.

SUBCHAPTER 5. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION TRAINING

450:50-5-1. Case management certification training

(a) The purpose of this section is to delineate the training requirements for each of the three classifications of certified behavioral health case manager.

(b) The Department shall have the authority and responsibility for the following:

(1) Provide case management training classes on a regular basis but no less than six times during the year.

(2) Provide supervisor training classes on a regular basis but no less than twice a year.

(c) The adult case management certification training is a 24-hour class that focuses on case management issues of adults receiving services in mental health facilities, domestic violence or sexual assault facilities, or drug or alcohol treatment facilities operated by the Department or contracted with the State to provide behavioral health services. Applicants seeking certification as a certified behavioral health case manager-Adult must attend this training.

(d) The child, adolescent and family case management certification training is a 24 hour class that focuses on case management issues of children and adolescents their families receiving services in mental health facilities, domestic violence or sexual assault facilities or drug or alcohol treatment facilities operated by the Department or contracted with the State to provide behavioral health services. Applicants seeking certification as Certified Behavioral Health Case Manager-Child, Adolescent and Family must attend this training.

(e) Those seeking dual certification must attend one of the two 24-hour classes offered by the Department as well as 12 hours of cross-training in the other area, for a total of 36 hours of training.

(f) The case management competency-based project supervisor training is a six hour class that focuses on the specifics of supervision and the competency-based project. Certified behavioral health case managers who were acting as a competency-based project supervisor on or prior to July 1, 2003, are required to attend this training by December 31, 2004.

450:50-5-2. Supervised experience requirements

(a) Persons who have successfully completed case manager certification training will be considered a provisionally Certified Behavioral Health Case Manager, shall work under the supervision of a fully Certified Behavioral Health Case Manager, and shall have the same rights, privileges and responsibilities as a fully certified behavioral health case manager for a period of no longer than six months from the last day of case management certification training class, unless an extension of the Provisional Certification status has been granted in accordance with 450:50-3.

(b) Supervised experience shall begin only after completion of the case management certification training. Supervision shall continue throughout the completion of the competency-based case management project for no less than six (6) weeks from the last day of case management certification training class and no longer than 6 months from the last day of case management certification training class.

(c) At the time of application for certified behavioral health case manager, the applicant shall submit to the Department a supervision agreement between the supervisor and applicant/supervisee.

(d) Case management supervisors shall be a certified behavioral health case manager with at least two years experience in behavioral health case management and have completed the six hours of competency-based project supervisors training.

(e) The supervisor and supervisee shall be jointly responsible for the following:

(1) Ensuring the requirements under this subchapter are fulfilled; and,

(2) Ensuring the consumer's right to confidentiality and the proprietary rights of the supervisor and the

supervisee's employer are adhered to during the course of the supervision.

(f) Supervised experience shall consist of the following:

(1) Provision of case management services by a provisionally certified behavioral health case manager to a consumer or consumer and family within the confines of a behavioral health setting to complete the competency based case management project as established in the case management certification training curriculum; and

(2) Individual supervision of the delivery of case management services in conjunction with the completion of the competency based project. Individual supervision shall mean weekly face-to-face contact between the supervisor and the supervisee for duration of the supervision of the competency based project.

(g) Upon completion of the supervision:

(1) The supervisee shall submit a statement signed by the supervisor verifying the supervisee has completed the required supervision and competency-based project; and

(2) The supervisor shall sign and submit an evaluation of supervised experience on a form prescribed by the Department.

(h) The supervisor's signature will appear on required documents within the case management certification project

450:50-5-3. Case management certification competency-based project

(a) The case management certification project is a competency-based product designed to provide the applicant hands-on experience in specific case management services.

(b) The competency-based project shall be due no earlier than 6 weeks or later than 3 months from the last day of the 24 hour training class as specified on each individual's letter granting provisional certification. An extension of the due date may be requested by writing the Coordinator of Case Management Development for the Department to extend the project due date for a period of no longer than one (1) month. No more than two (2) requests for extension shall be granted. Provisional Certification Status will remain in effect, as granted in accordance with 450:50-5-2, through the duration of the second extension request as approved by the Coordinator of Case Management Development.

(c) ODMHSAS shall return the results of the competency-based project review to the individual within eight (8) weeks of receipt of the project. Unless otherwise specified, ODMHSAS will send the results to the individual at the business address listed on the application. ODMHSAS must receive written notification of change of address.

(1) The Coordinator of Case Management Development or designee shall review the project.

(2) If the project, or any part, is found to be unacceptable, the coordinator shall contact the project supervisor and supervisee in writing with an explanation of necessary corrections. Technical assistance from the Coordinator of Case Management Development or designee shall be available upon request.

(d) Any individual who does not successfully complete the competency based project within the 6 month period of provisional certification will be required to attend case management training class before attempting to complete and submit the project again.

450:50-5-4. Continuing education requirements

(a) Certified behavioral health case managers must complete twelve (12) hours continuing education per year and submit documentation of the continuing education to ODMHSAS every two (2) years.

(b) Continuing education is acceptable when it:

(1) Provides information to enhance delivery of case management services; or

(2) Meets the requirements for LPC, LMFT, LBP, LCSW, CADC or CME continuing education; or

(3) Is a required undergraduate or graduate course in a behavioral health related field and pertains to direct interaction with consumers (three hours of course work is equal to twelve hours in-service); and

(4) Is accrued during the twenty-four (24) months preceding the renewal deadline.

(c) Continuing education may be accrued when the Certified Behavioral Health Case Manager provides supervision of a competency-based case management project. The Certified Behavioral Health Case Manager may accrue 6 hours for supervision of one competency-based project annually.

(d) Certified behavioral health case managers shall retain documents verifying attendance for all continuing education hours claimed for the reporting period. Acceptable verification documents include:

(1) An official continuing education validation form furnished by the presenter;

(2) A letter or certificate from the sponsoring agency verifying name of program, presenter, number of hours attended and participants name;

(3) An official grade transcript verifying completion of the undergraduate or graduate course; or

(4) A letter confirming supervision of a competency-based project which must be submitted on agency's letterhead and signed by the agency director or clinical director.

(e) Failure to complete the continuing education requirements and submit the required documentation by the renewal date renders the certification in suspension, and results in the loss of all rights and privileges of a certified behavioral health case manager. The Certified Behavioral Health Case Manager certification may be reinstated during a period of no longer than 12 months following the suspension date. If not reinstated the certification shall become null and void. The Certified Behavioral Health Case Manager has the right to renew the certificate by payment of renewal fees ($15.00) and late renewal fees ($25.00) and documentation of obtaining 12 hours of continuing education for each of the two prior years.

SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT

450:50-7-1. Responsibility and scope of practice

(a) Certified behavioral health case managers shall be dedicated to advancing the welfare of individuals, and children and their families. Certified behavioral health case managers shall not participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation, and shall not exploit their relationships with the consumers for personal advantage, profit, satisfaction, or interest.

(b) Certified behavioral health case managers shall practice only within the boundaries of their competence based on their education, training, supervised experience, state and national accreditations and licenses.

(c) Certified behavioral health case managers shall only use the title if employed by the state or a private or nonprofit behavioral health services provider contracting with the state to provide behavioral health services.

(d) Certified behavioral health case managers may not practice any of the following professions or use the following titles unless also licensed or accredited by the appropriate authority: physician, psychologist, clinical social worker, professional counselor, marital and family therapist, behavioral practitioner or alcohol and drug counselor.

450:50-7-2. Consumer welfare

(a) Certified behavioral health case managers shall not, in the rendering of their professional services, participate in, condone, promote discrimination on the basis of race, color, age, gender, religion or national origin.

(b) Certified behavioral health case managers must be aware of their influential positions with respect to consumers and not exploit the trust and dependency of consumers. Certified behavioral health case managers shall refrain from dual relationships with consumers because of the potential to impair professional judgment and to increase the risk of harm to consumers. Examples of such relationships include, but are not limited to familial, social, financial, business, professional or close personal relationships with consumers.

(1) Certified behavioral health case managers shall not have any type of sexual contact with consumers and shall not provide case management services to persons with whom they have had a sexual relationship.

(2) Certified behavioral health case managers shall not engage in sexual contact with former consumers for at least two (2) years after terminating the professional relationship.

(c) If certified behavioral health case managers determine that they are unable to be of professional assistance to a consumer, the Certified Behavioral Health Case Manager shall refer the consumer to appropriate sources when indicated. If the consumer declines the referral the Certified Behavioral Health Case Manager shall terminate the relationship.

450:50-7-3. Reimbursement for services rendered

Certified behavioral health case managers shall practice case management services only if employed by the State or a private or nonprofit behavioral health services provider contracting with the state to provide behavioral health services. As an employee of a state or a private or nonprofit behavioral health provider reimbursement for services rendered will not be collected outside of the agency's system of service reimbursement.

450:50-7-4. Professional standards

(a) It shall be unprofessional conduct for a Certified Behavioral Health Case Manager to violate a state or federal statute if the violation is directly related to the duties and responsibilities of the counselor or if the violation involves moral turpitude.

(b) Certified behavioral health case managers shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.

(c) Certified behavioral health case managers shall notify the Department of any change in address, telephone number and employment.

450:50-7-5. Failure to comply

A Certified Behavioral Health Case Manager who does not comply with the Rules of Professional Conduct shall be guilty of unprofessional conduct and subject to disciplinary action.

SUBCHAPTER 9. ENFORCEMENT

450:50-9-1. Enforcement

(a) ODMHSAS may impose administrative sanctions, including revocation, suspension, non-renewal of certification and reprimand, against certified behavioral health case managers.

(b) All proceedings, hearing and appeals shall be conducted in accordance with Chapter 1 of the Rules of ODMHSAS, Title 450 Oklahoma Administrative Code and the Administrative Procedures Act.

[OAR Docket #04-552; filed 4-2-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

CHAPTER 55. STANDARDS AND CRITERIA FOR PROGRAMS OF ASSERTIVE COMMUNITY TREATMENT

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Subchapter 3. Program Description and PACT Services [NEW]
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450:55-3-2. [NEW]
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Subchapter 17. Staff Development and Training [NEW]
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Subchapter 15. Personnel [NEW]
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Subchapter 17. Staff Development and Training [NEW]
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In accordance with the Administrative Procedures Act these proposed rules are part of the Department's review of Title 450 and implements 43A O.S. § 3-319, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify programs for assertive community treatment. Section 3-319 became effective on November 1, 2002 and requires the Board to promulgate rules and standards for certification of facilities or organizations that desire to be certified.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

450:55-1-1. Purpose

(a) This Chapter implements 43A O.S. § 3-319, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify programs of assertive community treatment. Section 3-319 requires the Board to promulgate rules and standards for certification of facilities or organizations that desire to be certified.

(b) The rules regarding the certification procedures including applications, fees and administrative sanctions are found in the Oklahoma Administrative Code, Title 450, Chapter 1, Subchapters 5 and 9.

450:55-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Community-based Structured Crisis Center" or **"CBSCC"** means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment and other credentials.

"Consumer" means an individual who has applied for, is receiving, or has received services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Crisis intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are experiencing a mental health or substance abuse crisis.

"Crisis stabilization" means emergency psychiatric and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment and referral.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"DSM" means the current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"FTE" means an employee, or more than one, who work(s) the time equivalent to the number of hours per week, month or year of one (1) employee working full-time.

"Governing Agency" means the facility or specific community based behavioral health provider under which the PACT program is operated.

"Historical time line" means a method by which a specialized form is used to gather, organize and evaluate historical information about significant events in a consumer's life, experience with mental illness, and treatment history.

"Individual Treatment Team" or **"ITT"** means the primary case manager and a minimum of two other clinical staff on the PACT team who are responsible to keep the consumer's treatment coordinated, monitor their services, coordinate staff activities and provide information and feedback to the whole team.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Linkage services" means the communication and coordination with other service providers pursuant to a valid release that assure timely appropriate referrals between the PACT program and other providers.

"Longitudinal Face Sheet" means a process that is used to track a PACT consumer's specific demographic, personal

contact, treatment history and other relevant information from the time of admission until discharge.

"Mental Health Professional" means:

(A) Physicians with a current license and board certification in psychiatry or board eligible, or a current resident in psychiatry, where the services provided to a DMHSAS funded program are within the scope of the supervised residency program. Other licensed physicians experienced in behavior health counseling practices may be considered, if the facility has verified sufficient training and experience in the areas of practice for which the ICIS service is being reported; or

(B) Practitioners with a license to practice or those actively and regularly receiving board approved supervision to become licensed by one of the following licensing boards: Psychology, Social Work (clinical specialty), Professional Counselor, or Marriage and Family Therapist; or Licensed Behavioral Practitioners; or

(C) Advanced Practice Nurse (certified in psychiatric mental health specialty) licensed as a registered nurse with a current certification of recognition by the Oklahoma State Board of Nursing.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules

"Peer Specialist" is a member of the PACT team who is or has been a recipient of mental health services for a serious mental illness.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous performance improvement, continuous improvement, organization-wide performance improvement and total quality management.

"Persons with special needs" means any person with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf and hearing impaired, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Primary Case Manager" is a certified behavioral health case manager assigned by the team leader to coordinate and monitor activities of the ITT, has primary responsibility to write the treatment plan and make revisions to the treatment plan and weekly schedules.

"Program Assistant" is a member of the PACT team providing duties supportive of the Team and may include organizing, coordinating, and monitoring non-clinical operations of the PACT, providing receptionist activities and coordinating communication between the team and consumers

"Program of Assertive Community Treatment" or **"PACT"** means a clinical program that provides continuous treatment, rehabilitation and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological description of services provided to a consumer, the consumer's progress, or lack of, and documentation of the consumer's response related to the intervention plan.

"Team Leader" is the clinical and administrative supervisor of the PACT team who also functions as a practicing clinician. The team leader is responsible for monitoring each consumer's clinical status and response to treatment as well as supervising all staff and their duties as specified by their job descriptions.

450:55-1-3. Applicability

The standards and criteria for services as subsequently set forth in this chapter are applicable to PACT programs as stated in each subchapter.

SUBCHAPTER 3. PROGRAM DESCRIPTION AND PACT SERVICES

450:55-3-1. General program description and target population

A PACT must be a self-contained clinical program that assures the fixed point of responsibility for providing treatment, rehabilitation and support services to consumers with serious mental illnesses. The PACT team shall use an integrated service approach to merge clinical and rehabilitation staff expertise, such as psychiatric, substance abuse, employment, within one service delivery team, supervised by a qualified program director. Accordingly, there shall be a minimal referral of consumers to other program entities for treatment, rehabilitation, and support services. The PACT staff is responsible to ensure services are continuously available in natural settings for the consumer in a manner that is courteous, helpful and respectful.

450:55-3-2. Admission criteria

(a) The PACT program shall maintain written admission policies and procedures that, at a minimum include the following:

(1) Priority shall be given to people with a primary diagnosis of schizophrenia or other psychotic disorders, such as schizoaffective disorder or bipolar disorder with psychotic features as defined by the current DSM, and with at least four (4) of the following:

(A) At least four psychiatric hospitalizations in the past 24 months or lengths of stays totaling over 30

days in the past 12 months which can include admissions to Community-Based Structured Crisis Care;

(B) Persistent or recurrent severe affective, psychotic or suicidal symptoms;

(C) Coexisting substance abuse disorder greater than six (6) months;

(D) High risk of or criminal justice involvement in the past 12 months which may include frequent contact with law enforcement personnel, incarcerations, parole or probation;

(E) Homeless, imminent risk of being homeless or residing in substandard or unsafe housing;

(F) Residing in supported housing but clinically assessed to be able to live in a more independent living situation if intensive services are provided; or requiring supported housing if more intensive services are not available;

(G) Inability to participate in traditional office-based services or evidence that they require a more assertive and frequent non-office based services to meet their clinical needs;

(H) Inability to consistently perform the range of practical daily living tasks required for basic adult functioning in the community; and

(2) Individuals with a primary diagnosis of substance abuse, brain injury, or Axis II disorders are not appropriate for PACT.

(3) Individuals with a history of violent behaviors may or may not be considered for admission.

(b) Compliance with 450:55-3-2 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-3. Total case load and admission rate

(a) The PACT shall maintain written policies and procedures that at a minimum assure compliance with the following:

(1) A staff-to-consumer ratio of no more than ten (10) consumers for each staff person. The psychiatrist and program assistant are not included in determining the staff-to consumer ratio;

(2) A limit of no more than 5 consumers admitted per month into the program for fully staffed teams, or no more than 3 consumers admitted per month for PACT teams with 6.5 or less FTE, excluding psychiatrist and program assistant; and

(3) A limit of no more than 120 consumers on a PACT team case load at one time.

(b) Compliance with 450:55-3-3 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-4. Discharge criteria

(a) The PACT shall maintain written discharge policies and procedures that at a minimum include the following discharge criteria:

(1) The consumer and program staff mutually agree to the termination of services after all attempts to engage the consumer in the program fail; or

(2) The consumer moves outside the geographic area covered by the team. In such cases, the PACT team shall arrange for transfer of mental health service responsibility to a provider where the consumer is moving. The PACT team shall maintain contact with the consumer until the service transfer is arranged; or

(3) The consumer demonstrates an ability to function in all major role areas, i.e., work, social, self-care, without requiring assistance from the program. Such a determination shall be made by both the consumer and the PACT team; or

(4) The consumer becomes physically unable to benefit from the services.

(b) Compliance with 450:55-3-4 shall be determined by on-site observation and a review of the following: clinical records and the PACT policy and procedures.

450:55-3-5. Hours of operation and staff coverage

(a) The PACT program shall assure adequate coverage to meet consumers' needs including but not limited to:

(1) The PACT team shall be available to provide treatment, rehabilitative and support services seven days per week, including holidays and evenings. The PACT team hours of operation for a team size greater than 6.5 FTEs, excluding the psychiatrist and program assistant, shall be weekdays, Monday through Friday, two overlapping eight-hour-shifts per day for a total of 12 hours of coverage and eight (8) hours of coverage with a minimum of two (2) clinical staff on weekends and holidays. For a team size that is 6.5 FTEs excluding the psychiatrist and program assistant, the PACT team will include shifts to cover evenings, weekends and holidays. The consumer's needs as specified in the treatment plan shall drive the hours of operation for evenings and weekends.

(2) The PACT team shall operate an after-hours on-call system. PACT team staff who are experienced in the program and skilled in crisis-intervention procedures shall be on call and available to respond to consumers by telephone or in person.

(3) Psychiatric backup shall also be available during all after-hours periods. If availability of the PACT team's psychiatrist during all hours is not feasible, alternative psychiatric backup shall be arranged.

(b) Compliance with 450:55-3-5 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-6. Service intensity

(a) The PACT team is the primary provider of services and has the responsibility to meet the consumer's multiple treatment, rehabilitation and supportive needs with minimal referrals to external agencies or programs within the governing agency for services.

(b) The PACT team shall have the capacity to provide multiple contacts per week to consumers experiencing severe symptoms or significant problems in daily living.
(c) The PACT team shall provide an average of three contacts per week for each consumer, unless otherwise clinically indicated.
(d) Each team shall provide at least 75 percent of service contacts in the community, in non-office or non-facility based settings.
(e) The PACT team shall provide ongoing contact with all consumers who are hospitalized for drug and alcohol or psychiatric reasons. To ensure continuity of care the PACT team shall:
(1) Assist in the admission process if at all possible;
(2) Have face-to-face contact with the consumer and inpatient treatment providers within 48 hours of knowing of the inpatient admission to provide information, assessment, assist with the consumer's needs and begin discharge planning;
(3) Maintain a minimum of weekly face-to-face contact with the consumer and treatment team staff;
(4) Transition the consumer from the inpatient setting into the community by providing a face-to-face service while in inpatient settings;
(5) Maintain at least three (3) face-to-face contacts per week for one month for consumers who are discharged from an inpatient facility. The team shall document any failed attempts.
(f) Compliance with 450:55-3-6 shall be determined by on-site observation; and a review of the following: clinical records; ICIS information; and the PADT policy and procedures.

450:55-3-7. Staffing requirements
(a) The PACT team shall include individuals qualified to provide the required services while closely adhering to job descriptions as defined in the "PACT Start-up Manual, most recent edition as published by the National Alliance for the Mentally Ill."
(b) Each PACT team shall have the following minimum staffing configuration:
(1) One (1) full-time team leader who is the clinical and administrative supervisor of the team and also functions as a practicing clinician in the PACT team. The team leader shall be a Mental Health Professional
(2) A Board Certified or Board Eligible psychiatrist providing a minimum of 16 hours per week. For teams serving over 50 consumers, the Psychiatrist shall provide an additional three (3) hours per week for every ten (10) additional consumers admitted to the program. On-call time is not included.
(3) At least two (2) full-time registered nurses that have at least two (2) years or more of mental health experience.
(4) At least one (1) additional full-time Mental Health Professional.
(5) At least two (2) full-time bachelor's level or higher degree behavioral health case managers.
(6) At least one (1) professional staff member on the team, excluding the psychiatrist, team leader and program assistant shall be qualified as a substance abuse treatment specialist.
(7) A minimum of one-half time (0.5 FTE) peer specialist. The Peer Specialist must have been a recipient of mental health services in the past. The Peer Specialist shall be a fully integrated team member.
(8) A minimum of one-half time (.5 FTE) program assistant.
(c) Teams serving greater than 65 consumers shall include the following additional staff:
(1) A full-time assistant team leader who is the back-up clinical and administrative supervisor of the team and also functions as a practicing clinician in the PACT team. The assistant team leader shall be a Mental Health Professional
(2) One (1) full-time registered nurse who has at least two (2) years or more of mental health experience which shall result in three (3) fulltime registered nurses.
(3) One (1) full-time Mental Health Professional serving as a employment specialist.
(4) A minimum of one-half (.5 FTE) part-time peer specialist which will result in one (1) full-time Peer Specialist on the team.
(5) One (1) additional full-time bachelor level behavioral health case manager, when serving greater than 85 consumers on the team.
(d) Compliance with 450:55-3-6 shall be determined by on-site observation; and a review of the following: clinical records; ICIS information; and the PACT policy and procedures.

450:55-3-8. Staff communication and planning
(a) The PACT team shall have daily organizational staff meetings at regularly scheduled times as prescribed by the team leader. Daily organizational staff meetings shall be conducted in accordance with the following procedures:
(1) A review of the daily log, to update staff on the treatment contacts which occurred the day before and to provide a systematic means for the team to assess the day-to-day progress and status of all consumers;
(2) A review by the shift manager of all the work to be done that day as recorded on the daily staff assignment schedule. During the meeting, the shift manager shall assign and supervise staff to carry out the treatment and service activities scheduled to occur that day, and the shift manager shall be responsible for assuring that all tasks are completed; and
(3) Revise treatment plans as needed, plan for emergency and crisis situations, and add service contacts to the daily staff assignment schedule per the revised treatment plans.
(b) The PACT team shall maintain a written daily log, using either a notebook or cardex. The daily log shall document:
(1) A roster of the consumers served in the program; and,
(2) For each consumer, brief documentation of any treatment or service contacts which have occurred since

the last daily organizational staff meeting and a concise, behavioral description of the consumer's daily status.

(c) The PACT team, under the direction of the team leader, shall maintain a weekly schedule for each consumer. The weekly consumer schedule is a written schedule of all treatment and service contacts which staff must carry out to fulfill the goals and objectives in the consumer's treatment plan. The team shall maintain a central file of all weekly consumer schedules.

(d) The PACT team, under the direction of the team leader, shall develop a daily staff assignment schedule from the central file of all weekly consumer schedules. The daily staff assignment schedule is a written timetable for all consumer treatment and service contacts, to be divided and shared by the staff working on that day.

(e) Compliance with 450:55-3-8 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-9. Clinical supervision

(a) Each PACT team shall have a written policy for clinical supervision of all staff providing treatment, rehabilitation, and support services. The team leader and or a clinical staff designee shall assume responsibility for supervising and directing all PACT team staff activities. This supervision and direction shall minimally consist of:

(1) Periodic observation, in which the supervisor accompanies an individual staff member to meet with consumers in regularly scheduled or crisis meetings to assess the staff member's performance, give feedback, and model alternative treatment approaches; and

(2) Participation with team members in daily organizational staff meetings and regularly scheduled treatment planning meetings to review and assess staff performance and provide staff direction regarding individual cases.

(b) Compliance with 450:55-3-9 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-10. Required services

(a) The PACT program shall minimally provide the following comprehensive treatment, rehabilitation, and support services as a self-contained service unit on a continuous basis. The PACT program shall provide or make arrangements for treatment services, which shall minimally include:

(1) **Crisis intervention.** Crisis intervention shall be provided to individuals who are in crisis as a result of a mental health or substance abuse related problem.

(A) Crisis intervention services shall be provided in the least restrictive setting possible, and be accessible to individuals within the community in which they reside.

(B) Crisis assessment and intervention shall be provided 24 hours per day, seven days per week by the PACT team. These services will include telephone and face-to-face contact and will include mechanisms by which the PACT crisis services can be coordinated with the local mental health system's emergency services program as appropriate.

(C) Crisis intervention services shall include, but not be limited to, the following service components and each shall have written policy and procedures:

(i) Psychiatric crisis intervention; and

(ii) Drug and alcohol crisis intervention.

(2) **Symptom assessment, management and individual supportive therapy.** The PACT shall provide ongoing symptom assessment, management, and individual supportive therapy to help consumers cope with and gain mastery over symptoms and impairments in the context of adult role functioning. This therapy shall include but not necessarily be limited to the following:

(A) Ongoing assessment of the consumer's mental illness symptoms and the consumer's response to treatment;

(B) Education of the consumer regarding his or her illness and the effects and side effects of prescribed medications, where appropriate;

(C) Symptom-management efforts directed to help each consumer identify the symptoms and occurrence patterns of his or her mental illness and develop methods (internal, behavioral, or adaptive) to help lessen their effects; and

(D) Psychological support to consumers, both on a planned and as-needed basis, to help them accomplish their personal goals and to cope with the stresses of day-to-day living.

(3) **Medication prescription, administration, monitoring and documentation.** The PACT shall have medication policies and procedures that are specific to the PACT program and meet the unique needs of the consumers served. All policies and procedures shall comply with local, state and federal pharmacy and nursing laws.

(A) Medication related policies and procedures shall identify processes to:

(i) Record physician orders;

(ii) Order medication;

(iii) Arrange for all consumer medications to be organized by the team and integrated into consumers' weekly schedules and daily staff assignment schedules;

(iv) Provide security for medications and set aside a private designated area for set up of medications by the team's nursing staff; and

(v) Administer delivery of and provide assistance with medications to program consumers.

(B) The PACT team psychiatrist shall minimally:

(i) Assess each consumer's mental illness symptoms and behavior and prescribe appropriate medication;

(ii) Regularly review and document the consumer's symptoms of mental illness as well as his or her response to prescribed medication treatment;

(iii) Educate the consumer regarding his or her mental illness and the effects and side effects of medication prescribed to regulate it; and

(iv) Monitor, treat, and document any medication side effects.

(C) All qualified PACT team members shall assess and document the consumer's mental illness symptoms and behavior in response to medication and shall monitor for medication side effects.

(4) **Rehabilitation.** The PACT shall provide or make arrangements for rehabilitation services. The PACT shall provide work-related services as needed to help consumers find and maintain employment in community-based job sites. These services shall include but not be limited to:

(A) Assessment of job-related interests and abilities, through a complete education and work history assessment as well as on-the-job assessments in community-based jobs;

(B) Assessment of the effect of the consumer's mental illness on employment, with identification of specific behaviors that interfere with the consumer's work performance and development of interventions to reduce or eliminate those behaviors;

(C) Development of an ongoing employment rehabilitation plan to help each consumer establish the skills necessary to find and maintain a job;

(D) Individual supportive therapy to assist consumers to identify and cope with the symptoms of mental illness that may interfere with their work performance;

(E) On-the-job or work-related crisis intervention; and

(F) Work-related supportive services, such as assistance with grooming and personal hygiene, securing of appropriate clothing, wake-up calls, and transportation.

(5) **Substance abuse services.** The PACT shall provide substance abuse services as clinically indicated by consumers. These shall include but not be limited to individual and group interventions to assist consumers to:

(A) Identify substance use, effects and patterns;

(B) Recognize the relationship between substance use and mental illness and psychotropic medications;

(C) Develop motivation for decreasing substance use; and

(D) Develop coping skills and alternatives to minimize substance use and achieve periods of abstinence and stability.

(6) **Services to support activities of daily living.** The PACT shall provide as needed services to support activities of daily living in community-based settings. These shall include individualized assessment, problem solving, side-by-side assistance and support, skill training, ongoing supervision, e.g. prompts, assignments, monitoring, encouragement, and environmental adaptations to assist consumers to gain or use the skills required to:

(A) Carry out personal hygiene and grooming tasks;

(B) Perform household activities, including house cleaning, cooking, grocery shopping, and laundry;

(C) Find housing that is safe and affordable (e.g., apartment hunting, finding a roommate, landlord negotiations, cleaning, furnishing and decorating, procuring necessities, such as telephone, furnishings, linens, etc.;

(D) Develop or improve money-management skills;

(E) Use available transportation; and

(F) Have and effectively use a personal physician and dentist.

(7) **Social, interpersonal relationship and leisure-time skill training.** The PACT shall provide as needed services to support social, interpersonal relationship, and leisure-time skill training to include supportive individual therapy, e.g., problem solving, role-playing, modeling, and support, etc.; social-skill teaching and assertiveness training; planning, structuring, and prompting of social and leisure-time activities; side-by-side support and coaching; and organizing individual and group social and recreational activities to structure consumers' time, increase their social experiences, and provide them with opportunities to practice social skills and receive feedback and support required to:

(A) Improve communication skills, develop assertiveness and increase self-esteem as necessary;

(B) Develop social skills, increase social experiences, and where appropriate, develop meaningful personal relationships;

(C) Plan appropriate and productive use of leisure time;

(D) Relate to landlords, neighbors, and others effectively; and

(E) Familiarize themselves with available social and recreational opportunities and increase their use of such opportunities.

(8) The PACT will assign each consumer a primary case manager who coordinates and monitors the activities of the individual treatment team and has primary responsibility to write the treatment plan, to provide individual supportive therapy, to ensure immediate changes are made in treatment plans as consumer's needs change and to advocate for consumer rights and preferences.

(9) The PACT shall provide support and direct assistance to ensure that consumers obtain the basic necessities of daily life that includes but is not necessarily limited to:

(A) Medical and dental services;

(B) Safe, clean, affordable housing;

(C) Financial support;

(D) Social services;

(E) Transportation; and

(F) Legal advocacy and representation.

(10) The PACT shall provide services as needed on behalf of identified consumers to their families and other major supports, with consumer's written consent, which includes the following:

(A) Education about the consumer's illness and the role of the family in the therapeutic process;

(B) Intervention to resolve conflict; or

(C) Ongoing communication and collaboration, face-to-face and by telephone, between the PACT team and the family.

(b) Compliance with 450:55-3-10 shall be determined by on-site observation, a review of the clinical records, ICIS information and the PACT policy and procedures.

SUBCHAPTER 5. PACT CLINICAL DOCUMENTATION

450:55-5-1. Clinical record keeping system

(a) Each PACT shall maintain an organized clinical record keeping system to collect and document information appropriate to the treatment processes. This system shall be organized with easily retrievable, usable clinical records stored under confidential conditions and with planned retention and disposition. For each consumer, the PACT team shall maintain a treatment record that is confidential, complete, accurate, and contains up-to-date information relevant to the consumer's care and treatment.

(b) The team leader and the program assistant shall be responsible for the maintenance and security of the consumer clinical records.

(c) The consumer's clinical records shall be located at the PACT team's main office and, for confidentiality and security, are to be kept in a locked file.

(d) Compliance with 450:55-5-1 shall be determined by on-site observation, a review of PACT policy, procedures or operational methods, clinical records and other PACT provided documentation.

450:55-5-2. Basic requirements

(a) Each PACT program shall have policies and procedures requiring the following:

(1) All consumer records shall contain the defined required documentation;

(2) Storage, retention and destruction requirements for consumer records;

(3) Records maintained in locked equipment under secure measures;

(4) Entries in consumer records shall be legible, signed with first name, last name, credentials, and dated by the person making the entry; and

(5) The consumer's name typed or written on each sheet of paper or page in the clinical record.

(b) Compliance with 450:55-5-2 shall be determined by on-site observation, a review of PACT policy, procedures or operational methods, clinical records, other PACT provided documentation and PI information and reports.

450:55-5-3. Documentation of individual treatment team members

(a) The PACT shall document in the clinical record the consumer was assessed to determine appropriateness of admission to PACT in accordance with the program admission criteria.

(b) The clinical record shall document the team leader has assigned the consumer a psychiatrist, primary case manager, and individual treatment team (ITT) members within one (1) week of admission.

(c) Compliance with 450:55-5-3 shall be determined by on-site observation and a review of the following: clinical records and the PACT policy and procedures.

450:55-5-4. Initial assessment and treatment plan

(a) The initial assessment data shall be collected and evaluated by PACT team leader or appropriate staff designated by the team leader. Such assessments shall be based upon all available information, including self-reports, reports of family members and other significant parties, and written summaries from other agencies, including police, courts, and outpatient and inpatient facilities, where applicable, culminating in a comprehensive initial assessment. Consumer assessment information for admitted consumers shall be completed on the day of admission to the PACT

(b) The initial assessment shall contain, but not be limited to, the following identification data:

(1) Consumer's name;

(2) Date of admission to PACT;

(3) Social Security number;

(4) Initial assessment;

(5) Reason for treatment;

(6) Availability of social supports and resources;

(7) History of psychiatric illness and previous services;

(8) Developmental and social history;

(9) Current functioning;

(10) Admitting diagnosis (Axis I-V); and

(11) Justification for Admission.

(c) The initial treatment plan is completed on the day of admission and guides team services until the comprehensive assessment and comprehensive treatment plan is completed. Interventions from the initial treatment plan should be reported on the consumer weekly schedule card. The initial treatment plan shall contain, but not be limited to, the following identification data:

(1) Consumer's name;

(2) Date;

(3) Problem(s) to be addressed;

(4) Intervention(s) to address problems;

(5) Names of participants in case conference;

(6) Consumer or guardian participation;

(7) Consumer's signature; and

(8) Team leader's signature

(d) Compliance with 450:55-5-4 shall be determined by a review of the following: intake assessment instruments and other intake documents of the PACT program, clinical records and other agency documentation of admission materials or requirements.

450:55-5-5. Comprehensive assessment

(a) The consumer's psychiatrist, primary PACT case manager, and individual treatment team members shall prepare the written comprehensive assessment within six (6) weeks of admission.

(b) The comprehensive assessment shall include a written narrative report for each of the following areas:

(1) Psychiatric history, mental status, and a current DSM diagnosis, to be completed by the PACT psychiatrist;

(2) Medical, dental, and other health needs to be completed by a PACT registered nurse;

(3) Extent and effect of drugs or alcohol use completed by a team professional as approved by the team leader;

(4) Extent and effect of any violence within the consumer's living situation(s)or personal relationships;

(5) The current version of the Alcohol Severity Index (ASI) within the first 6 weeks of admission and as clinically indicated thereafter;

(6) Education and employment;

(7) Social development and functioning by a team professional as approved by the team leader;

(8) Activities of daily living, to be completed the team professional or peer specialist under the supervision of the team leader;

(9) Family structure and relationships by a team professional as approved by the team leader; and

(10) Historical timeline by all team members under the supervision of the team leader.

(c) Compliance with 450:55-5-5 shall be determined by on-site observation and a review of the clinical records, ICIS information and the PACT policy and procedures.

450:55-5-6. Treatment team meeting

(a) The PACT team shall conduct treatment planning meetings under the supervision of the team leader. These treatment planning meetings shall minimally:

(1) Convene at regularly scheduled times per a written schedule maintained by the team leader; and

(2) Occur with sufficient frequency and duration to develop written individual consumer treatment plans and to review and rewrite the comprehensive treatment plans every six months.

(b) Prior to writing the comprehensive treatment plan, the team shall meet to develop the comprehensive treatment plan by discussing and documenting:

(1) The specifics of all information learned from the comprehensive assessments or course of treatment;

(2) Resources to carry out the treatment plan;

(3) Roles of the individual PACT members to carry out the plan; and

(4) Recommendations made to the treatment plan from the consumer, family members and PACT staff.

(c) Treatment planning meetings shall be scheduled in advance of the meeting and the schedule shall be posted. The team shall assure that consumers and others designated by the consumers may have the opportunity to attend treatment planning meetings, if desired by the consumer. A summary of the treatment planning meeting shall be documented in the consumer's clinical record. At each treatment planning meeting the following staff should attend: team leader, psychiatrist, primary case manager, individual treatment team members, and all other PACT team members involved in regular tasks with the consumer.

(d) Compliance with 450:55-5-6 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-5-7. Treatment planning

(a) The PACT team shall evaluate each consumer and develop an individualized comprehensive treatment plan within eight (8) weeks of admission, which shall identify individual needs and problems and specific measurable long- and short-term goals along with the specific services and activities necessary for the consumer to meet those goals and improve his or her capacity to function in the community. The treatment plan shall be developed in collaboration with the consumer or guardian when feasible. The consumer's participation in the development of the treatment plan shall be documented.

(b) Individual treatment team members shall ensure the consumer is actively involved in the development of treatment and service goals

(c) The treatment plan shall clearly specify the services and activities necessary to meet the consumer's needs and who will be providing those services and activities.

(d) The following key areas shall be addressed in every consumer's treatment plan: symptom management, physical health issues, substance abuse, education and employment, social development and functioning, activities of daily living, and family structure and relationships.

(e) The primary case manager and the individual treatment team shall be responsible for reviewing and revising the treatment goals and plan whenever there is a major decision point in the consumer's course of treatment, e.g., significant change in consumer's condition, etc., or at least every six (6) months a new comprehensive treatment plan will be developed. The revised treatment plan shall be based on the results of a treatment planning meeting. The plan and review will be signed by the consumer, the primary case manager, individual treatment team members, the team leader, the psychiatrist, and all other PACT team members.

(f) The PACT team shall maintain written assessment and treatment planning policies and procedures to assure that appropriate, comprehensive, and on-going assessment and treatment planning occur.

(g) Compliance with 450:55-5-7 shall be determined by review of the clinical records.

450:55-5-8. Discharge

(a) Documentation of consumer discharge shall be completed within 15 days of discharge and shall include all of the following elements:

(1) The reasons for discharge;

(2) The consumer's status and condition at discharge;

(3) A written final evaluation summary of the consumer's progress toward each of the treatment plan goals;
(4) A plan developed in conjunction with the consumer for treatment after discharge and for follow-up;
(5) Referral and transfer, preferably to another PACT team if available or to other mental health services; and
(6) The signature of the PACT consumer, if available or an explanation regarding the absence of the consumer's signature, and the team leader.

(b) Compliance with 450:55-5-8 shall be determined by review of the clinical records.

450:55-5-9. PACT progress note

(a) The PACT shall have a policy and procedure mandating the chronological documentation of progress notes. Every contact and service that relates to the consumer's treatment shall be documented

(b) Progress notes shall minimally address the following:
(1) Person(s) to whom services were rendered;
(2) Date and time-frame of the service provided;
(3) Staff travel times prior to and following the service, if applicable
(4) Activities and services provided and as they relate to the goals and objectives of the treatment plan;
(5) Detailed description of the contact or service;
(6) The consumer's response to intervention services, changes in behavior and mood and outcome of intervention services;
(7) Plans for continuing treatment;
(8) The location of the service provided; and
(9) Clinician's signature with credentials.

(c) Compliance with 450:55-5-9 shall be determined by a review of clinical records.

450:55-5-10. Medication record

(a) The PACT shall maintain a medication record on all consumers who receive medications or prescriptions in order to provide a concise and accurate record of the medications the consumer is receiving or having prescribed.

(b) The consumer record shall contain a medication record with information on all medications ordered or prescribed by physician staff which shall include, but not be limited to:
(1) Name of medication;
(2) Dosage;
(3) Frequency of administration or prescribed change;
(4) Route of administration;
(5) Staff member who administered or dispensed each dose, or prescribing physician; and
(6) A record of pertinent information regarding adverse reactions to drugs, drug allergies, or sensitivities shall be updated when required by virtue of new information, and kept in a highly visible location in and on the outside of the chart.

(c) Compliance with 450:55-5-10 shall be determined by a review of medication records in clinical records and a review of clinical records.

450:55-5-11. Other records content

(a) The consumer record shall contain copies of all consultation reports concerning the consumer.

(b) When psychometric or psychological testing is done, the consumer record shall contain a copy of a written report describing the test results and implications and recommendations for treatment.

(c) The consumer record shall contain any additional information relating to the consumer, that has been secured from sources outside the PACT program.

(d) Before any person can be admitted for treatment on a voluntary basis, a signed consent for treatment shall be obtained.

(e) The PACT program shall maintain a current and up-to-date Longitudinal Face Sheet on every admitted consumer. The Longitudinal Face Sheet will track all of the following ongoing information from the time of admission until discharge. The information shall include but is not limited to:
(1) Residence;
(2) Significant others;
(3) Children;
(4) Education;
(5) Legal involvement;
(6) Financial benefits;
(7) Health insurance benefits;
(8) Psychiatric diagnosis;
(9) Legal status;
(10) Institutional admissions, including associated dates and lengths of stay;
(11) Employment; and
(12) Special risks.

(f) Compliance with 450:55-5-11 shall be determined by a review of clinical records.

SUBCHAPTER 7. CONFIDENTIALITY

450:55-7-1. Confidentiality, mental health consumer information and records

(a) All mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential. In addition, the identity of all consumers who have received or are receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged. Such information shall only be available to persons or agencies actively engaged in the treatment of the consumer unless a state or federal law exception applies.

(b) All facilities shall have policy and procedures protecting the confidential and privileged nature of mental health and drug or alcohol abuse treatment information in compliance with state and federal law and which contain at a minimum:
(1) an acknowledgment that all mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(2) an acknowledgment that the identity of a consumer who has received or is receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged and will not be released without the written consent of the consumer or the consumer's legally authorized representative;
(3) a procedure to limit access to mental health and drug or alcohol abuse treatment information to only those persons or agencies actively engaged in the treatment of the consumer and to the minimum amount of information necessary to carry out the purpose for the release;
(4) a procedure by which a consumer, or the consumer's legally authorized representative, may access the consumer's mental health and drug or alcohol abuse treatment information;
(5) an acknowledgement that certain state and federal law exceptions to disclosure of mental health and drug or alcohol abuse treatment information without the written consent of the consumer or the consumer's legally authorized representative exist and the facility will release information as required by those laws; and
(6) a procedure by which to notify a consumer of his or her right to confidentiality.

(c) A facility disclosing information pursuant to a written consent to release information shall ensure the written consent form complies with all applicable state and federal law and contains at a minimum the following:
(1) the name of the person or program permitted to make the disclosure;
(2) the name or title of the person or the name of the organization to which disclosure is to be made;
(3) the name of the consumer whose records are to be released;
(4) a description of the information to be disclosed;
(5) the specific reason for the disclosure;
(6) the signature of the consumer or the consumer's legally authorized representative;
(7) the date the consent to release was signed by the consumer or the consumer's legally authorized representative;
(8) an expiration date, event or condition which shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given;
(9) a statement of the right of the consumer, or the consumer's legally authorized representative, to revoke the consent to release in writing and a description of how the patient may do so;
(10) a confidentiality notice which complies with state and federal law; and
(11) a statement in bold face writing that "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS)."

(d) Compliance with 450:55-7-1 shall be determined by a review of facility policy and procedures, facility forms, consumer record reviews, interviews with staff and consumers and any other supporting facility documentation.

SUBCHAPTER 9. CONSUMER RIGHTS

450:55-9-1. Consumer rights

The PACT Program shall comply with applicable rules in Title 450, Chapter 15. Consumer Rights.

450:55-9-2. Consumers' grievance policy

The PACT Program shall comply with applicable rules in Title 450, Chapter 15. Consumer Rights.

450:55-9-3. ODMHSAS Office of Consumer Advocacy

The ODMHSAS Office of Consumer Advocacy, in any investigation regarding consumer rights shall have access to consumers, PACT Program records and PACT staff as set forth in Oklahoma Administrative Code Title 450, Chapter 15.

SUBCHAPTER 11. ORGANIZATIONAL MANAGEMENT

450:55-11-1. Organizational description

(a) The parent organization under which the PACT operates shall clarify formal management and reporting responsibilities related to the PACT within the parent organization's overall structure.
(b) The PACT's parent organization shall approve the mission statement and annual goals and objectives for the PACT and document their approval.
(c) The PACT or parent organization shall have a written organizational description which is reviewed annually and minimally includes:
(1) The overall target population for whom services will be provided;
(2) The specific geographic area in which PACT services are to be provided;
(3) The overall mission statement; and
(4) The PACT program's annual goals and objectives:
(d) There shall be documentation verifying these documents are available to the general public upon request.
(e) Compliance with 450:55-11-1 shall be determined by on-site observation and a review of organizational charts, clinical records and the PACT policy and procedures.

450:55-11-2. Program organization

(a) The parent organization under which the PACT operates shall vest authority with a team leader who shall be responsible for ensuring the PACT team meets the following organizational requirements.

(1) Each PACT shall have a written plan for professional services, which shall contain the following:

(A) Services description and philosophy;

(B) The identification of the professional staff organization to provide these services;

(C) Written admission and exclusionary criteria to identify the type of consumers for whom the services are primarily intended; and

(D) Written goals and objectives.

(2) There shall be a written statement of the procedures and plans for attaining the organization's goals and objectives. These procedures and plans should define specific tasks, set target dates and designate staff responsible for carrying out the procedures and plans.

(b) Compliance with 450:55-11-2 shall be determined by a review of the following: PACT target population definition, PACT policy and procedures, mission statement, written plan for professional services, other stated required documentation and any other supporting documentation

450:55-11-3. Information analysis and planning

(a) The PACT or parent organization shall have a plan for conducting an organizational needs assessment related to PACT which specifies the methods and data to be collected, including but not limited to information from:

(1) Consumers;

(2) Governing Authority;

(3) Staff;

(4) Stakeholders;

(5) Outcomes management processes; and

(6) Quality record review.

(b) The PACT or parent organization shall have a defined system to collect data and information on a quarterly basis to manage the organization.

(c) Information collected shall be analyzed to improve consumer services and organizational performance.

(d) The PACT or parent organization shall prepare an end of year management report to include information on PACT and the following:

(1) An analysis of the needs assessment process; and

(2) Performance improvement program findings.

(e) The management report shall be communicated and made available to, among others:

(1) The governing authority,

(2) PACT staff, and

(3) ODMHSAS, as requested.

(f) The PACT shall assure that a local advisory committee is established, with input of local advocates and other stakeholders.

(1) The committee shall be constituted of representative stakeholders including at least 51% consumers and family members. The remaining members shall be advocates, other professionals and community leaders.

(2) The team leader shall convene the advisory committee and work with the committee to establish a structure for meetings and committee procedures.

(3) The primary role of the advisory committee is to assist with implementation, policy development, advocate for program needs, and monitor outcomes of the program.

(4) The Advisory Committee shall meet at least once each quarter.

(5) Written minutes of committee meetings shall be maintained.

(g) Compliance with 450:55-11-3 shall be determined by a review of the written program evaluation plan(s), written annual program evaluation(s), special or interim program evaluations, program goals and objectives and other supporting documentation provided.

SUBCHAPTER 13. PERFORMANCE IMPROVEMENT AND QUALITY MANAGEMENT

450:55-13-1. Performance improvement program

(a) There shall be an ongoing PACT or parent organization performance improvement program designed to objectively and systematically monitor, evaluate and improve the quality of consumer care related to PACT.

(b) The performance improvement program shall also address the fiscal management of the organization.

(c) There shall be an annual written plan for performance improvement activities. The plan shall include but not be limited to:

(1) Outcomes management processes specific to each program component minimally measuring:

(A) Efficiency;

(B) Effectiveness; and

(C) Consumer satisfaction.

(2) A quarterly record review to minimally assess:

(A) Quality of services delivered;

(B) Appropriateness of services;

(C) Patterns of service utilization;

(D) Consumers, relevant to their orientation to the PACT and services being provided;

(E) The thoroughness, timeliness and completeness of the assessment;

(F) Treatment goals and objectives are based on assessment findings and consumer input;

(G) Services provided were related to the goals and objectives;

(H) Services are documented as prescribed by policy; and

(I) The treatment plan is reviewed and updated as prescribed by policy;

(3) Clinical privileging;

(4) Fiscal management and planning shall include:

(A) An annual budget that is approved by the governing authority and reviewed at least annually;

(B) The organization's capacity to generate needed revenue to produce desired consumer and other outcomes; and

(C) Monitoring of consumer records to ensure among others, documented dates of services provided coincide with billed service encounters; and,

(5) Review of critical incident reports and consumer grievances or complaints.

(d) The PACT or parent organization shall monitor the implementation of the performance improvement plan on an ongoing basis and makes adjustments as needed.

(e) Performance improvement findings shall be communicated and made available to, among others:

(1) The governing authority;

(2) PACT staff; and

(3) ODMHSAS if and when requested.

(f) Compliance with 450:55-13-1 shall be determined by a review of the written program evaluation plan, written program evaluations annual, special or interim, program goals and objectives and other supporting documentation provided.

450:55-13-2. Incident reporting

(a) There shall be written policies and procedures for PACT or the parent organization, to include PACT, requiring documentation and reporting of critical incidents.

(b) The documentation for critical incidents shall contain, minimally:

(1) the facility name and name and signature of person(s) reporting the incident;

(2) the name of consumer(s), staff person(s), or others involved in the incident;

(3) the time, place and date the incident occurred;

(4) the time and date the incident was reported and name of the person to whom it was reported;

(5) description of the incident;

(6) the severity of each injury, if applicable. Severity shall be indicated as follows:

(A) No off-site medical care required or first aid administered on-site;

(B) Medical care by a physician or nurse or follow-up attention required; or

(C) Hospitalization or immediate off-site medical attention was required;

(7) Resolution or action taken, date action taken, and signature of PACT program director.

(c) The PACT or parent organization shall report critical incidents to ODMHSAS with specific timeframes as follows:

(1) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or mail to ODMHSAS Provider Certification within twenty-four (24) hours of the incident being documented.

(2) Critical incidents involving allegations constituting a sentinel event or resident abuse shall be reported to ODMHSAS immediately via telephone or fax, but not less than twenty-four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

(d) Compliance with 450:55-13-2 shall be determined by a review of policy and procedures, critical incident reports at the PACT and those submitted to ODMHSAS.

SUBCHAPTER 15. PERSONNEL

450:55-15-1. Personnel policies and procedures

(a) The PACT shall have written personnel policies and procedures approved by the parent organization.

(b) All employees shall have access to personnel policies and procedures, as well as other rules and regulations governing the conditions of their employment.

(c) The PACT or parent organization shall develop, adopt and maintain policies and procedures to promote the objectives of the program and provide for qualified personnel during all hours of operation to support the functions of the center and provide quality care.

(d) Compliance with 450:55-15-1 shall be determined by a review of written personnel policies and procedures and other supporting documentation provided.

450:55-15-2. Job descriptions

(a) The PACT or parent organization shall have written job descriptions for all PACT positions setting forth minimum qualifications and duties of each position.

(b) Compliance with 450:55-15-2 shall be determined by a review of written job descriptions for all center positions and other supporting documentation provided.

SUBCHAPTER 17. STAFF DEVELOPMENT AND TRAINING

450:55-17-1. Orientation and training

(a) Each PACT or parent organization shall develop and implement an orientation and training program that all new PACT staff shall complete prior to providing services. The orientation shall minimally include a review of the following:

(1) Oklahoma Administrative Code, Title 450:55;

(2) PACT policies and procedures; and

(3) Job responsibilities specified in job description.

(b) Compliance with 450:55-17-1 shall be determined by a review of personnel files, clinical privileging records and other supporting documentation provided.

450:55-17-2. Staff development

(a) The PACT or parent organization shall have a written plan for the professional growth and development of all PACT administrative, professional clinical and support staff.

(b) This plan shall include but not be limited to:

(1) Orientation procedures;

(2) In-service training and education programs;

(3) Availability of professional reference materials; and

(4) Mechanisms for insuring outside continuing educational opportunities for staff members.

(c) The results of performance improvement activities and accrediting and audit findings and recommendations shall be addressed by and documented in the staff development and clinical privileging processes.

(d) Staff education and in-service training programs shall be evaluated at least annually by the agency.
(e) Compliance with 450:55-17-2 shall be determined by a review of the staff development plan, clinical privileging processes, documentation of in-service training programs and other supporting documentation provided.

450:55-17-3. In-service
(a) In-service presentations shall be conducted yearly and shall be required for all employees on the following topics:
(1) Fire and safety;
(2) Infection Control and universal precautions;
(3) Creating A Positive Environment (CAPE) training or similar programs;
(4) Consumer's rights and the constraints of the Mental Health Consumer's Bill of Rights;
(5) Confidentiality;
(6) Oklahoma Child Abuse Reporting and Prevention Act, 10 O.S. §§ 7101 et seq. and Protective Services for the Elderly and for Incapacitated Adults Act, 43A O.S. §§ 10-101 et seq;
(7) Facility policy and procedures; and
(8) Cultural competency.
(b) Staff providing clinical services shall have a current cardiopulmonary resuscitation certification.
(c) Compliance with 450:55-17-3 shall be determined by a review of in-service training records, personnel records and other supporting written information provided.

SUBCHAPTER 19. FACILITY ENVIRONMENT

450:55-19-1. Facility environment
(a) The PACT or parent organization shall meet inspection, safety and building code regulations required by local, state and federal authorities and laws.
(b) PACT staff shall know the exact location, contents and use of first aid supply kits and fire fighting equipment and fire detection systems. All fire fighting equipment shall be annually maintained in appropriately designated areas within the facility.
(c) Written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather shall be posted.
(d) Facility grounds shall be maintained in a manner which provides a safe environment for consumers, personnel, and visitors.
(e) The PACT's or parent organization shall appoint a safety officer.
(f) The PACT or parent organization shall have a written emergency preparedness program for the PACT that is designed to provide for the effective utilization of available resources so PACT consumer care can be continued during a disaster. The PACT or parent organization shall evaluate the emergency preparedness program annually and update as needed.
(g) Policies for the use and control of personal electrical equipment shall be developed and implemented.
(h) The PACT or parent organization shall have a written plan to respond to internal and external disasters. External disasters include, but are not limited to, tornadoes, explosions, and chemical spills.
(i) Facilities occupied by PACT on behalf of the parent organization shall be inspected annually by designated fire and safety officials of the municipality who exercise fire and safety jurisdiction in the facility's location.
(j) The PACT or parent organization shall have a written Infection Control Program and staff shall be knowledgeable of Center for Disease Control (CDC) Guidelines for Tuberculosis and of the Blood Borne Pathogens Standard, location of spill kits, masks and other personal protective equipment.
(k) The PACT or parent organization shall have a written Hazardous Communication Program and staff shall be knowledgeable of chemicals in the workplace, location of Material Safety Data Sheets, personal protective equipment; and toxic or flammable substances shall be stored in approved locked storage cabinets.
(l) Compliance with 450:55-19-1 shall be determined by visual observation, posted evacuation plans and a review of policy and procedures, regulatory or internal inspection reports, training documentation and other supporting documentation provided.

450:55-19-2. Medication storage
(a) Medication administration, storage and control, and consumer reactions shall be continually monitored.
(b) PACT Programs shall have written policy and procedures to address the following:
(1) proper storage and control of medications;
(2) facility response to medication administration emergency;
(3) facility response to medical emergency; and
(4) emergency supply's for medication administration as directed by PACT physician.
(c) Written procedures for medication administration shall be available and accessible in all medication storage areas, and available to all staff authorized to administer medications.
(d) All medications shall be kept in locked, non-consumer accessible areas. Conditions which shall be considered in medication storage are light, moisture, sanitation, temperature, ventilation, and the segregation and safe storage of poisons, external medications, and internal medications.
(e) Telephone numbers of the state poison centers shall be immediately available in all locations where medications are prescribed, or administered, or stored.
(f) Compliance with 450:55-19-2 shall be determined by on-site observation and a review of written policy and procedures, clinical records and PI records.

SUBCHAPTER 21. GOVERNING AUTHORITY

450:55-21-1. Documents of authority

(a) There shall be a duly constituted authority and governance structure for assuring legal responsibility and for requiring accountability for performance and operation of the PACT within the structure of the parent organization.

(b) The governing authority shall have written documents of its source of authority, which shall be available to the public upon request.

(c) The governing body's bylaws, rules or regulations shall identify the chief executive officer who is responsible for the structure under which the PACT is organized the control, utilization and conservation of its physical and financial assets and the recruitment and direction of the staff.

(d) The source of authority document shall state:

(1) The eligibility criteria for governing body membership;

(2) The number and types of membership;

(3) The method of selecting members;

(4) The number of members necessary for a quorum;

(5) Attendance requirements for governing body membership;

(6) The duration of appointment or election for governing body members and officers; and

(7) The powers and duties of the governing body and its officers and committees or the authority and responsibilities of any person legally designated to function as the governing body.

(e) There shall be an organizational chart setting forth the structure of the organization.

(f) Compliance with 450:23-11-1 shall be determined by a review of the following: bylaws, articles of incorporation, written document of source of authority, minutes of governing board meetings, job description of the CEO and the written organizational chart.

SUBCHAPTER 23. SPECIAL POPULATIONS

450:55-23-1. Americans with Disabilities Act of 1990

(a) Under Titles 11 and 111 of the ADA, the PACT or parent organization shall comply with the "Accessibility guidelines for Buildings and Facilities (ADAAG) for alterations and new construction." United States government facilities are exempt for the ADA as they shall comply with the Uniform Federal Accessibility Standards (UFAS)", effective August 7, 1984. Also available for use in assuring quality design and accessibility is the American National standards Institute (ANSI) A117.1 "American National Standard for Accessible and Usable buildings and Facilities."

(b) State and local standards for accessibility and usability may be more stringent than DA, UFAs, or ANSI A 117.1. The PACT or parent organization shall assume responsibility for verification of all applicable requirements and comply with the most stringent standards.

(c) The PACT or parent organization shall have written policy and procedures providing or arranging for services for persons who fall under the protection of the Americans With Disabilities Act of 1990 and provide documentation of compliance with applicable Federal, state, and local requirements. A recommended reference is the "Americans with Disabilities Handbook" published the in U.S. Equal Employment Opportunities Commission and the U.S. Department of Justice.

(d) Compliance with 450:55-23-1 shall be determined through a review of facility written policy and procedure and any other supporting documentation.

450:55-23-2. Human Immunodeficiency Virus (HIV), and Acquired Immunodeficiency Syndrome (AIDS)

(a) A policy of non-discrimination against persons with HIV infection or AIDS shall be adopted and in force in the policy and procedure of the PACT or parent organization.

(b) All PACT staff shall observe the Universal Precautions For Transmission of Infectious Diseases as set forth in "Occupational Exposure to Blood Borne Pathogens" published by the United States Occupations Safety Health Administration (OSHA).

(1) There shall be written documentation the aforestated Universal Precautions are the policy of the PACT or parent organization; and

(2) In-service regarding the Universal Precautions shall be a part of employee orientation and at least once per year, is included in employee in-service training.

(c) Compliance with 450:55-23-2 is determined by review of PACT policy and procedure and in-service records, on-site observation, schedules and other documentation.

[OAR Docket #04-553; filed 4-2-04]

TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-502]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
490:1-1-2. [AMENDED]
AUTHORITY:
Oklahoma State Board of Examiners for Nursing Home Administrators; 63, O.S. Sections 330-51 et seq.
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ANALYSIS:
The additions are necessary to clarify current language and to update cites from statutory language. These changes will not affect individuals applying for original or renewal of licensure as Nursing Home Administrators.
Addition to 490:1-1-2. definitions added and amended.
CONTACT PERSON:
H. E. Hendrix, Executive Director, 405-521-0991

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

490:1-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Active Status" means a nursing home administrator's license is current and in good standing.

"Administrator-In-Training" (AIT) means a person serving a Board approved Internship within a nursing home under the supervision of a Board approved preceptor.

"Administrator of Record" means a nursing home administrator, licensed by the state of Oklahoma, who is in charge of a facility and given essential and necessary authorization from the owner and/or governing body to comply with all pertinent promulgated rules and state statutes, and who is responsible for hiring, maintaining, and directing a team of professionals to attain and maintain physical, mental, and psychological well-being of each resident, client, or patient.

"Adult Day Care Center" or **"center"** means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers [63:1-872].

"Adverse action" means any act proposed by the Board denying, refusing to issue or renew a nursing home administrator license, or an action for the suspension or revocation of a nursing home administrator's license.

"Assisted Living Center" means any home or establishment offering, coordinating or providing services to two (2) or more persons who:

(A) are domiciled therein;
(B) are unrelated to the operator;
(C) by choice or functional impairments, need assistance with personal care or nursing supervision;
(D) may need intermittent or unscheduled nursing care;
(E) may need medication assistance; and
(F) may need assistance with transfer and/or ambulation [63:1-890.2].

"Board" (OSBENHA) means the Oklahoma State Board of Examiners for Nursing Home Administrators.

"Continuing Education" means educational opportunities beyond formal education and initial entry level into a profession to enable practitioners to maintain competence, to become aware of new developments and to provide responsible, quality services.

"Continuum of Care Facility" means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes and one or both of the following:

(A) assisted living center services as defined in the Continuum of Care and Assisted Living Act; and
(B) adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes [63:1-890.2.4].

"Inactive Status" means a license which is in good standing, but not current.

"Intermediate Care Facilities for the Mentally Retarded 16 Beds and Less" (ICF/MR-16) means small facilities serving the mentally retarded which provide residential accommodations and transitional living training to aid residents in adapting to live in the general society. Resident accommodations are limited to not more than 16 residents, plus any required "live-in" staff.

"License" means the written permission of the Board authorizing and granting a person the privilege of serving as a nursing home administrator for a specific period of time.

"Nursing home" means any home, establishment, or institution in which there is offered or provided, by any person, medical services, skilled nursing care, necessary special dietary service, and personal care and supervision to three or more persons domiciled therein who by reason of physical or mental infirmity may require such service.

"Nursing home administrator" means a person ~~who operates, or manages, or supervises, or is in charge of a nursing home and as defined in Title 63 O.S. Section 330.51.2.~~ licensed by the state of Oklahoma under the provisions of 63 O.S., Sections 330.51 et seq.

"Owner" means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the

financial success or failure of the operation shall be presumed to be the owner of the facility.

"Person" means an individual, firm, partnership, corporation, company, association, or joint stock association, and includes any receiver, trustee, assignee, or other similar representative thereof.

"Preceptor" means a Board approved person who is currently licensed as a nursing home administrator in Oklahoma and is charged with coordinating the training of an Administrator In Training (AIT).

"Provisional license" means the temporary authority to serve as nursing home administrator as granted by the Board to an individual of good character who meets appropriate conditions and requirements as prescribed by the Board.

"Qualified Mental Retardation Professional" (QMRP) means an individual determined by the State Department of Health, pursuant to Section 483.430, 42 C.F.R., to have at least one (1) year of experience working directly with persons with mental retardation or other developmental disabilities, and be one of the following: a doctor of medicine or osteopathy licensed to practice in this state, a registered nurse, or an individual who holds at least a bachelor's degree in a related field.

"Residential Care Home" means any establishment or institution other than a hotel motel, fraternity or sorority house, or college or university dormitory which offers or provides residential accommodations, food service and supportive assistance to any of its residents or houses any resident requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care.

"Waiver" means the ~~intentional, temporary relinquishment of the known right, as established by law, of the Board to require each applicant to meet the minimum standards of the Board.~~ granting of an exemption from a State regulation under the provisions of 63 O.S., Sections 330.51 et. seq.

[OAR Docket #04-502; filed 3-29-04]

TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
CHAPTER 10. RULES AND REGULATIONS FOR NURSING HOME ADMINISTRATORS

[OAR Docket #04-503]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Licensing of Nursing Home Administrators
490:10-1-2. [AMENDED]
490:10-1-6. [AMENDED]
490:10-1-7. [NEW]
Subchapter 5. Licensure Expiration, Renewal, Denial, Revocation and Suspension
490:10-5-2. [AMENDED]
490:10-5-3. [AMENDED]
490:10-5-4. [NEW]
Subchapter 10. Fee Schedule
490:10-10-1. [AMENDED]
AUTHORITY:
Oklahoma State Board of Examiners for Nursing Home Administrators; 63, O.S. Sections 330.51 et seq.
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N/A
ANALYSIS:
The additions and changes are necessary to clarify current language and to update cites from statutory language. These changes will affect individuals applying for original or renewal of licensure as Nursing Home Administrators.
Addition to 490:10-1-2. definitions added and amended.
Addition to 490:10-1-6. late fee added for failure to provide current contact information.
Addition of 490:10-1-7. relates to waiver requests of the requirement that nursing home administrators licensed by the Board shall not concurrently serve as the administrator of more than one nursing facility.
Amendments to 490:10-5-2. relates to renewal of a license.
Amendments to 490:10-5-3. deletes obsolete language.
Addition of 490:10-5-4. relates to the auditing of continuing education by an annual audit.
Amendments to 490:10-10-1. fee schedule changes.
CONTACT PERSON:
H. E. Hendrix, Executive Director, 405-521-0991

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2004:

SUBCHAPTER 1. LICENSING OF NURSING HOME ADMINISTRATORS

490:10-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Active Status" means a nursing home administrator's license is current and in good standing.

"Administrator in Training" (AIT) means a person serving a Board approved Internship within a nursing home under the supervision of a Board approved preceptor.

"**Administrator of Record**" means a nursing home administrator, licensed by the state of Oklahoma, who is in charge of a facility and given essential and necessary authorization from the owner and/or governing body to comply with all pertinent promulgated rules and state statutes, and who is responsible for hiring, maintaining, and directing a team of professionals to attain and maintain physical, mental, and psychological well-being of each resident, client, or patient.

"**Adult Day Care Center**" or "**center**" means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers [63:1-872].

"**Adverse action**" means any act proposed by the Board denying, refusing to issue or renew a nursing home administrator license, or an action for the suspension or revocation of a nursing home administrator's license.

"**Assisted Living Center**" means any home or establishment offering, coordinating or providing services to two (2) or more persons who:

(A) are domiciled therein;

(B) are unrelated to the operator;

(C) by choice or functional impairments, need assistance with personal care or nursing supervision;

(D) may need intermittent or unscheduled nursing care;

(E) may need medication assistance; and

(F) may need assistance with transfer and/or ambulation [63:1-890.2].

"**Board**" (OSBENHA) means the Oklahoma State Board of Examiners for Nursing Home Administrators.

"**Continuing Education**" means educational opportunities beyond formal education and initial entry level into a profession to enable practitioners to maintain competence, to become aware of new developments and to provide responsible, quality services.

"**Continuum of Care Facility**" means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes and one or both of the following:

(A) assisted living center services as defined in the Continuum of Care and Assisted Living Act; and

(B) adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes [63:1-890.2.4].

"**Inactive Status**" means a license which is in good standing, but not current.

"**Intermediate Care Facilities for the Mentally Retarded 16 Beds and Less" (ICF/MR-16)** means small facilities serving the mentally retarded which provide residential accommodations and transitional living training to aid residents in adapting to live in the general society. Resident accommodations are limited to not more than 16 residents, plus any required "live-in" staff.

"**License**" means the written permission of the Board authorizing and granting a person the privilege of serving as a nursing home administrator for a specific period of time.

"**Nursing home**" means any home, establishment, or institution in which there is offered or provided, by any person, medical services, skilled nursing care, necessary special dietary service, and personal care and supervision to three or more persons domiciled therein who by reason of physical or mental infirmity may require such service.

"**Nursing home administrator**" means a person ~~who operates, or manages, or supervises, or is in charge of a nursing home and as defined in Title 63 O.S. Section 330.51.2.~~ licensed by the state of Oklahoma under the provisions of 63 O.S., Sections 330.51 et seq.

"**Owner**" means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility.

"**Person**" means an individual, firm, partnership, corporation, company, association, or joint stock association, and includes any receiver, trustee, assignee, or other similar representative thereof.

"**Preceptor**" means a Board approved person who is currently licensed as a nursing home administrator in Oklahoma and is charged with coordinating the training of an Administrator In Training (AIT).

"**Provisional license**" means the temporary authority to serve as nursing home administrator as granted by the Board to an individual of good character who meets appropriate conditions and requirements as prescribed by the Board.

"**Qualified Mental Retardation Profession" (QMRP)** means an individual determined by the State Department of Health, pursuant to Section 483.430, 42 C.F.R., to have at least one (1) year of experience working directly with persons with mental retardation or other developmental disabilities, and be one of the following: a doctor of medicine or osteopathy licensed to practice in this state, a registered nurse, or an individual who holds at least a bachelor's degree in a related field.

"**Residential Care Home**" means any establishment or institution other than a hotel motel, fraternity or sorority house, or college or university dormitory which offers or provides residential accommodations, food service and supportive assistance to any of its residents or houses any resident requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care.

"**Waiver**" means the ~~intentional, temporary relinquishment of the known right, as established by law, of the Board to require each applicant to meet the minimum standards of the Board.~~ granting of an exemption from a State regulation under the provisions of 63 O.S., Sections 330-51 et. seq.

490:10-1-6. Administrator responsibilities

(a) Nursing Home Administrators licensed by the Board shall not concurrently serve as the administrator of more than

one nursing facility. The Board shall have the authority to grant a waiver of this restriction upon the showing of emergency, public necessity or other such conditions evidencing undue burden upon the operation of the facility. This restriction shall not apply to ICF/MR-16 beds and less.

(b) Every person licensed as a nursing home administrator and is designated the "administrator of record" shall display such license in a conspicuous place in the office or place of business requiring such license.

(c) Failure of licensee to meet the continuing education requirement for licensure shall result in the license not being renewed or reactivated.

(d) Each licensed nursing home administrator shall notify the Board within fifteen (15) days following the relocation of either business or personal mailing address. The Board will assess a late fee if it is determined that the nursing home administrator failed to provide current contact information within this fifteen day requirement.

(e) Upon receipt of satisfactory evidence that a license has been lost, mutilated, or destroyed, the Board may issue a duplicate or replacement license upon payment of a fee as prescribed by the Board. Satisfactory evidence is construed to be a notarized affidavit stating facts of the loss, mutilation or destruction of the license.

(f) Request for a change of name requires legal proof of the name change (e.g., copy of marriage certificate, divorce decree, etc.) and that a replacement license be issued.

490:10-1-7. Waiver of rule

(a) The Board may grant a waiver of rule at 490:10-1-6.(a) after review of required documentation.

(b) The owner of facilities requesting a waiver of the requirement that nursing home administrators licensed by the Board shall not concurrently serve as the administrator of more than one nursing facility must show:

(1) an emergency and/or

(2) a public necessity and/or

(3) conditions evidencing undue burden upon the operations of the facility

(c) Conditions and/or Requirements:

(1) Facilities named in the request must be in substantial compliance with OSDH rules. **Twenty (20) copies of all statement of deficiencies (CMS2567) including Plan of Corrections (POC) issued within the last 15 months, must be submitted for each of the facilities named in the request.**

(2) Administrator must be in good standing with OSBENHA. A copy of the administrator's resume and all job titles, ie Administrator of Nursing Facility, Administrator of Assisted Living, DON, QMRP, etc. must be provided.

(3) Administrator must be familiar with the basic operations of the facilities named in the request, as indicated in the submitted resume and job titles.

(4) The request must be submitted in writing to the Board office in sufficient time to meet agenda posting requirements per Open Meetings Act and to allow members adequate time to properly review the request. Therefore, written requests and supporting documents must be received by the Board office of at least seven (7) calendar days prior to scheduled Board meeting date.

(5) Location of the facilities in relation to each other named in the request will be reviewed and considered in making a decision relating to the requests.

(6) The administrator and the owner or owner representative must appear in person to present the waiver request to the full Board and to supply all documentation; ie financial, efforts made to fill present position and any other information requested by the Board. **Twenty (20) copies of all written documentation in the request must be submitted.**

(7) The request must show the amount of time needed and must reflect reasons for the requested time period.

(d) Restrictions:

(1) The waiver is issued to a specific administrator and specific facilities for a limited period of time, ie three (3) months.

(2) The waiver expires if the wavered administrator changes positions, if the facilities change ownership or after specified time period has been reached.

SUBCHAPTER 5. LICENSURE EXPIRATION, RENEWAL, DENIAL, REVOCATION AND SUSPENSION

490:10-5-2. Renewal

(a) Each applicant for a renewal of a license shall file an application as prescribed by the Board and shall provide such evidence of ability and competence to continue as a licensed nursing home administrator as may be required by the Board.

(b) Each applicant for a renewal of a license as a licensed Nursing Home Administrator shall submit evidence upon request satisfactory to the Board that the applicant has successfully completed eighteen (18) clock hours of continuing education in nursing home administration subjects, approved by the Board, within the period of current license.

(c) Provisional license shall not be renewed. In order to receive original license holders of this license are required to successfully complete six (6) clock hours of continuing education, if offered during this time period.

(d) Each applicant for the renewal of a license shall file application at least thirty (30) days prior to the expiration date of current license. The Board will, within ten (10) days of the expiration date of the current license, notify the applicant of its intention to renew, reject, or otherwise defer action on the renewal request. A late fee as prescribed by the Board will be paid by applicants who do not file for renewal at least thirty (30) days prior to expiration date of current license.

(e) Failure to receive the renewal application shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(f) If the license is not renewed by the last day of the year, the licensee does not hold a valid license and shall not hold a nursing home administrator position in Oklahoma until the lapsed license has been reactivated.

(g) Should the nursing home operated ~~by a licensure candidate or administered~~ by a licensed nursing home administrator fail to comply with the Oklahoma State Department of Health requirements for licensure applicable to said facility, the Board may consider such information in determining whether the ~~candidate~~ administrator is suitable for ~~original licensure or~~ licensure renewal.

(h) All outstanding fees must be paid prior to license renewal.

490:10-5-3. Denial, revocation and suspension

(a) The Board may deny an initial application, renewal application or may suspend or revoke a nursing home administrator license upon proof of any of the following ~~disciplinary grounds~~:

(1) The obtaining or attempting to obtain a license by fraud or deceit.

(2) Conviction of a crime involving moral turpitude. A conviction of a felony or a conviction of a crime involving violation of any narcotic or drug control law. The record of a conviction or a certified copy thereof certified by the Clerk of the Court or by the Judge in whose Court the conviction is entered, is conclusive evidence of the conviction. OSBI criminal arrest checks indicating felony convictions shall be used as grounds for denial.

(3) Habitual indulgence in the use of narcotic drugs or alcohol.

(4) Commitment to a mental institution or judicial determination of incompetence.

(5) Gross negligence, fraud, dishonesty, malfeasance, misfeasance, physical or verbal abuse of a resident, or failure to report an allegation of physical or verbal abuse of a resident to appropriate state authorities, as required by law, cheating in the management of a nursing home or other conduct unbecoming to a person licensed or subject to licensure under this law when, in the judgment of the Board, such conduct is detrimental to the best interest of the nursing home profession and the public.

~~(6) Suffers from an illness or injury which prohibits as determined by the Health Department engagement in the practice of Nursing Home Administration and as approved by the Board.~~

(~~7~~6) Concurrently serving or acting as the administrator of more than one nursing home.

(~~8~~7) Failure to comply with requirements for licensure applicable to the facility.

(b) The Board may warn, censure, or use other remedies that may be considered to be less than revocation and suspension against currently licensed nursing home administrators reportedly found to have violated provisions of the rules of this Chapter and/or rules and regulations applicable to licensure of long term care facilities.

(c) All individuals seeking restoration or reinstatement of a license that has been revoked or suspended must make application on forms approved and required by the Board and appear, in person, before the Board for presentation of facts relating to such request.

(d) The Board in its discretion may restore a revoked license after a period of two (2) years and may restore a suspended license after suspension time has elapsed, upon submission of evidence satisfactory to the Board that the conditions responsible for the suspension or revocation no longer exist and that no other reasons exist which warrant suspensions or revocation. Evidence shall include complete documentation attested to under oath and by witnesses of facts which indicate that the conditions responsible for revocation or suspension no longer exist. Letters of recommendations from employees, officers of courts, or respected members of the individual's community shall also be submitted.

490:10-5-4. Auditing of continuing education

(a) The board will receive continuing education information from sponsors for audit purposes only and will not keep an individual record of continuing education hours for administrators.

(b) An annual audit of 5% of the total number of licensed administrators will be made to verify compliance with statements made on renewal forms. This percentage may be increased at the Board's discretion.

(c) Failure to provide verification of continuing education hours as requested by this audit may result in disciplinary action against the applicant.

SUBCHAPTER 10. FEE SCHEDULE

490:10-10-1. Fee Schedule

(a) Nursing Home Administrator License (original) - $200.00

(b) Nursing Home Administrator License (from lapsed status) - $200.00

(c) Nursing Home Administrator License (annual) - ~~$150.00~~ $175.00

(d) Provisional License (per application) - $200.00

(e) Inactive Status (annual) - ~~$75.00~~ $100.00

(f) Name Change (per request) - ~~$10.00~~ $25.00

(g) Endorsement Licensure Questionnaire (per request) - ~~$25.00~~ $50.00

(h) Replacement of Annual Card (per request) - ~~$10.00~~ $25.00

(i) Duplicate License (per request) - $25.00

(j) State Standards Review (per person, original or inactive status) - ~~$55.00~~ $100.00

(k) State Standards Exam Packet - ~~$25.00~~ $50.00

(l) State Standards Exam (per person, original or inactive status) - ~~$70.00~~ $100.00

(m) State Standards Exam & Review (reactivate from lapsed status) - ~~$370.00~~ $450.00

(n) Board Sponsored Educational Workshops (per day) - ~~$85.00~~ $60.00 - $85.00

(o) Late Fee on NHA Licensure Renewal (per person) - ~~$75.00~~ $100.00

(p) Photocopies (per page) - $.25

(q) Rules and Regulations (per copy) - ~~$12.00~~ $15.00

(r) Administrator-In-Training (AIT) Program (per person) - ~~$300.00~~ $350.00
(s) Training & Education Program Approval Fee - (per credit hour) - $55.00
(t) Mailing List (on plain paper)(per page) - $.50
(u) Mailing List on Labels (per page) - $1.00
(v) Processing fee for Preceptor for 18 continuing education units - $50.00
(w) Return Check Fee - $30.00
(x) Late fee for failure to providing current contact information - $75.00

[OAR Docket #04-503; filed 3-29-04]

TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 3. PAROLE DOCKETING PROCEDURES

[OAR Docket #04-555]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [NEW]
515:3-1-1. Purpose [NEW]
515:3-1-2. Definitions [NEW]
Subchapter 3. Initial Parole Consideration [NEW]
515:3-3-1. Crime committed prior to July 1, 1998 [NEW]
515:3-3-2. Crime committed after July 1, 1998 [NEW]
515:3-3-3. Eighty-five percent crimes committed after March 1, 2000 [NEW]
515:3-3-4. Eighty-five percent crimes committed after June 5, 2001 [NEW]
515:3-3-5. Drug offenses [NEW]
Subchapter 5. Parole Hearing Process [NEW]
515:3-5-1. Consideration of offenders convicted of non-violent offenses [NEW]
515:3-5-2. Consideration of offenders convicted of violent offenses [NEW]
Subchapter 7. Reconsideration [NEW]
515:3-7-1. Re-docketing of offenders after denial [NEW]
Subchapter 9. Board Placement [NEW]
515:3-9-1. Docket placement by the Board [NEW]
Subchapter 11. Medical Docket [NEW]
515:3-11-1. Medical docket [NEW]
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8:00 a.m. to 5:00 p.m., Monday through Friday at the Pardon and Parole Board, 4040 N. Lincoln Boulevard, Suite 219, Oklahoma City, Oklahoma 73105-5221, 405-427-8601
SUPERSEDED EMERGENY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The rules explain how the Pardon and Parole Board implements subsections A, B and C of Section 332.7 of Title 57. The rules include but are not limited to procedures followed by the Board for reconsideration of persons denied parole under Section 332.7 of Title 57 as well as the procedure the Board utilizes to determine what sentence a person eligible for parole consideration pursuant to subsection A of Section 332.7 of Title 57 would have received under the applicable matrix. The rules do not change any parole docket dates for any offenders since all offenders have been docketed in accordance with the provisions of subsections A, B and C of Section 332.7 of Title 57.
CONTACT PERSON:
Cary Pirrong, General Counsel, Pardon and Parole Board, 4040 N. Lincoln Boulevard, Suite 219, Oklahoma City, Oklahoma 73105-5221, (405) 427-8601, ext. 228

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

515:3-1-1. Purpose

(a) **Purpose.** This Chapter establishes procedures used by the Pardon and Parole Board to implement the provisions of subsections A, B and C of Section 332.7 of Title 57.
(b) **Scope.** The rules in this Chapter include but are not limited to procedures followed by the Board for the establishment of initial parole docket dates as well as dates for the reconsideration of persons denied parole. This Chapter also establishes the procedure used by the Board to determine what sentence a person eligible for parole consideration pursuant to subsection A of Section 332.7 of Title 57 would have received under the applicable matrix. This Chapter is not intended to limit or expand the authority of the Pardon and Parole Board. The Pardon and Parole Board may change any procedure for good cause.
(c) **Severability.** The repeal or invalidity of any particular rule of this Chapter shall not affect other rules.

515:3-1-2. Definitions

The following words and terms when used in this Chapter shall have the following meaning unless the context clearly indicates otherwise:

"Commutation" means the change of a punishment to one that is less severe; as from execution to life imprisonment.

"Jacket Review" means the review of the investigative report for the offender, as well as other material sent to the members of the Board, and is applied to those offenders that

do not meet personal appearance criteria as determined by the Policy and Procedures Manual.

"Parole" means the conditional release of an offender who has served part of the term for which they were sentenced to prison, provided that such may be revoked if the offender fails to observe and abide by the conditions.

SUBCHAPTER 3. INITIAL PAROLE CONSIDERATION

515:3-3-1. Crime committed prior to July 1, 1998

(a) **Eligibility.** Offenders in the custody of the Department of Corrections for crimes committed prior to July 1, 1998 are eligible for parole upon:

(1) Serving one-third (1/3) of the sentence;

(2) Being sixty years old and serving fifty percent (50%) of the time of imprisonment provided in Sections 598 through 602, Chapter 133, O.S.L. 1997; excluding those offenders serving a sentence for a crime listed in Schedule A, S-1, S-2, or S-3 of Section 6, Chapter 133, O.S.L., 1997 or serving a sentence of life without parole;

(3) Serving eight-five (85%) of the midpoint of the time of imprisonment provided in Schedule A, B, C, D, D-1, S-1, S-2, or S-3 of Section 6, Chapter 133, O.S.L. 1997, excluding those offenders serving a sentence of life without parole; or

(4) Serving seventy-five (75%) of the midpoint of the time of imprisonment provided in any other Schedule not listed in paragraph (3) above; excluding those offender serving a sentence of life without parole.

(b) **Mandatory terms.** Offenders required to serve a mandatory term of incarceration prior to parole consideration are ineligible for parole consideration until the mandatory term has been served.

515:3-3-2. Crime committed after July 1, 1998

(a) **Eligibility.** Offender in the custody of the Department of Corrections for crimes committed after July 1, 1998 are eligible for parole upon serving one-third (1/3) of the sentence; excluding those offenders serving a sentence of life without parole and those offenders covered under subsections 515:3-3-3 and 515:3-3-4 below.

(b) **Mandatory term.** Offenders required to serve a mandatory term of incarceration prior to parole consideration are ineligible for parole consideration until the mandatory term has been served.

515:3-3-3. Eighty-five percent crimes committed after March 1, 2000

Eligibility. Offenders in the custody of the Department of Correction for a crime listed in this section committed after March 1, 2000 are eligible for parole upon serving eighty-five percent (85%) of the sentence; excluding those offenders serving a sentence of life without parole.

(1) First-degree murder.

(2) Robbery with a dangerous weapon.

(3) First-degree rape.

(4) First-degree arson.

(5) First-degree burglary.

(6) Bombing.

(7) Child abuse.

(8) Forcible sodomy.

(9) Child pornography.

(10) Child prostitution.

(11) Lewd molestation of a child.

515:3-3-4. Eighty-five percent crimes committed after June 5, 2001

Eligibility. Offenders in the custody of the Department of Correction for a crime listed in this section committed after June 5, 2001 are eligible for parole upon serving eighty-five percent (85%) of the sentence; excluding those offenders serving a sentence of life without parole.

(1) Second-degree murder.

(2) Manslaughter in the first degree.

(3) Poisoning with intent to kill.

(4) Shooting with intent to kill, use of a vehicle to facilitate use of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm.

(5) Assault with intent to kill.

(6) Conjoint robbery.

(7) First-degree robbery.

(8) Any crime against a child listed in 10 O.S. Section 7115.

(9) Abuse of a vulnerable adult.

515:3-3-5. Drug offenses

Eligibility. Offenders in the custody of the Department of Corrections for violations of the Uniform Controlled Dangerous Substances Act shall have their parole eligibility calculated in accordance with the Act. Specifically the provisions of 63 O.S. § 2-401 shall be applicable.

SUBCHAPTER 5. PAROLE HEARING PROCESS

515:3-5-1. Consideration of offenders convicted of non-violent offenses

(a) **Timing.** Offenders convicted of a non-violent offense shall be considered for parole during the regular meeting of the Pardon and Parole Board conducted two months prior to the offender's initial eligibility date.

(b) **One stage.** Parole hearings for offenders convicted of a non-violent offense shall be conducted in one stage.

515:3-5-2. Consideration of offenders convicted of violent offenses

(a) **Timing.** Offender convicted of a violent offense shall have the first stage of their parole hearing conducted during the regular meeting of the Pardon and Parole Board two months prior to the offender's initial eligibility date.

(b) **Two-stages.** Parole hearings for offender convicted of a violent offense shall be conducted in two stages.

(1) During stage one the Pardon and Parole Board will vote on whether or not to pass the offender to stage two for parole consideration.

(2) During stage two the Pardon and Parole Board will vote to determine whether parole is recommended for the offender.

SUBCHAPTER 7. RECONSIDERATION

515:3-7-1. Re-docketing of offenders after denial

(a) **Non-violent.** The Pardon and Parole Board shall reconsider offenders convicted of non-violent offenses that are denied parole by the Pardon and Parole Board or by the Governor, one year from the date of their last consideration.

(b) **Violent.** Offenders convicted of violent offenses that are denied parole by the Pardon and Parole Board or by the Governor shall be reconsidered in accordance the following.

(1) Upon the completion of one-third (1/3) of the sentence, unless the one-third date is within twenty-four months of the initial consideration. If the one-third date is within twenty-four months of the initial consideration then the offender will be reconsidered two years from the date of denial.

(2) Once the offender has passed their one-third date, reconsideration shall be three years from the date of denial, unless the offender is within one year of discharge.

(3) One year prior to discharge

SUBCHAPTER 9. BOARD PLACEMENT

515:3-9-1. Docket placement by the Board

(a) With the concurrence of three members of the Pardon and Parole Board, an offender may be placed on a docket earlier than those prescribed above so long as the offender is not subject to any mandatory terms as described in Subchapter 3 above.

(b) The members of the Pardon and Parole Board may with a majority vote set off any offender's reconsideration for up to five years.

SUBCHAPTER 11. MEDICAL DOCKET

515:3-11-1. Medical docket

Offenders will be placed on a medical docket for the next available Regular meeting of the Pardon and Parole Board once the Director of the Department of Corrections pursuant to 57 O.S. § 332.18 recommends an offender for the medical docket.

[OAR Docket #04-555; filed 4-5-04]

TITLE 610. OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-554]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Minority Teacher Recruitment Center [NEW]
610:1-13-1. Purpose [NEW]
610:1-13-2. Minority Teacher Recruitment Advisory Committee [NEW]
610:1-13-3. Programs and services [NEW]
AUTHORITY:
70 O.S. § 6-130; State Regents for Higher Education
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INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The rules describe to interested parties the MTRC and the programs and services offered by the center. In addition the rules explain the role and duties of the advisory committee.
CONTACT PERSON:
Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9335, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF (DATE): MAY 13, 2004

SUBCHAPTER 13. MINORITY TEACHER RECRUITMENT CENTER

610:1-13-1. Purpose

The purpose of this Subchapter is to describe the Minority Teacher Recruitment Center (MTRC). The MTRC is designed for the recruiting, retaining, and placing of minority teachers in public schools of the State of Oklahoma [70 O.S. § 6-130].

The Act states that such efforts shall include but not be limited to:

(1) *The provision and coordination of support services to teacher training programs in state institutions of higher education, including the funding of grants for campus-based recruitment, retention and placement programs that assist minority students who intend to become teachers;*

(2) *The establishment and development of recruiting programs for potential minority teachers, including pre-collegiate curricular courses that emphasize school success and the opportunity to investigate teaching as a career choice, future teacher clubs and collegiate programs designed to recruit students making transitions form other careers and other areas of study;*

(3) *The hosting of conferences dealing with issues that effect minority teacher recruitment, retention, and placement;*

(4) *The creation of activities in the public and private schools of Oklahoma which enhance the image of the teaching profession; and*

(5) *The creation and development of placement services providing assistance to both minority educators and school districts seeking to hire qualified minority teachers.* [70 O.S. § 6-130]

610:1-13-2. Minority Teacher Recruitment Advisory Committee

The MTRC has a 19-member Minority Teacher Recruitment Advisory Committee. The advisory Committee has oversight of the implementation of MTRC and shall advise the operation of the MTRC. **Duties.**

(1) *Make recommendations on the annual operating budget of the Minority Teacher Recruitment Center and verify that the funds allocated to the Center through the Oklahoma State Regents for Higher Education are utilized exclusively by the Center by function;*

(2) *Advise the Oklahoma State Regents for Higher Education of unmet needs within the state in the implementation of the Center's activities;*

(3) *Annually comment publicly on the progress of the Center;*

(4) *Assist the Oklahoma State Regents for Higher Education in developing and reporting information about the Center when necessary;*

(5) *Meet as often as necessary to conduct business; and*

(6) *Keep official minutes of the Committee meetings which shall be made available to the public upon request. [70 O.S. § 6-129.1 D]*

610:1-13-3. Programs and services

To achieve its primary goal of recruiting, retaining, and placing minority teachers in the public schools of the State of Oklahoma, the MTRC offers a variety of programs and services. Parties interested in the programs and services can obtain additional information by contacting the MTRC at the State Regents for Higher Education office.

(1) **Teacher Cadet High School Program.** The Teacher Cadet program serves as an outreach effort creating an interest among high school students for teaching careers and promoting an understanding of our nation's education system. The Teacher Cadet curriculum consists of a yearlong course taught at the high school site by teachers selected by the high school principal. During the yearlong course, students examine how children learn, study the educational system from a hands-on perspective, and gain practical experience in elementary, middle school and high school classrooms.

(2) **Pro Team Middle School Program.** The goal of Pro Team program is to make middle school and junior high school students aware of the skills needed to complete college and consider education as a viable career option. During the semester-long course, students actively participate in activities that focus on building self-esteem, helping others, developing group skills and building a vision for a professional future.

(3) **Collegiate Partnership Grant Program.** The MTRC's Collegiate Partnership Grant Program provides grants to projects and activities that support the overall goals and objectives of the MTRC. In this program, the MTRC provides funds to individual public school sites for the Teacher Cadet and ProTeam programs, to school districts and institutions of higher education that identify public school students interested in becoming teachers and provide on-campus activities for them and their parents, as well as, activities that promote teacher education to undergraduate students on the campus.

[OAR Docket #04-554; filed 4-2-04]

TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-604]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Board Organization and Proceedings
690:1-3-9. [AMENDED]
690:1-3-10. [AMENDED]
AUTHORITY:
59 O.S., 2001 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.
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ANALYSIS:
690: 1-3-9. The rule change would allow the Board to discontinue the bi-annual mail-out of the licensing act, rules and directory. The licensing act and rules will be available upon written request to the Board. A printable version will be maintained on the Board's website. The directory will be maintained on the website and available upon request.
690: 1-3-10. The rule change explains the election of the officers of the Board.
CONTACT PERSON:
Karen Copeland, Board Chair of the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology, 918-744-2291.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 3. BOARD ORGANIZATION AND PROCEEDINGS

690:1-3-9. Distribution of regulations and procedures

The Board shall distribute to each licensee all regulations and procedures established by the Board. Such distribution shall ~~occur bi-annually during each odd-numbered year and may be accomplished by inclusion of said rules in the Biannual Directory. The Biannual directory shall contain, in addition to those items required by the law (59, O.S., Section 1617, as amended), a verbatim copy of the licensing act as well as all rules established by the Board.~~ occur by means of the Board web site which will maintain a printable version of all items required by law (59, O.S., Section 1617 as amended), a verbatim copy of the licensing act and all rules established by the Board. Copies of the licensure law and the rules will be available free upon request to licensees and the public.

690:1-3-10. ~~Secretary of the Board~~Officers of the Board

~~The Secretary of the Board, as described in the Speech-Language Pathology and Audiology Licensing Act (59 O.S. 1601, et. seq., as amended) shall be elected by the Board from among the members of the Board. The Secretary shall also serve as Treasurer.~~ The Officers of the Board, as described in the Speech-Language Pathology and Audiology Licensing Act (59 O.S. 1601, et. Seq., as amended) shall be elected by the Board from among the members of the Board. The following officers shall be elected:

(1) Chair
(2) Vice-Chair
(3) Secretary. The Secretary shall also serve as Treasurer.

[OAR Docket #04-604; filed 4-9-04]

TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 5. RULES OF PRACTICE

[OAR Docket #04-605]

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Subchapter 5. Individual Proceedings
690:5-5-1. [AMENDED]
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ANALYSIS:
690:5-5-1. Expands requirements for the Notice of the Hearing to be given when conducting Individual Proceedings
CONTACT PERSON:
Karen Copeland, Board Chair of the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology, 918-744-2291.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 5. INDIVIDUAL PROCEEDINGS

690:5-5-1. Notice of proposed hearing

Whenever the Board chooses to exercise its statutory authority under Section 1619 of the Speech-Language Pathology and Audiology Licensing Act (59 O.S. 1619, as amended) to conduct a hearing to determine whether suspension or revocation of a license would be ordered or a reprimand issued, the Secretary of the Board shall give at least twenty (20) days written notice of such hearing to the licensee against whom the proceeding is directed. The Notice of the Hearing shall be served on the licensee either personally or by certified or registered mail and shall include the following information:

(1) the time, place, and nature of the hearing;

(2) the legal authority and jurisdiction under which the hearing is being conducted;

(3) the ground or grounds constituting or forming the basis of the charge(s) against the licensee, including reference to the particular section(s) of the statute and/or rule involved.

(4) information regarding the licensee's right to legal counsel

(5) the names of the members of the hearing panel

[OAR Docket #04-605; filed 4-9-04]

TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 10. LICENSURE AND FEES

[OAR Docket #04-606]

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PERMANENT final adoption
RULES:
Subchapter 3. Licensure of Speech-Language Pathologists and Audiologists
690:10-3-3. [AMENDED]
690:10-3-8. [AMENDED]
Subchapter 5. Licensure of Clinical Experience Interns
690:10-5-1. [AMENDED]
690:10-5-5. [AMENDED]
690:10-5-8. [AMENDED]
Subchapter 7. Authorization of Assistants
690:10-7-1. [AMENDED]
Subchapter 9. Fees
690:10-9-7. [AMENDED]
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690:3 is renamed "Licensure of Speech-Language Pathologists and Audiologists" to be consistent with wording in other sections of the rules.

690: 10-3-3. Allows the Board to determine that an agency accrediting academic programs is equivalent to the Council for Academic Accreditation

690:10-3-8. Changes more clearly define acceptable continuing education activities; New language sets an individual review fee for petitions of extension of CE periods; New language clearly explains the process of audits of continuing education

690: 10-5-1. Clarifies payment of fees upon completion of the clinical experience year.

690: 10-5-5. New language requires applicants to notify Board regarding changes in clinical experience year supervisor.

690: 10-5-8. New language expands options for monitoring of a clinical intern during the clinical experience year.

690: 10-7-1. New language. Allows independent practitioners to employ individuals in non-clinical capacities without obligation to license as an assistant

690: 10-9-7. New language requires licensee to be in compliance with continuing education requirements in order to have license placed on inactive status.
CONTACT PERSON:
Karen Copeland, Board Chair of the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology, 918-744-2291.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 3. LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

690:10-3-3. Criteria considered for licensure

The Board shall consider on an individual basis the request of each applicant for licensure under Section 1605 of the Speech-Language Pathology and Audiology Licensing Act, 59 O.S. 1605, as amended, using the criteria contained in the following Sections of these rules. Written notification from the chair or program director of an academic institution accredited by the Council for Academic Accreditation, or equivalent accrediting agency as determined by the Board, verifying that applicant attended the academic institution and completed the academic course work requirement and clinical practicum requirement, shall serve as presumptive proof of completion of the requirements. The Board retains the power to determine whether applicant has completed all requirements.

690:10-3-8. Continuing education for speech-language pathologists and audiologists

(a) **Purpose.** The purpose of continuing education requirements for speech-language pathologists and audiologists is to assure that licensees update and advance their skills such that the public shall benefit from the most current and effective standards of professional practice. To further the goal of public benefit, all speech-language pathologists and audiologists are encouraged to fulfill a portion of their continuing education requirements in the area of ethics, professional conduct, and related legal issues.

(b) **Clock hours required for license renewal.** A minimum of twenty (20) clock hours of acceptable continuing education will be required for renewal of a license to practice speech-language pathology or audiology in a two year period. The continuing education period begins in January of every odd-numbered year. A speech-language pathologist or audiologist obtaining initial licensure during a two year period shall have his or her continuing education requirement prorated to 2.5 clock hours per full quarter remaining in that period.

(c) **Approval of continuing education activities required.** Continuing education hours may be granted for acceptable educational activities which are approved by the Board, or by a committee appointed by the Board. No hours will be granted for any activities or categories of activities that have not been approved. A provider of educational activities may apply to the Board for pre-approval of an activity. The provider shall be responsible for compliance with the standards for approval of the activity, verification of participation, and for the provision of the necessary verification of attendance forms to all participants. This verification of attendance form shall include: The participant's name, the presenter's name and credentials, the presentation topic, the program sponsor or agency, the location of the presentation, the dates of presentation, and the total number of clock hours attended.

(d) **Exceptions to the requirements.** Exceptions to the pre-approval requirement may be granted at the discretion of the Board for programs presented by recognized sponsors whose programs have been pre-approved by the Board. The university academic semester hour is equivalent to fifteen (15) clock hours, and shall be verified by the presentation of an official academic transcript showing course or audit credits. The licensee is ultimately responsible for providing all information necessary for the Board to make a final determination concerning the acceptability of any requested continuing education hours.

(e) **Fee for approval.** Providers of continuing education programs may be charged a fee for approval of their program. This fee shall be set by the Board.

(f) **Kinds of educational activities for which credit may be received.** Continuing education hours may be earned through formal organized learning experiences, scientific publications, attendance at regularly scheduled meetings of international, national, regional, or state professional associations, or through presentations to appropriate groups not related to the speech-language pathologist's or audiologist's regular employment.

(g) **Hours allowed.** Continuing education activities, whether received or presented by the speech-language pathologist or audiologist, must be targeted toward a professional audience. In those instances when the speech-language pathologist or audiologist is teaching in programs such as institutes, seminars, workshops, and conferences which have been granted approval by the Board, three (3) clock hours will be given for each one (1) hour that is taught, provided that such teaching is not part of the speech-language pathologists or audiologists regular employment. Publication in a professionally-related format approved by the Board shall be equal to up to twenty (20) clock hours. Completion of select job-required activities such as CPR training, etc. can be counted once in the two-year period for a maximum of 20% of the total required hours. Other activities may be credited as authorized and disseminated separately by the Board.

(h) **Petition for extension.** A speech-language pathologist or audiologist who fails to comply with the required twenty (20) hours of continuing education in the two year continuing education period ending December 31 may, by submitting an individual review fee ~~set by the Board~~, of fifty ($50.00), petition the Board for an extension of continuing education year to March 31 of the following year. The petition for extension shall be filed prior to the expiration of the continuing education period.

(i) **Petition for hardship relief.** A speech-language pathologist or audiologist may petition the Board for partial or complete relief of the continuing education requirements upon the showing of incapacitation or serious illness of licensee or licensee's immediate family member, or licensee's absence from the United States for a period of at least eighteen (18) months during the continuing education period. The petition for hardship relief should be filed prior to the expiration of the continuing education period, ~~but the Board, at its discretion, may accept petitions filed after the expiration of the continuing education period.~~ and will be accepted no later than February 1st of the year following the audit period.

(j) **Audits of continuing education.** The Board will conduct bi-annual audits of licensee compliance with continuing education requirements.

(1) A minimum of 3% of licensees will be audited.

(2) Those audited will be required to submit a listing of all continuing education activities completed within the audited period, including the title of the activity, the course description, the number of contact hours and a contact for verification of participation.

(3) Licensees will maintain all original documentation of attendance, course agendas and/or other supporting documentation. The Board may request copies of such documentation as is necessary to determine if an activity will be accepted for continuing education credit. The Board will destroy all such copies following the audit.

(4) If the results of the audit show that a licensee has not completed the required number of continuing education hours, the following schedule will be applied:

(A) By February 1st, the licensee should provide evidence of additional continuing education activities sufficient to meet the requirement, or

(B) By April 1st, the licensee shall have completed additional continuing education activities sufficient to meet the requirements and pay a penalty fee equal to half of the licensure renewal fee. This fee is separate from any fees for late license renewal which may apply.

(C) Such additional activities may not be counted toward future continuing education requirements.

(D) If a licensee has not completed the required number of continuing education activities by April 15th, the Board will submit the name of the licensee to the Attorney General's office and pursue action to suspend or revoke the license.

~~(j) **Failure to comply.** Unless otherwise granted an extension or hardship relief, failure to comply with the continuing education requirements shall result in license suspension or revocation, and/or any other disciplinary action deemed appropriate by the Board.~~

SUBCHAPTER 5. LICENSURE OF CLINICAL EXPERIENCE

690:10-5-1. License to practice as a clinical experience intern

Persons in the process of fulfilling the supervised clinical experience required by paragraph 4 of Subsection A of Section 1605 of the Speech-Language Pathology and Audiology Licensing Act, 59 O.S. 1605, as amended, for licensure as a speech-language pathologist and/or audiologist must practice as a clinical experience intern under the supervision of a licensed speech-language pathologist or audiologist under the conditions of these rules. Once the clinical experience year is complete, the applicant will apply for full licensure and pay the required fees.

690:10-5-5. Authorization period and extensions for clinical experience interns

Authorization for practice as a clinical experience intern under this Subchapter shall be for a period of one (1) calendar year from the date of approval by the Board of the application for practice under supervision. A full one (1) year extension of this authorization shall be considered only on written request of the clinical experience intern and such request must be received prior to the end of the one (1) year period of previous authorization. Failure to apply for extension shall result in an automatic revocation of authorization to practice. Such revocation shall not jeopardize later application for authorization. If, during the completion of the clinical experience year, it is necessary for a change of supervisors to occur, it is the responsibility of the applicant to notify the Board of the change and to submit revised paperwork.

690:10-5-8. Direct on-site supervision required

The applicant must practice in a setting which permits direct, on-site supervision by the supervising speech-language pathologist or audiologist. The supervising speech-language pathologist and audiologist must engage in no fewer than thirty-six (36) supervisory activities during the clinical experience. This supervision must include at least eighteen (18) on-site observations of direct client contact at the clinical experience intern's work site (one (1) hour equals one (1) on-site observation; a maximum of six (6) on-site observations may be accrued in one (1) day.) "On-site" is defined as physical presence at the clinical experience intern's work site. At least six (6) observations must be accrued during each third of the clinical experience. These on-site observations must be of the clinical experience intern providing screening, evaluation assessment, habilitation, and rehabilitation. In addition, the supervision must include at least eighteen (18) other monitoring activities. At least six (6) other monitoring activities must be completed during each of the three segments of the clinical experience. These other monitoring activities may be executed by correspondence, review of video tapes and/or audio tapes, evaluation of written reports, phone conferences and/or other telepractice activities with the clinical experience intern, and evaluations by professional colleagues.

SUBCHAPTER 7. AUTHORLZATLON OF ASSISTANTS

690:10-7-1. Authorization to practice as an assistant

Any person not eligible for license as an independent practitioner or not eligible for authorization to practice as an intern under supervision under Subsection A or B of Section 1605 of the Speech-Language Pathology and Audiology Licensing Act, 59 O.S. 1605, as amended, who assists in the practice of speech-language pathology and audiology while in the employ of and under the direct full time supervision of a licensed independent practitioner must receive authorization from the Board as a speech-language pathology or audiology assistant. Before granting such authorization, the Board will consider the academic training and clinical experience of the applicant, the specific duties and responsibilities he is assigned, the amount and nature of the supervision that is available to him, and the number of such other persons assigned to the proposed supervisor. Authorization to practice as speech-language pathology or audiology assistant may be granted under the provisions of Sections 690:10-7-1 through 690:10-7-8 of these rules. Nothing in this section shall be construed to prevent an independent practitioner from employing any individual in non-clinical capacities.

SUBCHAPTER 9. FEES

690:10-9-7. Inactive status fee

A one-time fee of twenty five dollars ($25.00) shall be charged a licensed speech-language pathologist or audiologist to place his license on inactive status, provided that, prior to expiration of his license, he makes written application to the Board for such status. Thereafter, he may reactivate his license upon payment of a reactivation fee equal to one and one-half

(1 $\frac{1}{2}$) times the then current license renewal fee ~~($90.00)~~. A licensee must be in compliance with continuing education requirements in order to be placed on inactive status. During the period of time his license is on inactive status, he shall not engage in the practice of speech-language pathology or audiology in the State of Oklahoma except as permitted in the Speech-Language Pathology and Audiology Licensing Act, 59 O.S., Section 1616, as amended.

[OAR Docket #04-606; filed 4-9-04]

TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 15. PROFESSIONAL CODE OF ETHICS

[OAR Docket #04-607]

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RULES:
690:15-1-3. Principles of ethics [AMENDED]
690:15-1-4. Ethical prescriptions [AMENDED]
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ANALYSIS:
690:15-1-3. Removal of a duplicated line in the Principles of Ethics section
CONTACT PERSON:
Karen Copeland, Board Chair of the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology, 918-744-2291.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

690:15-1-3. Principles of ethics

Six Principles serve as a basis for the ethical evaluation of professional conduct and form the underlying moral basis for the Code of Ethics. Individuals subscribing to this Code shall observe these principles as affirmative obligations under all conditions of professional activity.

(1) Licensees shall hold paramount the welfare of persons served professionally.

(A) Licensees shall use every resource available, including referral to other specialist as needed, to provide the best service possible.

(B) Licensees shall fully inform persons served of the nature and possible effects of the services.

~~(C) Licensees shall fully inform persons served of the nature and possible effects of the services.~~

(C~~D~~) Licensees' fees shall be commensurate with services rendered.

(D~~E~~) Licensees shall provide appropriate access to records of persons served professionally.

(E~~F~~) Licensees shall take all reasonable precautions to avoid injuring persons in the delivery of professional services.

(F~~G~~) Licensees shall evaluate services rendered to determine effectiveness.

(2) Licensees shall maintain high standards of professional competence.

(A) Licensees engaging in clinical practice shall possess appropriate qualifications as defined in the Speech-Language Pathology and Audiology Licensing Act. 59 O.S. 1601, et. seq., as amended, and this Title.

(B) Licensees shall continue their professional development throughout their careers.

(C) Licensees shall identify competent, dependable referral sources for persons served professionally.

(D) Licensees shall maintain adequate records of professional services rendered.

(3) Licensees' statements to persons served professionally and to the public shall provide accurate information about the nature and management of communicative disorders and about the profession and services rendered by its practitioners.

(4) Licensees shall maintain objectivity in all matters concerning the welfare of persons served professionally. Licensees shall observe the following standards:

(A) Products associated with professional practice must be dispensed to the person served as a part of a program of comprehensive habilitative care.

(B) Fees established for professional services must be independent of whether a product is dispensed.

(C) Persons served must be provided freedom of choice for the source of services and products.

(D) Price information about professional services rendered and products dispensed must be made available to the person served upon request and must include a complete schedule of fees and charges which

schedule differentiates between fees for professional services and charges for products.

(E) Products dispensed to the person served must be evaluated to determine effectiveness.

(5) Licensees shall honor their responsibilities to the public, their profession, and their relationships with colleagues and members of allied professions.

(6) Licensees shall uphold the dignity of the profession and its standards.

(A) Licensees shall inform the Board of violations of this Code of Ethics.

(B) Licensees shall cooperate fully with Board inquiries into matters of professional conduct related to this Code of Ethics.

690:15-1-4. Ethical proscriptions

Ethical Proscriptions are formal statements of prohibitions that are derived from the Principles of Ethics.

(1) The following proscriptions are derived from 690:15-l-3(1):

(A) Licensees must not exploit persons in the delivery of professional services, including accepting persons for treatment when benefit cannot reasonably be expected or continuing treatment unnecessarily.

(B) Licensees must not guarantee the results of any therapeutic procedures, directly or by implication. A reasonable statement of prognosis may be made, but caution must be exercised not to mislead persons served professionally to expect results that cannot be predicted from sound evidence.

(C) Licensees must not use persons for teaching or research in a manner that constitutes invasion of privacy or fails to afford informed free choice to participate.

(D) Licensees must not ~~evaluate or treat speech, language, or hearing disorders~~ provide clinical services except in a professional relationship. They must not evaluate or treat solely by correspondence or telepractice. This does not preclude follow-up correspondence with persons previously seen, or providing them with general information of an educational nature.

(E) Licensees must not reveal to unauthorized persons any professional or personal information obtained from the person served professionally, unless required by law or unless necessary to protect the welfare of the person or the community.

(F) Licensees must not discriminate in the delivery of professional services on any basis that is unjustifiable or irrelevant to the need for and potential benefit from such services, such as race, sex~~, or~~ religion or condition.

(G) Licensees must not charge for services not rendered.

(H) Licensees shall not violate any provisions of the Speech-Language Pathology and Audiology Licensing Act or Rules.

(2) The following proscriptions are derived from 690:15-1-3(2):

(A) Licensees must neither provide services nor supervision of services for which they have not been properly prepared, nor permit services to be provided by any of their staff who are not properly prepared.

(B) Licensees must not provide clinical services by prescription of anyone who does not hold a license or its equivalent in the appropriate area.

(C) Licensees must not offer clinical services by supportive personnel for whom they do not provide appropriate supervision and assume full responsibility.

(D) Licensees must not require anyone under their supervision to engage in any practice that is a violation of the Code of Ethics.

(3) The following proscriptions are derived from 690:15-1-3(3):

(A) Licensees must not misrepresent their training or competence. Academic degrees, if listed, must be those awarded by a college or university listed in the Education Directory: Higher Education (published by the United States Department of Education).

(B) Licensees' public statements providing information about professional services and products must not contain representations or claims that are false, deceptive or misleading.

(C) Licensees must not use professional or commercial affiliations in any way that would mislead or limit services to persons served professionally.

[OAR Docket #04-607; filed 4-9-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 15. AIRCRAFT

[OAR Docket #04-580]

RULEMAKING ACTION:
Permanent final adoption
RULES:
Subchapter 2. Aircraft Dealer Licenses
710:15-2-4. Qualification for Aircraft Dealer License [AMENDED]
710:15-2-9. Cancellation, revocation, or forfeiture [AMENDED]
Subchapter 3. Registration
Part 3. Original Applications
710:15-3-10. Procedures for making original application for registration of aircraft [AMENDED]
Part 5. Renewal and Transfer
710:15-3-20. Renewal and transfer of aircraft registration [AMENDED]
AUTHORITY:
Oklahoma Tax Commission; 68 O.S. §203; 3 O.S. § 254(G)
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ANALYSIS:
Section 710:15-2-4 has been amended to conform to the provisions of Senate Bill 454, which removed the requirement that an aircraft dealer sell three aircraft annually to obtain and maintain dealer status. The remaining Sections have been amended to update obsolete citation, modify taglines for relevancy, and amend internal references to conform to statutory designations.
CONTACT PERSON:
Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 3, 2004:

SUBCHAPTER 2. AIRCRAFT DEALER LICENSES

710:15-2-4. Qualification for Aircraft Dealer License

(a) **Status as a bona fide dealer.** In addition to all conditions mandated by statute, compliance with the prerequisites and qualifications described in this Section must be established in order to qualify for issuance or renewal of an Aircraft Dealer License:

~~(1) Applicant must provide evidence showing the sale of three (3) or more aircraft, for each location for which a dealer license is sought, made within the last eighteen months ending one month prior to the month in which application is made. The sales must be supported by the applicant's Aircraft Dealer Reports, required to be filed with the Oklahoma Tax Commission pursuant to 68 O. S. § 6003.~~

(~~2~~1) If the applicant is a new dealer who has not previously engaged in the business of making sales of aircraft, the applicant shall provide a business plan or other documentation that will show that the applicant may reasonably be expected to be actively engaged in the sale of aircraft.

~~(3) If the applicant cannot show that it has made sales of three or more aircraft in the eighteen month period immediately preceding the month in which the application is made, but can show unusual circumstances, that in the opinion of the Oklahoma Tax Commission, would justify the lesser number of sales, the license may be issued.~~

(~~4~~2) The applicant must provide information showing that the location to be licensed is an establishment that has been consistently identified as an aircraft dealership in advertising signs, telephone book listings, or other documentation which will show that anyone visiting the location to be licensed will be able to clearly identify the location as being in the business of buying and selling aircraft.

(~~5~~3) The applicant must provide a financial statement, contracts, business plans that are indicative of the applicant's ability to carry on the business of buying and selling aircraft consistent with the safeguarding of the public interest and the public welfare.

(~~6~~4) The applicant must provide any other pertinent information which the Tax Commission may require.

(b) **Tax compliance status.** The applicant shall be in good standing with all tax laws of the State of Oklahoma.

710:15-2-9. Cancellation, revocation, or forfeiture

(a) Any entity whose aircraft dealer license is refused, expires and is not renewed, is voluntarily forfeited, or is cancelled or revoked by action of the Commission, must immediately register and remit the aircraft excise tax and registration fees on any aircraft owned by the entity on which the aircraft registration fees and the aircraft excise tax were not paid at the time of the aircraft's acquisition by the dealer. Failure to do so may result in the assessment of the registration fees, the excise tax, and the possible imposition of an administrative fine.

(b) The Tax Commission may impose a fine not to exceed Five Hundred Dollars ($500.00) for each day that a dealer is in violation of 3 O. S. Section ~~254.1~~ 254.1(F), any of the rules set out in this Subchapter, or for any of the following reasons:

(1) Failure to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;

(2) Failure to maintain an established place of business;

(3) Proof of the unfitness of any applicant for a license;

(4) Making a material misstatement in any application for a license;

(5) A change in condition after a license is granted which results in the dealer no longer qualifying for the license;

(6) Use of false or misleading advertising in connection with the business as a dealer; or,

(7) Commission of any unlawful act which resulted in the revocation of any similar license in another state, failure or refusal to perform any written agreement with any retail buyer involving the sale of an aircraft, conviction of a crime involving moral turpitude, commission of a fraudulent act in selling, purchasing, or otherwise dealing in aircraft, or misrepresentation in the terms and conditions of a sale, purchase, or contract for sale or purchase of an aircraft. [3 O. S. Section 254.1]

SUBCHAPTER 3. REGISTRATION

PART 3. ORIGINAL APPLICATIONS

710:15-3-10. Procedures for making original application for registration of aircraft

(a) **Duty to register.**

(1) An application for registration of an aircraft operating on or from any airport within the State of Oklahoma shall be supplied to each purchaser of an aircraft by the dealer of the aircraft, if purchased within the State. The Oklahoma Tax Commission shall supply blank application forms to Oklahoma dealers of aircraft for dissemination.

(2) An application for registration of an aircraft purchased outside the State of Oklahoma which is operating on or from any airport within the State with the intent to remain for more than thirty cumulative days, shall be supplied by the Oklahoma Tax Commission upon request of the owner. Application forms shall also be made available upon request at all airports within the State of Oklahoma.

(3) Aircraft not registered in any other state which are operating on or from any airport within the State of Oklahoma for an accumulation of thirty (30) days shall be presumed to be operating with the intent to remain in Oklahoma, and therefore are subject to Oklahoma registration laws.

(b) **When registration is due.** The certified application is to be filed with the Oklahoma Tax Commission within twenty (20) days of purchase if purchased within the state or within twenty (20) days of entry into the state for other aircraft.

(c) **Information required.** The application must contain the following information:

(1) A description of each aircraft to be registered, including the name of the manufacturer, aircraft registration number, type and gross weight.

(2) Name and address of the owner of the aircraft and county where the aircraft is based, i.e., location and/or address on the Federal Aviation Administration Certificate of Registration for the aircraft.

(d) **Oklahoma Certificate of registration; display; inspection.** Upon receipt of the application and the fee due the Aircraft Section of the ~~Motor Vehicle~~ Taxpayer Assistance Division of the Oklahoma Tax Commission will issue the registrant a certificate of registration to be displayed on the aircraft in a conspicuous location and is subject to inspection by agents of the Commission.

PART 5. RENEWAL AND TRANSFER

710:15-3-20. Renewal and transfer of aircraft registration

(a) **Duty to renew registration annually.** All aircraft operating within the State of Oklahoma are required to purchase registration certificates annually from the Oklahoma Tax Commission.

(b) **Mailing of renewal notice.** Application forms will be mailed to the last reported address of each owner of an aircraft previously registered with the Commission, on or before December 1.

(c) **Penalties for non-renewal; late renewal.** Registration certificates must be purchased from the Oklahoma Tax Commission during or prior to January of each year. Penalty for non-purchase shall be twenty cents (.20¢) per day through the last day of February. On March 1st, a penalty equal to the registration fee shall be assessed.

(d) **Transfer of registration.** Registration of aircraft may be transferred upon application to the Oklahoma Tax Commission and payment of a Ten Dollar ($10.00) fee. [**See:** 3 O.S. ~~§254~~ § 255]

[OAR Docket #04-580; filed 4-8-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 20. ALCOHOL, MIXED BEVERAGES, AND LOW-POINT BEER

[OAR Docket #04-581]

RULEMAKING ACTION:
Permanent final adoption
RULES:
Subchapter 2. Low-Point Beer
710:20-2-4. Payment of taxes; persons liable [AMENDED]
710:20-2-6. Annual state permits and license taxes [AMENDED]
710:20-2-16. [RESERVED]
710:20-2-17. [RESERVED]
710:20-2-18. [RESERVED]
710:20-2-19. [RESERVED]
710:20-2-20. Keg identification [NEW]
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ANALYSIS:
The existing agency rules on Low-Point Beer have been amended to reflect increased statutory fees for retail dealers (low-point beer) permits and to add provisions for a new statutory requirement for labeling beer kegs. Additionally, the existing rules have been modified to reflect new law permitting certain in-state manufacturers to sell limited quantities of their products from their own retail establishments. [*Laws 2003, Chapters 354, 156(2), and 484*]

CONTACT PERSON:
Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 2. LOW-POINT BEER

PART 1. GENERAL PROVISIONS

710:20-2-4. Payment of taxes; persons liable

The excise tax levied on low-point beer shall in most instances be paid by the wholesaler. Exceptions to the general rule are as follows:

(1) **Manufacturers.** A manufacturer must pay the tax when selling to a retail dealer or to a consumer. The manufacturer must hold a wholesale beverage dealer's license, or in the case of sales to consumers, a retail dealer license.

(2) **Retailer.** A retailer who purchases from a wholesaler doing business outside this state who does not hold an Oklahoma wholesale beverage dealer's license, is liable for tax levied. In addition a retailer must pay the tax if he has in his possession or exhibits for sale low-point beer upon which the tax has not been paid.

(3) **Manufacturer/retailer.** A manufacturer/retailer must pay the tax levied on all low-point beer manufactured, except that which is manufactured in this state for export.

710:20-2-6. Annual state permits and license taxes

(a) **Manufacturers.** Annual permits are required and license taxes are payable to the Oklahoma Tax Commission with respect to low-point beer, and are in addition to licenses which are required to be procured from the judge of the district court. The permit or license shall be for the privilege of doing business in Oklahoma as a manufacturer of low-point beer. Permits will not be issued or renewed if the applicant has outstanding liabilities for any taxes or fees administered by the Oklahoma Tax Commission.

(1) **In-state manufacturers.** Before commencing the manufacture of low-point beer, in-state manufacturers of low-point beer must obtain ~~an annual~~ a permit from the Oklahoma Tax Commission. A license tax of ~~Five~~ Four Hundred Fifty Dollars ~~($500.00)~~ ($450.00) must be paid as a condition to the issuance of the initial permit, which covers a ~~one-year~~ three-year period from its effective date. Thereafter, the permit must be renewed and the license tax paid ~~annually~~ every three years. Additionally, an in-state manufacturer may sell not more than five thousand (5,000) barrels annually of its own products directly to consumers by procuring a retail license.

(2) **All other manufacturers.** Before selling or offering for sale low-point beer within this state, each and every other manufacturer of low-point beer, must qualify with the Secretary of State of the State of Oklahoma for a permit to do business within Oklahoma. After so qualifying, each and every other manufacturer must obtain an annual permit from the Oklahoma Tax Commission. A license tax of Five Hundred Dollars ($500.00) must be paid as a condition to the issuance of the initial permit, which covers a one-year period from its effective date. Thereafter, the permit must be renewed and the license tax paid annually.

(b) **Wholesalers.** Annual permits are required and license taxes must be paid to the Oklahoma Tax Commission with respect to low-point beer, and are in addition to any licenses required to be procured from the judge of the district court. Permits are not transferable from one person to another person, but may be transferred from one location to another location. Permits will not be issued or renewed if the applicant has outstanding liabilities for any taxes or fees administered by the Oklahoma Tax Commission.

(1) **In-state wholesalers.** Wholesalers located and doing business in this state must obtain an annual permit from the Oklahoma Tax Commission. A license tax of Two Hundred Fifty Dollars ($250.00) must be paid as a condition to the issuance of the initial permit, which covers a one-year period from its effective date. Thereafter, the permit must be renewed and the license tax paid annually. An annual permit must be secured and an annual license tax must also be paid by wholesalers for each city or incorporated town from which deliveries of low-point beer are made to retail dealers. Provided, if the wholesaler is also the holder of a current in-state manufacturer's permit, the cost of the wholesaler's permit shall be reduced by seventy-five percent.

(2) **Out-of-state wholesalers.** Wholesalers located and doing business outside of Oklahoma, who desire to pay the excise tax on sales to retail dealers, must obtain the annual permit and pay the license tax annually as is required of in-state wholesalers.

(c) Retail dealers. Retailers must obtain a permit from the Oklahoma Tax Commission before offering low-point beer for sale to the public. A license tax shall be paid to the Commission before issuance of the permit, and no permit will be issued or renewed if the applicant has outstanding liabilities for any taxes or fees administered by the Oklahoma Tax Commission. Permits are not transferable from one person to another person, but may be transferred from one location to another location, with approval of the Commission, and the judge of the district court. Permits are required for each place of business at which low-point beer is served (each room, bar, or other serving unit). An applicant for a retailer permit must supply evidence that a county permit has been obtained, including the date effective and the expiration date of the county permit. Cancellation of the retailer's county permit shall be cause for the Commission to cancel the permit issued to the retail dealer. Payment of the license tax must be by cash, cashier's check, bank draft, or money order, made payable to the Oklahoma Tax Commission.

The permits and the license tax required for specific types of retailers are as follows:

(1) **Sale by draught or in original packages, for consumption on or off premises.** A three-year permit is issued upon payment of the license tax of ~~Three~~ Four Hundred Dollars ~~($300.00),~~ ($400.00), and compliance with all other requirements. If the dealer has previously been issued a permit to sell in original packages only for consumption off premises, and such permit has not expired, the Commission may credit the retailer with the unused portion of the former permit.

(2) **Sale in original packages only, for consumption on or off premises.** A three-year permit is issued upon payment of the license tax of ~~One~~ Two Hundred Fifty Dollars ~~($150.00),~~ ($250.00), and compliance with all other requirements.

(3) **Sale of low-point beer, either purchased or manufactured by a retailer.** A three-year permit is issued upon payment of the license tax of ~~Four~~ Five Hundred Fifty Dollars ~~($450.00)~~ ($550.00), and compliance with all other requirements. A retail dealer who is licensed under this paragraph may sell the low-point beer which the dealer manufactures at any of the dealer's places of business, or from any place owned and operated by an entity which has common owners with the dealer. **"Common owners"** means owners, who together with the dealer, own more than fifty percent (50%) of the interest in the place or entity.

(4) **Sale at a special event.** A per-day license may be issued upon payment of the Five Dollar ($5.00) license tax and compliance with all other requirements. However, if the event is a state or county fair which meets for more than five (5) days in any year, a special license must be issued at a charge of Twenty-five Dollars ($25.00).

(5) **Sale by original packages only, for consumption off premises; exception.** A three-year permit is issued upon payment of the license tax of One Hundred Thirty Dollars ~~($30.00)~~ ($130.00) and compliance with all other requirements. Except for the situation described in paragraph (6) of this subsection, it ~~It~~ is unlawful for the retailer to allow any low-point beer container to be opened or broken or consumed in or on the licensed premises.

(6) **Samples produced and provided by an in-state manufacturer.** An in-state manufacturer, selling its own products for off-premises consumption, may serve visitors on the premises free samples of low-point beer produced on the premises, provided that the samples shall not exceed twelve (12) fluid ounces per customer, per visit.

(~~6~~7) **A dealer who ceases to offer low-point beer.** A dealer who ceases to offer low-point beer is entitled to receive a refund of license tax, in a prorated amount to be determined by the Commission, with respect to the amount of time remaining until expiration of the current permit.

(8) **Fee increases.** Retail dealers who have obtained permits prior to July 1, 2003, shall not be subject to the increased fees until the existing permit is renewed.

710:20-2-16. [RESERVED]

710:20-2-17. [RESERVED]

710:20-2-18. [RESERVED]

710:20-2-19. [RESERVED]

710:20-2-20. Keg identification seal requirements and recordkeeping for licensed retailers

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) ***"Beer keg"*** *means any brewery-sealed, single container that contains not less than four (4) gallons of low-point beer. [37 O.S.Supp.2003, § 163.2]*

(2) ***"Licensed retailer"*** *means a retail dealer licensed to sell low-point beer in original containers for consumption off the premises. [37 O.S.Supp.2003, § 163.2]*

(3) ***"Identification seal"*** *means any device approved by the Tax Commission which is designed to be affixed to beer kegs and which displays an identification number and any other information as may be prescribed by the Tax Commission. [37 O.S.Supp.2003, § 163.2]*

(b) **Identification seals required on kegs sold.** Every licensed retailer of low-point beer shall affix an identification seal to an outside surface of each beer keg as defined by 37 O.S. Section 163.29. The identification seal shall be affixed to the surface of the beer keg in a manner so as not to conceal any information pertaining to the brand name, brewery code, or container size.

(c) **Contents of identification seal.** The identification seal shall consist of a durable material and be in a form approved by the Audit Division of the Oklahoma Tax Commission. The identification seal shall be attached at the time of sale and shall include the following information:

(1) The licensed retailer's name, address, beer license number, and telephone number;

(2) The beer keg number assigned by the licensed retailer; and,

(3) A warning that intentional removal or defacement of the seal is a misdemeanor.

(d) **Recordkeeping requirements.** Records required of each beer keg sale shall include:

(1) The purchaser's name and address;

(2) The driver's license number or identification card number issued by the Department of Public Safety, a military identification card number, or the number from a valid United States or foreign passport;

(3) The date and time of the purchase;

(4) The purchaser's signature; and,

(5) The beer keg identification seal number.

(e) **Retention of records.** The licensed retailer shall retain on file the records set out in (d)(1) through (d)(4) of this Section pertaining to the sale of each beer keg for a period of not less than one (1) year after the sale of a keg, and shall keep a record

of the beer keg identification seal number set out in (d)(5) of this Section for one (1) year from the return of the keg.

[OAR Docket #04-581; filed 4-8-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 22. BOATS AND MOTORS

[OAR Docket #04-582]

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RULES:
Subchapter 5. Procedures for Registration
710:22-5-9. Registration decals [AMENDED]
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ANALYSIS:
Section 710:22-5-9 has been amended to implement the provisions of House Bill 1688 §1, and establish a procedure for the proper display of a boat and motor registration decal when the size of the decal issued makes its normal display problematic. [63:4030(C)]
CONTACT PERSON:
Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 5. PROCEDURES FOR REGISTRATION

710:22-5-9. Registration decals

(a) Upon payment of the annual registration fee, a registration decal will be issued to each boat registered and to each outboard motor registered.

(b) If, due to the size of the decal, it cannot be properly displayed on the vessel or outboard motor, the registrant may, with the consent of the Department of Public Safety Lake Patrol, cut or trim the decal, but only to the extent required for proper display. In no event is the registration decal number to be altered, defaced, or eliminated.

[OAR Docket #04-582; filed 4-8-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 45. GROSS PRODUCTION, PETROLEUM EXCISE, AND CONSERVATION EXCISE

[OAR Docket #04-583]

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RULES:
Subchapter 9. Exemptions and Exclusions
Part 5. Horizontally Drilled Production Wells
710:45-9-21. Definitions [AMENDED]
710:45-9-24. Time periods for exemption from gross production tax levied on horizontally drilled producing wells [AMENDED]
710:45-9-28. Rebates - Refund procedure [AMENDED]
Part 7. Incremental Production from Enhanced Recovery Projects or Properties
710:45-9-31. Definitions [AMENDED]
710:45-9-32.1. Recovery of costs allowed as payback factors [AMENDED]
710:45-9-34. Summary reports; due dates; final project report [AMENDED]
710:45-9-35. Expiration of exemption for incremental production [AMENDED]
Part 9. Production Enhancement Projects
710:45-9-40. Scope of Part 9 [AMENDED]
710:45-9-41. Definitions [AMENDED]
710:45-9-43. Rebates - Refund procedure [AMENDED]
Part 11. Reestablishment of Production from an Inactive Well
710:45-9-51. Definitions [AMENDED]
710:45-9-53. Rebates - Refund procedure [AMENDED]
Part 13. Deep Wells
710:45-9-60. Scope of Part 13 [AMENDED]
710:45-9-62.1. Rebates - Refund procedure [AMENDED]
Part 15. New Discovery Wells
710:45-9-70. Scope of Part 15 [AMENDED]
710:45-9-71. Definitions [AMENDED]
710:45-9-73. Rebates - Refund procedure [AMENDED]
Part 19. Production Using Three Dimensional Seismic Shoots
710:45-9-90. Scope of Part 19 [AMENDED]
710:45-9-92. Qualification procedure [AMENDED]
710:45-9-93. Rebates - Refund procedure [AMENDED]
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ANALYSIS:
The Gross Production rules have been amended to reflect that the incentive rebates have been extended from July 1, 2003 to July 1, 2006. In addition, effective with claims being filed for the production period of fiscal year 2004, a limitation period for filing claims for refund for each of the incentive rebates has been incorporated. Time limitations within which to qualify for refund/rebates will be more stringent and are limited to the original operators or working interest owners of record at the time of the qualifying act. Claimants must also be able to demonstrate that an amount equal to or greater than the amount of the refund has been invested in oil or gas exploration or production in Oklahoma within the prior three (3) years.
CONTACT PERSON:
Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 9. EXEMPTIONS AND EXCLUSIONS

PART 5. HORIZONTALLY DRILLED PRODUCTION WELLS

710:45-9-21. Definitions

In addition to terms defined in 710:45-1-2, the following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Angle of deviation" means that angle in which a wellbore may deviate from the vertical.

"Date of completion of an oil well" means the date that the well first produces into the lease tanks through permanent well head equipment.

"Date of completion of a gas well" means the date that gas is capable of being delivered to a pipeline purchaser.

"Effective date" means that the first production must have commenced after July 1, 1995 and before July 1, ~~2003~~ 2006.

"Horizontal displacement" means that distance drilled into the pay zone of a formation at an angle exceeding seventy (70) degrees.

"Horizontally drilled payout" means the point at which gross working interest revenue from the horizontally drilled well equals the cost of drilling and completing such well.

"Horizontally drilled well" means an oil, gas, or oil and gas well drilled or completed in a manner which encounters and subsequently produces from a geological formation at an angle in excess of seventy (70) degrees from the vertical and which laterally penetrates a minimum of one hundred and fifty (150) feet into the pay zone of the formation.

"True vertical depth" means that depth measured from the surface perpendicular to the surface.

710:45-9-24. Time periods for exemption from gross production tax levied on horizontally drilled producing wells

(a) **General provisions.** The exemption for horizontally drilled wells qualified pursuant to this Part shall be determined from the project beginning date until project payback is achieved, and are limited in duration to the time periods set out in this Section.

(b) **Twenty-four (24) month exemptions.** For production described in this subsection, duration of the exemption may not exceed a period of twenty-four (24) months commencing with the date of initial production from the horizontally drilled well.

(1) **Production prior to July 1, 1994.** Any incremental production which results from a horizontally drilled well producing prior to July 1, 1994.

(2) **Production prior to July 1, 2002, which commenced after July 1, 1995.** Any horizontally drilled well producing prior to July 1, 2002, which production commenced after July 1, 1995.

(c) **Forty-eight (48) month exemption.** For a horizontally drilled well producing prior to July 1, ~~2003~~ 2006, which production commenced after July 1, 2002, the duration of the exemption may not exceed a period of forty-eight (48) months commencing with the date of initial production from the horizontally drilled well. [**See:** 68 O.S.Supp.2002, § 1001(E)(1)]

710:45-9-28. Rebates - Refund procedure

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as a horizontally drilled well;

(2) A copy of OCC Form 1534 submitted to the Corporation Commission;

(3) A copy of an approved OTC Form 320A that shows the date of initial production;

(4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and

(5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for ~~qualifying wells~~ prior periods.** Approval of a "Horizontal Drilling Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

(1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.

(2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.

(e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.

(f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.

(~~e~~g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

PART 7. INCREMENTAL PRODUCTION FROM ENHANCED RECOVERY PROJECTS OR PROPERTIES

710:45-9-31. Definitions

In addition to terms defined in 710:45-1-2, the following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Base Production amount" means the average monthly amount of production for the twelve (12) month period immediately prior to the project beginning date minus the monthly rate of production decline for the project or property for each month beginning one hundred eighty (180) days prior to the project beginning date.

"Completion date" means the date a well is first capable of being used for the injection of liquids, gases or other matter, or is capable of producing crude oil or other liquid hydrocarbons through permanent wellhead equipment.

"Enhanced recovery project costs" means the incremental project costs that are allowed as payback factors in determining the exemptions from the levy of gross production tax of project incremental production.

"Existing tertiary enhanced recovery project" means, for purposes of the exemption described in 68 O.S. § 1001(D)(1), a tertiary enhanced recovery project whose beginning date is prior to October 16, 1987.

"Incremental production" means the amount of crude oil or other liquid hydrocarbons which are produced during an approved enhanced oil recovery operation and which are in excess of the base production amount of crude oil or other liquid hydrocarbons.

"Incremental working interest revenue" means the gross value of the incremental production, less the royalty interest therein.

"Monthly rate of production decline" means a rate equal to the average extrapolated monthly decline rate for the twelve (12) month period immediately prior to the project beginning date as determined by the Commission, based on the production history of the field, its current status, and sound reservoir engineering principles.

"New enhanced recovery project" means, for purposes of the exemption described in 68 O.S. § 1001(D)(1), a secondary or tertiary enhanced recovery project whose beginning date is on or after October 16, 1987.

"Project beginning date" means the date on which the injection of liquids, gas, or other matter begins on an enhanced recovery operation.

"Project payback or payout" means that point at which the incremental working interest revenue from the enhanced recovery project equals the enhanced project costs.

"Secondary recovery properties" means secondary recovery properties approved or having an initial project beginning date on or after July 1, 2000 and before July 1, ~~2003~~ 2006, such that any incremental production attributable to the working interest which results from such secondary recovery property shall be exempt from the gross production tax levied pursuant to 68 O.S. Section 1001 for a period not to exceed five (5) years from the initial project beginning date or for a period ending upon the termination of the secondary recovery process, whichever occurs first.

710:45-9-32.1. Recovery of costs allowed as payback factors

(a) **Enhanced recovery projects with beginning date between October 17, 1987, and June 30, 1990.** For enhanced recovery projects whose beginning dates are October 17, 1987, through June 30, 1990, **allowable enhanced recovery project costs** shall include only incremental capital costs and incremental operating expenses associated with the enhanced recovery project.

(b) **Enhanced recovery project with beginning date between July 1, 1990, and June 30, 1993.** For any enhanced recovery project whose beginning date was July 1, 1990, through June 30, 1993, **allowable enhanced recovery project costs** shall be limited to the incremental capital costs of project start up, including the cost of completing any well necessary to the project and of converting any existing well to handle secondary or tertiary injection of liquids, gas or other matter. No expenditure after the completion date of such wells shall be included.

(c) **Secondary enhanced recovery project with beginning date on or after July 1, 1993, and before July 1, 2000.** For any secondary enhanced recovery project with a project beginning date on or after July 1, 1993, and before July 1, 2000, **allowable enhanced recovery project costs** shall include only incremental capital costs and fifty percent (50%) of incremental operating expenses, provided however, that the period for project payback shall not exceed a period of ten (10) years from the project beginning date.

(d) **Tertiary enhanced recovery project with beginning date on or after July 1, 1993, and before July 1, ~~2003~~ 2006.** For any tertiary enhanced recovery project with a project beginning date on or after July 1, 1993, and before July 1, ~~2003~~ 2006, **allowable enhanced recovery project costs** shall include only incremental capital costs and incremental operating expenses, excluding administrative expenses and the capital expense of pipelines constructed to transport carbon dioxide to a tertiary recovery project, provided such payback shall not exceed a period of ten (10) years from the project beginning date.

(e) **Excluded costs.** The cost of tank batteries, meters, pipelines or other external equipment shall not be included in allowable enhanced recovery project costs. Allowable costs shall be determined using generally accepted accounting principles such as outlined in the **"Council of Petroleum Accountants Society (COPAS) - Accounting Procedure Form for Joint Operations"** and **"COPAS Bulletin No. 16"**, or subsequent revisions thereto.

710:45-9-34. Summary reports; due dates; final project report

(a) For secondary recovery projects approved prior to July 1, 2000, and tertiary recovery projects approved prior to July 1, ~~2003~~ 2006, operators of exempt projects will submit to the Oklahoma Tax Commission annual summaries of project operations, on each anniversary of the project's beginning date, showing:

(1) Original capital investment in the enhanced recovery project;

(2) Additional investments in the enhanced recovery project;

(3) Enhanced recovery project operating expense for previous years, when applicable;

(4) Enhanced recovery project operating expense for the current year, when applicable;

(5) Schedule of project production (volume and value) by year of operation;

(6) Royalty payments, by year; and.

(7) Computation of revenue applied to project payback.

(b) The annual summary is to be filed with the Oklahoma Tax Commission on or before the sixtieth (60th) day following each anniversary of the project's beginning date.

(c) A final project report must be filed within sixty (60) days of achieving project payback.

710:45-9-35. Expiration of exemption for incremental production

For secondary recovery projects approved prior to July 1, 2000, and tertiary recovery projects approved prior to July 1, ~~2003~~ 2006, once the gross working interest revenue equals the enhanced recovery project cost, the exemption of incremental production shall end and the Oklahoma Tax Commission shall resume collection of the Gross Production Tax thereon.

PART 9. PRODUCTION ENHANCEMENT PROJECTS

710:45-9-40. Scope of Part 9

Exemption from the levy of gross production tax on the incremental production which results from a production enhancement project with a project beginning date on or after July 1, 1994, and prior to July 1, ~~2003~~ 2006, set out in 68 O.S. § 1001(G) shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and Oklahoma Tax Commission pursuant to 68 O.S. § 1001(M)(1).

710:45-9-41. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Base production" means the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project or the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project less the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the commencement of the project. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the commencement of the project based on the production history of the well. If the well or wells covered by the application had production for less than the full twelve-month period prior to the filing of the application for the production enhancement

project, the base production shall be the average monthly production for the months during that period that the well or wells produced.

"Effective date" means the project beginning date for the production enhancement project.

"Exemption period" means a period of twenty-eight (28) months from the date of first sale after completion of the production enhancement project.

"Incremental production" means the amount of crude oil, natural gas or other hydrocarbons which are produced as a result of the production enhancement project in excess of the base production.

"Production enhancement project" means:

(A) For production enhancement projects having a project beginning date prior to July 1, 1997, any workover or recompletion, as those terms are defined in this Section, or fracturing of a producing well.

(B) For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, any workover or recompletion, as those terms are defined in this Section, any reentry of plugged and abandoned wellbores, or addition of well or field compression.

"Recompletion" means:

(A) For production enhancement projects having a project beginning date prior to July 1, 1997, any downhole operation in an existing oil well or gas well that is conducted to establish production of oil or gas from any geological interval not currently completed or producing in such existing oil or gas well.

(B) For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, any downhole operation in an existing oil well or gas well that is conducted to establish production of oil or gas from any geologic interval not currently completed or producing in such existing oil or gas well within the same or a different geologic formation.

"Workover" means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery in a geologic interval currently completed or producing in said existing oil or gas well. For production enhancement projects having a project beginning date prior to July 1, 1997, **"workover"** includes, but is not limited to, acidizing, reperforating, fracture treating, sand/paraffin removal, casing repair, squeeze cementing, or setting bridge plugs to isolate water productive zones from oil or gas productive zones, or any combination thereof. For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, "**workover**" includes, but is not limited to, acidizing; reperforating; fracture treating; sand, paraffin, or scale removal or other wellbore cleanouts; casing repair; squeeze cementing; installation of compression on a well or group of wells or artificial lifts on oil, gas, or oil and gas, wells, including plunger lifts, rod pumps, submersible pumps and coiled tubing velocity strings; downsizing existing tubing to reduce well loading; downhole commingling; bacteria treatments; upgrading the size of pumping unit equipment; setting bridge plugs to isolate water production zones; or any combination thereof. "**Workover**" shall not mean the routine maintenance, routine repair, or like-for-like replacement of downhole equipment such as rods, pumps, tubing, packers, or other mechanical devices.

710:45-9-43. Rebates - Refund procedure

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as production enhanced;

(2) A Copy of OCC Form 1534 submitted to the Corporation Commission;

(3) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and

(4) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for ~~qualifying wells~~ prior periods.** Approval of a "Production Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

(1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.

(2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.

(e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.

(f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.

(~~e~~g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

PART 11. REESTABLISHMENT OF PRODUCTION FROM AN INACTIVE WELL

710:45-9-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Effective date" means the date on which the reestablishment of production has occurred.

"Exemption period" means a period of twenty-eight (28) months from the date upon which production from an inactive well is reestablished.

"Inactive well" means a well which can be defined pursuant to one of the following:

(A) A well which, after July 1, 1997, experiences mechanical failure or loss of mechanical integrity, as defined by the Corporation Commission, including, but not limited to, casing leaks, collapse of casing, or loss of equipment in a wellbore, or any similar event which causes cessation of production and results in a workover of the well, as evidenced by the use of a workover rig or other mechanical device being placed over the well to repair the well or equipment.

(B) A well on which work to reestablish production commenced on or after July 1, 1994, and on or before June 30, 1997, that has not produced oil, gas, or oil and gas for a period of not less than two (2) years, as evidenced by the appropriate forms on file with the Oklahoma Corporation Commission reflecting the well's status.

(C) A well on which work to reestablish production commenced on or after July 1, 1997, and on or before June 30, ~~2003~~ 2006, that has not produced oil, gas, or oil and gas for a period of not less than one (1) year, as evidenced by the appropriate forms on file with the Oklahoma Corporation Commission, reflecting the well's status.

710:45-9-53. Rebates - Refund procedure

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as an inactive well for which production has been reestablished;

(2) A copy of OCC Form 1534 submitted to the Corporation Commission;

(3) A copy of an approved OTC Form 320C that shows the date of the reestablishment of production of oil and/or gas;

(4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and

(5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for ~~qualifying wells~~ prior periods.** Approval of a "Reestablished Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

(1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.

(2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.

(e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.

(f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.

(~~e~~g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

PART 13. DEEP WELLS

710:45-9-60. Scope of Part 13

(a) **General provisions.** Exemption from the levy of gross production tax on the production of gas, oil, or gas and oil from wells certified as being "Deep Wells" set out in 68 O.S. § 1001(H) shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and the Oklahoma Tax Commission pursuant to 68 O.S. § 1001(M)(1).

(b) **Definitions.** For purposes of qualifying for the exemption, "**depth**" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing.

(c) **Exemption for wells spudded between July 1, 1994, and June 30, 1997, to a depth of fifteen thousand (15,000) feet or greater.** Deep wells spudded between July 1, 1994, and June 30, 1997, and drilled to a depth of fifteen thousand (15,000) feet or greater shall be exempt from the gross production tax, beginning from the date of first sale, for a period of twenty-eight (28) months.

(d) **Exemption for wells spudded between July 1, 1997, and June 30, 2002, to a depth of twelve thousand five hundred (12,500) feet.** Deep wells spudded between July 1, 1997, and June 30, 2002, and drilled to a depth of twelve thousand five hundred (12,500) feet or greater shall be exempt from the gross production tax, beginning from the date of first sale, for a period of twenty-eight (28) months.

(e) **Exemption for wells spudded between July 1, 2002, and June 30, ~~2003~~ 2006.** Deep wells spudded between July 1, 2002, and June 30, ~~2003~~ 2006, shall be eligible for an exemption from the gross production tax which shall begin from the date of first sale, and vary as to duration in relation to the depth of the well.

(1) **12,500 to 14,999 feet.** The duration of the exemption for wells drilled to this depth is twenty-eight (28) months.

(2) **15,000 to 17,499 feet.** The duration of the exemption for wells drilled to this depth is forty-eight (48) months.

(3) **17,500 feet or greater.** The duration of the exemption for wells drilled to this depth is sixty (60) months.

710:45-9-62.1. Rebates - Refund procedure

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as a well spudded within the applicable time periods and drilled to the prescribed depths provided in *OAC* 165:10-21-45;

(2) A copy of OCC Form 1534 submitted to the Corporation Commission;

(3) A copy of an approved OTC Form 320A that shows date of first sale of production;

(4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and

(5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for ~~qualifying wells~~ prior periods.** Approval of a "Deep Well Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

(1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.

(2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.

(e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.

(f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.

(~~e~~g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

PART 15. NEW DISCOVERY WELLS

710:45-9-70. Scope of Part 15

Exemption from the levy of gross production tax on the production of gas, oil, or gas and oil from wells spudded or reentered between July 1, 1995 and June 30, ~~2003~~ 2006, which qualify as a new discovery well pursuant to Title 68, Section 1001(I) shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and the Oklahoma Tax Commission pursuant to 68 O.S. § 1001(M)(1).

710:45-9-71. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"New discovery" means production of oil, gas, or oil and gas from:

(A) A well, spudded or reentered prior to July 1, 1997, which discovers crude oil in paying quantities, and is located more than one (1) mile from the nearest oil well producing from the same interval.

(B) A well, spudded or reentered on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, which discovers crude oil in paying quantities, and is located more than one (1) mile from the nearest oil well producing from the same interval of the same formation.

(C) A well, spudded or reentered prior to July 1, 1997, which discovers crude oil in paying quantities beneath current production in a deeper producing formation, located more than one (1) mile from the nearest oil well producing from the same deeper interval.

(D) A well, spudded or reentered on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, which discovers crude oil in paying quantities beneath current production in a deeper producing interval, located more than one (1) mile from the nearest oil well producing from the same deeper interval.

(E) A well, spudded or reentered prior to July 1, 1997, which discovers natural gas in paying quantities, and is located more than two (2) miles from the nearest gas well producing from the same producing interval.

(F) A well, spudded or reentered on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, which discovers natural gas in paying quantities, and is located more than two (2) miles from the nearest gas well producing from the same producing interval.

(G) A well, spudded or reentered prior to July 1, 1997, which discovers natural gas in paying quantities beneath current production in a deeper producing interval, that is more than two (2) miles from the nearest gas well producing from the same deeper interval.

(H) A well, spudded or reentered on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, which discovers natural gas in paying quantities beneath current production in a deeper producing interval, that is more than two (2) miles from the nearest gas well producing from the same deeper producing interval.

710:45-9-73. Rebates - Refund procedure

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as a new discovery well spudded or re-entered between July 1, 1995 and June 30, ~~2003~~ 2006;

(2) A copy of OCC Form 1534 submitted to the Corporation Commission;

(3) A copy of an approved OTC Form 320A that shows date of first sale of production;

(4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and

(5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for ~~qualifying wells~~ prior periods.** Approval of a "New Discovery Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three

years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

(1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.

(2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.

(e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.

(f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.

(~~e~~g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

PART 19. PRODUCTION USING THREE DIMENSIONAL SEISMIC SHOOTS

710:45-9-90. Scope of Part 19

Exemption from the levy of gross production tax on the production of oil, gas or oil and gas from a well, drilling of which is commenced after July 1, 2000, and prior to July 1, ~~2003~~ 2006, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, as set out in 68 O.S. § 1001(J), shall be determined according to the provisions of this Part. [**See:** 68 O.S. § 1001(M)(1)]

710:45-9-92. Qualification procedure

(a) **General provisions.** The provisions of this Section establish criteria for determining if an operator producing oil, gas or oil and gas from a well, drilling of which is commenced after July 1, 2000, and prior to July 1, ~~2003~~ 2006, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, has met the required conditions to qualify the production from such a well for the exemption from the Gross Production Tax. [**See:** 68 O.S. § 1001(J)]

(b) **Application to Oklahoma Corporation Commission; determination; order.** An operator seeking an exemption of the gross production tax on production from a well located within the boundaries of a three-dimensional seismic shoot and drilled based on such technology, shall make application to the Oklahoma Corporation Commission on a Form 1534 for a determination that the well qualifies for such exemption, as provided in 68 O.S.Supp.2000, § 1001(J).

(1) If the application is administratively approved, an order of the Oklahoma Corporation Commission shall be issued.

(2) To obtain the tax exemption, the operator shall forward a copy of the Oklahoma Corporation Commission order to the Oklahoma Tax Commission, together with any other data required by that agency pursuant to OAC 165:10-21-88.

(3) Any data, maps and other information submitted with the OCC Form 1534 for determination that a well qualifies for the exemption provided in this paragraph shall be held as confidential information by the Conservation Division and/or Commission, and upon approval through issuance of a Commission order, shall be returned to the applicant or destroyed.

710:45-9-93. Rebates - Refund procedure

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) Corporation Commission order approving such application and containing a determination that the well meets the criteria of the statute insofar that its drilling was commenced after July 1, 2000, and prior to July 1, ~~2003~~ 2006; that it is located within the boundaries of a three-dimensional seismic shoot and was drilled based on such technology; and indicating whether the seismic shoot was shot either prior to, or after July 1, 2000.

(2) A schedule of production, by month, of the gross amounts of oil, gas, or oil and gas produced, and the gross values thereof, from the date of first sale until the date application is made to the Tax Commission.

(3) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for ~~qualifying wells~~ prior periods.** Approval of a "Three-Dimensional Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall

be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

(1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.

(2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.

(e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.

(f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.

(~~e~~g) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

[OAR Docket #04-583; filed 4-8-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

[OAR Docket #04-584]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Registration and Licensing
Part 1. General Provisions
710:60-3-12. Staggered registration [AMENDED]
710:60-3-13. Non-staggered registration [AMENDED]
710:60-3-14. Transfer of ownership registration [AMENDED]
710:60-3-20. Display of vehicle license plates [AMENDED]
710:60-3-23. ~~October 9, 2001, tornado~~ Tornado registration fee credit [AMENDED]
Part 11. Other Vehicles
710:60-3-114. Fractionation tanks (frac tanks) not eligible for registration [NEW]
Subchapter 5. Motor Vehicle Titles
Part 3. Application for Certificates of Title
710:60-5-30. Applications for certificates of title [AMENDED]
Part 11. Liens
710:60-5-113. ~~Out-of-state lienholder~~ Lienholder notification [AMENDED]
710:60-5-116. Mechanics' liens under Title 42 of the Oklahoma Statutes [AMENDED]
Subchapter 7. Motor Vehicle Excise Tax
710:60-7-8. ~~October 9, 2001, tornado~~ Tornado excise tax credit [AMENDED]
Subchapter 9. Motor Vehicle License Agents/Agencies
Part 9. Specific Fiscal Duties
710:60-9-94. Procedures for reporting and collecting returned checks [AMENDED]

AUTHORITY:
Oklahoma Tax Commission; 47 O.S. §§ 1113(A)(2) and 1149; 68 O.S. §§ 203 and 2110

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n/a

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n/a

ANALYSIS:
Sections 710:60-3-12 and 710:60-3-13 have been amended to conform to the provisions of Senate Bill 234, § 2, which provides for staggered registration of motorcycles and mopeds, as of January 1, 2004. [47:1115(B)(4)]

Section 710:60-3-20 has been amended to conform to statute and to ensure that all vehicular license plates are displayed in a fashion that will allow maximum visibility for law enforcement. [47:1113(A)(2)]

Section 710:60-3-14 has been amended to reflect a change in policy that will combine the receipts issued for transfer of title fees and registration fees into one document, reflecting both fees paid, when applicable. The past practice of issuing separate receipts will be discontinued.

Section 710:60-3-23 has been amended to implement Section 1 of House Bill 1251 which allowed a credit with respect to the registration fee of a vehicle which is a replacement for one destroyed by a tornado on May 8 or 9, 2003. [47:1132.3(C)]

New Section 710:60-3-114 has been added to clarify the nature and taxability of fractionation tanks under existing statutory schemes in conformity with a legal opinion from the Commission's Office of the General Counsel. [OTC O-03-006]

Section 710:60-5-30(9)(B) has been amended to implement House Bill 1712, § 4, which provided for on-site vehicle inspections by law enforcement personnel at salvage pools, salvage disposal sales, or at classic/antique auctions, where an there is a discrepancy in the VIN of an out-of-state vehicle being offered for sale. 47:1105(M)]

Section 710:60-5-113 has been amended to conform to statute and to clarify the lien filing and release procedures related to all vehicles registered in Oklahoma. [47:1109(2)]

Section 710:60-5-116(D) has been amended to conform to Senate Bill 702 which provided that proceedings for foreclosure under "Title 42" for the storage of junked vehicles could commence five (5) days after the lien has accrued, and Senate Bill 512, § 2, which amended the lien priorities for an owner of real property with a contractual possessory lien securing accrued storage or rental charges for a manufactured home, allowing the owner priority over a creditor with a perfected security interest fifteen (15) days from and after the date the secured creditor has been given notice of the abandoned or surrendered manufactured home. The provisions of SB512 are effective November 1, 2003. Prior law provided for a ten (10) day period between notice and priority. [42:91; 42:180(D)]

Section 710:60-7-8 has been amended to implement Section 4 of House Bill 1251 which allowed a credit with respect to vehicle excise tax for a vehicle which is a replacement for one destroyed by a tornado on May 8 or 9, 2003. [47:2103.1(3)]

Section 710:60-9-94 has been amended to clarify collection procedures for Motor License Agents who have received a dishonored check.

In addition, other rule changes are proposed to make clarifications of policy, to improve readability, to correct scrivener' errors, to update statutory citation, and to insure accurate internal cross-references.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 3. REGISTRATION AND LICENSING

PART 1. GENERAL PROVISIONS

710:60-3-12. Staggered registration

(a) **Staggered registration procedures.** All vehicles, except ~~prorated vehicles,~~ manufactured homes, ~~motorcycles, mopeds,~~ special mobilized machinery, and vehicles registered by installment, purchased new or brought in from another state will be registered on a staggered basis. The month of expiration in the following year will be shown on the monthly decal issued with the tag. The registration expires on the last day of the month in which the vehicle was originally purchased or brought into the state, unless otherwise requested by registrant.

(b) **Adjustment of expiration month.** The new owner of a vehicle previously registered in Oklahoma may adjust the expiration month upon their initial registration renewal. The purchaser of a new vehicle or the owner of a vehicle brought in from another state may establish the registration expiration month upon initial registration. A registration may not be issued for less than three months or more than fifteen months.

710:60-3-13. Non-staggered registration

(a) **Calendar year registrations.** Vehicles registered under the ~~provisions of the International Registration Plan (prorate tags), the~~ Installment Registration Plan (1/2 yr. tags), and Manufactured Homes~~, Motorcycles and Mopeds~~ are registered on a calendar year basis (December expiration).

(b) **Registration and tax may be prorated.** The following quarterly periods in which a vehicle is purchased or enters the state determines the portion of a full year registration and tax due.

(1) December 1 through March 31 - Full Year tax due

(2) April 1 through June 30 - 3/4 Year tax due - Monthly rate times 9

(3) July 1 through September 30 - 1/2 Year tax due - Monthly rate times 6

(4) October 1 through November 30 - 1/4 Year tax due - Monthly rate times 3

(c) ~~**Trucks or tractors may be converted to International Registration.** Trucks or tractors currently registered in Oklahoma under the staggered registration plan may change to an International Registration (prorate registration) at any time and receive credit for the unused portion of the staggered tag.~~

~~(d)~~ **No credit in excess of new registration fee.** In no case will credit be made on the unused portion of a registration in excess of the new registration fee.

710:60-3-14. Transfer of ownership registration

~~(a)~~ **Fee generally due on transfer of title; exceptions.** A transfer of ownership registration fee is due when transferring any Oklahoma title with the following exceptions:

(1) Name changes (same person only). This exemption would not apply to adding or dropping a name.

(2) Salvage vehicles - including going into salvage

(3) Used dealers (unless acting as repossessor)

(4) Manufactured homes

(5) Commercial Trailers

(6) Political Subdivision (city, county, public school or State)

(7) Repossessions

(8) Charitable organization licensed through the Oklahoma Secretary of State's Office

~~(b)~~ ~~**Registration in name of transferee.** A new registration receipt will be issued to the new owner.~~

710:60-3-20. Display of vehicle license plates

(a) Vehicle license plates shall be firmly affixed to the rear of the vehicle, provided however, ~~the following vehicles~~ trucks registered under the International Registration Plan shall have the plates firmly attached to the front~~: [**See:** 47 O.S. §1113(A)]~~

~~(1) Truck tractors;~~

~~(2) Trucks of a gross vehicle weight rating exceeding 26,000 pounds; and~~

~~(3) Trucks and truck tractors registered under the International Registration provisions~~.

(b) Trucks with a gross vehicle weight rating exceeding 26,000 pounds may have the plates firmly attached to the front or rear.

(~~b~~c) Vehicle license plates shall be a affixed and displayed in such a manner that the letters and numerals shall be read from left to right parallel to the ground.

(~~c~~d) No vehicle license plate may be displayed in an inverted or reversed position, or in such a manner that the letters and numerals are not readily identifiable.

710:60-3-23. ~~October 9, 2001, tornado~~ Tornado registration fee credit

Credit will be allowed towards the Oklahoma registration fee of a vehicle which is a replacement for a properly registered vehicle destroyed by a tornado on October 9, 2001, or May 8 or 9, 2003. The credit will be prorated to an amount equal to the fee for the number of months remaining on the registration for the destroyed vehicle, as of ~~October, 2001~~ the date of loss. No excess credit may be refunded.

PART 11. OTHER VEHICLES

710:60-3-114. Fractionation tanks (frac tanks) not eligible for registration

(a) "**Frac tank**" means any portable or stationary, high-volume holding vessel designed and constructed for use in separating, storing, or temporarily holding materials used in or resulting from fracturing techniques used in oil and gas exploration. [17 O.S. § 54 et. seq]

(b) Mobile frac tanks do not qualify for special mobilized machinery registration.

(c) Mobile frac tanks do not qualify for commercial trailer registration.

(d) A mobile frac tank is classified as personal property and is subject to the provisions of the Oklahoma Ad Valorem Tax Code.

(e) The sales tax levied by 68 O.S. § 1354 applies to the gross receipts or gross proceeds from the sale, rental, or lease of mobile frac tanks, unless otherwise exempted.

SUBCHAPTER 5. MOTOR VEHICLE TITLES

PART 3. APPLICATION FOR CERTIFICATES OF TITLE

710:60-5-30. Applications for certificates of title

An application for Oklahoma Certificate of Title for a Vehicle (OTC Form 701-6) must be completed as part of the supporting documentation for all original Oklahoma titles issued. Following are instructions for completing the application.

(1) **Model, year and make.** Enter the model year as indicated by the manufacturer's make of the vehicle.

(2) **Body type.** Use only the basic vehicle body type. Do not use trade names as advertised by manufacturer. A 4-dr Country Sedan should be shown as 4-dr Station Wagon. The following are basic types of vehicles:

(A) Automobile: 2Dr. Coupe; 4Dr. Sedan; 2Dr. Convertible; Funeral Coach

(B) Truck: Pickup; Truck; Truck-Tractor

(C) Travel Trailer

(D) House Trailer

(E) Motor Home

(F) Motorcycle

(G) Bus: School Bus (Public or private) or Omnibus

(H) Straight Trailer or Semitrailer: Show as Straight Trailer or Semitrailer. A straight trailer is constructed so that no part of its weight rests upon the towing vehicle. A semitrailer is constructed so that a portion of its weight and load rests upon or is supported by another vehicle. The majority of commercial trailers are semitrailers. In Model No. show Flat-bed or Semi.

(I) Pole Trailer: Show as Pole Trailer. This type of trailer is used for hauling pipes or poles and is a frame only, having no bed.

(3) **Model.** Basic information is to be entered here that will insure proper and accurate identification of the vehicle. All automobiles have a model name and number. (Do not confuse the model number with the serial number.) The following information should be entered for each type of vehicle.

(A) Automobile: Model, name and number. Example: 1985 Chevrolet, 4Dr., Station Wagon.

(B) Manufactured Home: Model, name (if any), length, and width. Example: 1984 Hicks Manufactured Home, 14' x 60'.

(C) Travel Trailer: Model, name, length and width. Example: 1984 Nomad Travel trailer 8' x 40'.

(D) Motorcycle: Model, name, number and number of cylinders.

(E) Bus: Model, and number of passenger seats. Example: 1970 GM Omnibus PD-4101 39 psgr.

(F) Truck: Brief description of body, model number, manufacturer's rated capacity and number of rear axles. Example: SA: Single Axle; TA: Tandem (2) Axles; Stake: F350 IT SA; Dump: WFT8164T 3T TA; Van: 3303, 2 1/2 T SA.

(G) Truck-Pickup: Model name, number and manufacturer's rated capacity. Example: 1985 Ford Styleside F100 1/2T.

(H) Truck-Tractor: Model number and number of rear axles.

(I) Trailer-Large Trailers: Brief description of body, length and number of axles. Example: Grain, 35FT., 2A

(J) Small Trailers: Brief description of body length and number of wheels. Example: Tractor, 12FT, 4 (Wheels Rental, 6FT,4W)

(4) **Identification number (Serial or Motor).** The serial number will be shown the majority of the time. The motor number will be shown only when the serial number is not available or when transferring title and the old title does not show the serial number.

(5) **"Actual sales price (value)" defined.** The "**actual sales price**", commonly referred to as "purchase price", means the actual sales price of a vehicle excluding any discounts or credits given for a trade-in. The actual sales price must be within twenty percent (20%) of the average retail price value of the vehicle, as listed in the automotive

reference material prescribed by the Oklahoma Tax Commission. [**See**: 710:60-5-50]

(6) **Signature.** The owner or a properly designated agent must sign the application for title.

(7) **New vehicles sold by Oklahoma dealers.** For domestic and foreign made vehicles, the selling dealer will complete the price information. The dealer, or authorized employee of the dealer will sign the statement and enter the actual sales price of the basic vehicle.

(8) **Declaration of damage or theft.**

(A) **Required for all vehicles not over ten model years old.** Owners of vehicles 10 model years old or less, with the exception of new vehicles or vehicles on out-of-state titles that are already branded (salvage, rebuilt, etc.) being registered for the first time in Oklahoma must complete this portion of the Application for Title.

(B) **Declaration to be executed by owner.** The owner must first answer, to the best of his or her knowledge, the first two questions. If the answer is no to both, the remainder of this section need not be completed. If the answer to either or both questions is yes, the owner must then complete the entire Declaration.

(C) **Recovered theft brand.** Should the owner indicate that the vehicle had been stolen, but the cost of repairing it to a roadworthy condition amounted to less than sixty percent (60%) of its fair market value at the time of loss, the Oklahoma Certificate of Title is to be branded "Recovered Theft".

(D) **No brand when damage unrelated to theft and repair less than sixty percent (60%) of value.** Should the owner indicate that the vehicle had been damaged by collision or other occurrence but the cost of repairing it to a roadworthy condition amounted to less than sixty percent (60%) of its fair market value, the Oklahoma Certificate of Title will not be branded.

(E) **Salvage title when damage is greater than sixty percent (60%) of value.** Should the owner indicate that the vehicle had been damaged and the cost of repairing it to a roadworthy condition amounted to more than sixty percent (60%) of its fair market value at the time of loss, the vehicle is to be treated as if it were entering Oklahoma with a salvage title. This applies regardless of whether the damage was due to theft, collision or other occurrence.

(9) **Vehicle inspection.**

(A) **Inspection required.** All previously registered vehicles entering Oklahoma from another state, with the exception of vehicles intending to prorate, must be physically inspected before an original Oklahoma certificate of title may be issued. The vehicle identification number (VIN) and odometer reading from the vehicle will be entered in this portion of the application. The VIN found on the vehicle will be compared to the number listed on the out-of-state documentation to ensure they match.

(B) **Persons authorized to perform inspection; non-release of title.** ~~These~~ Except as noted herein, inspections are to be performed by motor license agents or authorized Oklahoma Tax Commission personnel only. If the vehicle is unavailable for inspection, a hold is to be placed on the Oklahoma title. The applicant will be informed that the title will not be released until the VIN inspection has been completed. The Oklahoma Tax Commission may allow the inspection to be performed at a location out-of-state by another state's department of motor vehicles or state law enforcement agency. For vehicles offered for sale at salvage pools, salvage disposal sales, or classic or antique vehicle auctions, and on which the VIN does not match the number recorded on the ownership records, the required inspection may be conducted at the location, or place of business, of such sale or auction by any state, county, or city law enforcement officer.

PART 11. LIENS

710:60-5-113. ~~Out-of-state lienholder~~ Lienholder notification

(a) **Procedures for entry of ~~out-of-state~~ lien on Oklahoma title documents.** ~~Effective July 1, 1989, the~~ A tag agent or the Tax Commission must complete a lien entry form on ~~an out-of-state~~ any vehicle registering for the first time in Oklahoma, if the ~~out-of-state document~~ submitted documentation contains the name of a secured party ~~on its face~~, or if the ~~state~~ title certificate is being held by the secured party in ~~that state or any other~~ another state. The owner of ~~such~~ a vehicle whose title is being held by a secured party in another state shall file an affidavit with the Commission or the motor license agent, stating that title to the vehicle is being held by a secured party and has not been issued pursuant to the laws of the state where titled, and that there is an existing lien or encumbrance on the vehicle. The current name and address of the secured party or lienholder shall also be stated in the affidavit. The lien will be shown on the face of the original Oklahoma title.

(b) **Notification procedure.** The lien entry form and releases will ~~then~~ be mailed to the creditor, along with ~~a form cover~~ an explanatory letter ~~informing the creditor and asking them to send in the title so that the Oklahoma title with their lien may be delivered to the debtor~~. When an out-of-state lienholder is holding the out-of-state certificate of title, the lienholder will be requested to send the title to the Commission, so that an Oklahoma title with the lien noted thereon may be delivered to the debtor.

(c) **Fees.** The total charge for completing and recording the lien as set forth by statute will be paid by the person registering the vehicle (owner).

(d) **Releasing liens.** When releasing the lien, the lienholder shall return copy ~~numbers~~ 3 of the lien entry form, signed and dated, to the Tax Commission, and copy 4 of the lien entry form signed and dated, to the debtor. ~~or, if~~ If the lien release forms are unavailable, a notarized lien satisfied statement may be utilized. If ~~those were not furnished and~~ the owner ~~does present~~

~~the~~ presents an out-of-state title with the release portion signed and dated, a release lien Oklahoma title can be issued.

710:60-5-116. Mechanics' liens under Title 42 of the Oklahoma Statutes

(a) **Prior approval required.** Any person who wishes to sell a vehicle for storage fees or work done for which they have not been compensated must submit proper documentation to the Tax Commission for approval.

(b) **Forms available.** A packet of the forms required (OTC 752, OTC 752A and OTC 752B) may be obtained from the Tax Commission.

(c) **Procedure for completion and submission of forms.** Do not send incomplete or altered forms. OTC Form 752B is required to be submitted on safety paper. Photocopies of this form are not acceptable.

(d) **Persons qualified to file mechanics' liens.** Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof by furnishing material, labor or skill for the protection, improvement, safekeeping, towing, storage or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due such person from the owner for such service. The required ownership and lienholder information are described by guidelines established in OAC 710:60-1-3. Generally, the person filing a mechanics' lien must have possession of the property at least thirty (30) days prior to the date of filing. Exceptions to the thirty-day possession requirement are:

(1) Manufactured homes, where the possession requirement is fifteen (15) days; and,

(2) Junk vehicles in possession of a Class AAA wrecker service, where the possession requirement is five (5) days. [**See:** 710:60-5-55]

(e) **Manner of foreclosure.** Said lien may be foreclosed by a sale of such personal property upon the notice and in the manner following. The notice shall contain:

(1) The names of the owner and any other party or parties who may claim any interest in said property.

(2) A description of the property to be sold.

(3) The nature of the work, labor or service performed, material furnished, and the date thereof.

(4) The time and place of sale.

(5) The name of the party, agent or attorney foreclosing such lien.

(f) **Notice requirements.**

(1) **General requirements.** Such notice shall be posted in three (3) public places in the county where the property is to be sold at least ten (10) days before the specified time of the sale. A copy of the notice shall be mailed to the owner and any other party or parties claiming any interest in the property, if known, at their last known post office address by registered mail on the day of posting. Any party or parties claiming an interest in the property shall include owners of chattel mortgages and conditional sales contracts as shown by the records at the Oklahoma Tax Commission. A receipt for certified mail must be included in the application for title.

(2) **Notice to owner and other interest holders prior to sale.** Since the purchaser of a vehicle possessed by a mechanic or garage man has priority over the secured party's lien, the mechanic or garage man may sell the vehicle upon notifying the owner and any other party who may claim any interest in the vehicle, of the amounts due for the repairs or storage of the vehicle and the date on which the vehicle will be sold.

(3) **Notice when owner is unknown.**

(A) **Notice by publication.** If a vehicle owner is unknown, Section 2004 et. seq. of Title 12 of the Oklahoma Statutes makes provision for a notice by publication.

(B) **Affidavit of notice by publication.** The notice has to be published for one day each week for a three week period in the county where the vehicle is located. After the publication is completed, a receipt of a copy of an affidavit for the notice by publication will be acceptable as an enclosure to the repossession under Section 92 of Title 42 of the Oklahoma Statutes.

(g) **Sale and distribution of proceeds of sale.** When the vehicle is sold, the special (possessory) lien holder, upon satisfying the amounts due to him/her must make arrangements for the payment in excess of the amounts due to him to be paid to the secured party or parties and to the owner of the vehicle.

(h) **Effect of foreclosure on purchaser's title.** The purchaser of the vehicle will receive a Certificate of Title without any liens indicated. [**See:** 42 O.S. §91 et seq.]

SUBCHAPTER 7. MOTOR VEHICLE EXCISE TAX

710:60-7-8. ~~October 9, 2001, tornado~~ Tornado excise tax credit

Credit will be allowed with respect to the excise tax due on a vehicle which is a replacement for a vehicle destroyed by a tornado on October 9, 2001, or May 8 or 9, 2003. Excise tax on the destroyed vehicle must have been paid ~~on or after October 9, 2000~~ within one (1) year preceding the loss. Credit will be allowed in the amount of excise paid on the destroyed vehicle, excluding any penalties. The credit may only offset any excise tax due on the replacement vehicle. No excess credit may refunded.

SUBCHAPTER 9. MOTOR VEHICLE LICENSE AGENTS/AGENCIES

PART 9. SPECIFIC FISCAL DUTIES

710:60-9-94. Procedures for reporting and collecting returned checks

The following procedures should be followed in the event a check deposited by a motor license agent is returned unpaid.

(1) **Notice of returned check.** The bank should notify the agent that they are holding an unpaid item. (The check must be run through twice). The agent, in turn, has the option of picking up the check with cash or reducing the amount of his next deposit. The check should be picked up from the bank as soon as notification is received. Form 774-A is to be completed and immediately sent to the maker of the dishonored check.

(2) **Procedure for collection of returned check; applicable penalties; taxpayer liability.** A charge as set forth by statute may be charged to the maker of a returned check, after an attempt has been made to deposit the check twice. Any accrued penalty to date of collection is to be assessed. The taxpayer is notified to immediately remit payment to the tag office. The insufficient check, agent's file copies of documents on which the check was issued, and a copy of the notification to the taxpayer is to be sent to the Oklahoma Tax Commission if the Agent cannot collect the check. The security verification form is to be retained in the tag office along with photocopies of all documents issued. In the event the taxpayer returns all items issued by the motor license agent, the insufficient check is not to be returned to the taxpayer. Return of these items does not relieve the taxpayer of responsibility to remit the proper fees to the State of Oklahoma.

(3) **Procedure to obtain credit to agent's account; subsequent tender of payment.** The Tax Commission will then issue credit to the agent's account in the amount of the remittance for such instruments. After documents and the insufficient check have been sent in for credit, payment is not to be accepted from the registrant without calling the Motor Vehicle Division for instructions. The returned check and the copies of the documents on which the check was issued will be processed and forwarded to the ~~Enforcement~~ Collections Division for collection. The statutes require that an agent accept a check one time. Statutes further stipulate that an agent is not required to take a check when the applicant is within a penalty period. Postdated checks are not to be accepted.

(4) **Tag or decal may be held.** The motor vehicle agent may hold a tag or decal until the taxpayer's check has cleared the bank.

(5) **Insufficient checks to be forwarded to the Oklahoma Tax Commission; time limits.** All insufficient checks for which payment is not received are to be sent into the Oklahoma Tax Commission no later than thirty (30) days after the date picked up from the bank. Further delays in processing may prevent collection.

[OAR Docket #04-584; filed 4-8-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

[OAR Docket #04-585]

RULEMAKING ACTION:
Permanent final adoption
RULES:
Subchapter 4. Registration Pursuant to the International Registration Plan
710:60-4-4. Proof of ownership [AMENDED]
710:60-4-6. Registration as an owner-operator [AMENDED]
710:60-4-16. Application disapproval [AMENDED]
710:60-4-17. Temporary operating authority [AMENDED]
710:60-4-20. Incorporation by reference [AMENDED]
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SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
Section 710:60-4-4, Proof of Ownership, has been amended to clarify that a lease-purchase agreement which may serve as documentation for purposes of proportional registration by an owner-operator must establish that ownership status in its terms.

Section 710:60-4-6, Registration as an Owner-Operator, has been amended to include a definition for "owner-operator", to furnish further explanation of the factors which will be looked at to establish that a registrant can be located in Oklahoma, and to provide a more detailed description of lease requirements.

Section 710:60-4-16, Application Disapproval, has been amended to address issues and questions which have arisen in conjunction with the administration of existing procedures, particularly with respect to various forms of temporary operating credentials.

Section 710:60-4-17, Temporary Operating Authority, has been amended to require that all fees be paid prior to issuance of temporary operating authority to new accounts.

Section 710:60-4-20, Incorporation by Reference, has been amended to insure accurate and current citation and references to materials being incorporated.
CONTACT PERSON:
Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.

SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 4. REGISTRATION PURSUANT TO THE INTERNATIONAL REGISTRATION PLAN

710:60-4-4. Proof of ownership

(a) **Proof of ownership required.** Proof of ownership must be submitted for all vehicles being registered through an original or supplemental application.

(b) **Documentation.** One of the following documents is necessary to prove ownership:

(1) ~~Copy~~ A copy of the title or vehicle registration in the owner's name;

(2) ~~Copies~~ A copy of the front and back of an assigned out-of-state title; ~~titles; or~~

(3) A lease-purchase agreement by which the registrant, under the terms of the agreement, is to become the owner of the vehicle at the end of the lease period for nominal or no additional consideration; or,

(4) A notarized Bill of Sale which contains the following information:

(A) Year, make, and vehicle identification number;

(B) Purchase price;

(C) Buyer and seller signatures; and

(D) Purchase date.

710:60-4-6. Registration as an owner-operator

(a) **General requirements.** An owner-operator is a registrant who provides proof of ownership pursuant to 710:60-4-4, and leases the vehicle with a driver to a carrier. Owner-operators who cannot fully comply with Section 218 of the International Registration Plan and 710:60-4-5, may register in Oklahoma, provided that the owner-operator furnishes a street address, a telephone number, and satisfactorily demonstrates that the owner-operator can be located in Oklahoma for purposes of audit.

(b) **Street address.** The street address in Oklahoma must be the street address where the owner-operator's records are maintained or where the records will be delivered for purposes of audit. An owner-operator may not utilize the address of a registration agent to satisfy the requirement of an address in Oklahoma unless the owner-operator's records are maintained at the registration agent's address, or there is a continuing relationship between the owner-operator and registration agent under which the records are to be provided for audit at the registration agent's address.

(c) **Telephone number.** The telephone number shall be the telephone number of the owner-operator or of a person who has knowledge of the owner-operator's whereabouts and is able to contact the owner-operator within a reasonable time upon request.

(d) **Owner-operator can be located.** The owner-operator must submit documentation that indicates the owner-operator can be located in Oklahoma for purposes of audit. Documentation acceptable for meeting the requirements of this subsection ~~include~~ includes, but ~~are~~ is not limited to:

(1) Proof of Oklahoma residency, such as an Oklahoma-issued driver's license, current Oklahoma Income Tax filing, proof of an Oklahoma homestead exemption, or other evidence of bona fide residency;

(2) Employment of owner-operator or owner-operator's spouse in Oklahoma;

(3) Enrollment of one or more of owner-operator's children in an Oklahoma school or schools; or,

(4) Ownership of real property in Oklahoma~~; or,~~

~~(5) Lease to an Oklahoma based motor carrier~~.

(e) ~~**Requirement of lease.**~~ **Lease requirements.** An owner-operator ~~using a carrier to satisfy the requirement of operating authority or proof of insurance~~ must submit an executed copy of the lease between the owner-operator and a motor carrier, for a term which is of substantially the same duration as the period of registration being sought. The lease terms may not provide for operation of the vehicle independent of the motor carrier.

710:60-4-16. Application disapproval

(a) An application will be disapproved if it is not properly completed. It is the responsibility of the registrant to submit all information required by the application instructions and attach all necessary documentation.

(b) The registrant or his agent will be notified if an application is disapproved and the reasons therefore or if additional information is needed.

(c) An application that has been disapproved may be resubmitted by the registrant but will be processed as a new application upon receipt of the resubmission.

(d) If the applicant believes that the application was wrongfully disapproved, the registrant may, within thirty (30) days of the mailing or hand-delivery of the notice of disapproval, request a hearing at which time the registrant can present testimony and/or evidence in support of the application.

(e) No extensions, temporary operating authority, or temporary credentials will be issued for vehicles listed on a disapproved application.

710:60-4-17. Temporary operating authority

New fleet vehicles, or vehicles being added to any existing fleet, must have some form of temporary operating authority prior to operation if permanent IRP credentials have not been issued. Oklahoma offers three (3) forms of temporary operating authority. All forms of temporary operating authority are valid for the period shown and will be honored by all IRP jurisdictions when properly completed and validated.

(1) **Temporary registration authorization.** Temporary registration authorization may be obtained directly from the Prorate Section, Motor Vehicle Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73194. The permit shall be completed in full by the applicant and validated by the Prorate Section at the time the application and appropriate

fees are presented to the department. The registration should be completed as follows:

(A) Enter the assigned Oklahoma IRP account number or leave a blank if no previous number has been assigned.

(B) Mark the appropriate section indicating the type of application on which the vehicle(s) is listed for registration and the date the application was filed.

(C) List the vehicles being authorized by license plate number (leave blank if not assigned), equipment number, year model, make and the vehicle identification number. Unused vehicle listing spaces must be lined out.

(D) List jurisdictional weights for the vehicles. A separate form must be completed for vehicles which are not to be qualified at identical weights in the same jurisdiction. State with no entry must be lined out.

(E) Enter the registrant's name and business address as reported on Schedule A or C application.

(F) Jurisdiction and weight information entered on the form must be consistent with those reported on the Schedule A or C form.

(G) Temporary registration authorization for established accounts may also be obtained directly from any person that has entered into an agreement with the Oklahoma Tax Commission for distribution and issuance of temporary operating authority. **"Established account"** means any prorate account for which a properly completed original application has been received by the Pro-rate Section and all corresponding and assessed fees have been paid in full. This registration must be completed in the same manner described in paragraph (1) of this subsection. Misuse of any temporary registration may result in denial of temporary registration privileges.

(2) **Required payment of fees.** Temporary operating authority or credentials may only be issued to new accounts after all required fees are paid. Temporary permits or authorization may be issued to established accounts prior to payment of fees. **"Established account"** means any prorate account for which a properly completed original application was previously received by the Pro-rate Section and all corresponding and assessed fees were paid in full.

(3) **Wires of operating authority.** Wires of operating authority may be requested from the Motor Vehicle Division Prorate Section in the following manner:

(A) **Where to apply.** Wires of operating authority may be requested through the Prorate Section, Motor Vehicle Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73194, during normal business hours, Monday through Friday.

(B) **Application procedure.** A properly completed and signed Schedule C application must be mailed to the Prorate Section, Motor Vehicle Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73194, prior to issuance of the wire request. The applicant must contact the appropriate wire service agency to determine the proper amount of fees due and the location to remit the fees.

(~~3~~4) **Self-issue permits.** Self-issue permits are available only to established Oklahoma-based IRP registrants, and may be used only for adding vehicle(s) to the registrant's account. Self-issue permits may not be issued by a registrant to another registrant or to an applicant or potential applicant for Oklahoma proportional registration.

(A) **Self-issue temporary permits.** Self-issue temporary permits or authorizations may be issued up to a maximum of twenty-five percent (25%) of the size of the registrant's fleet. Any registrant with a fleet of less than six (6) vehicles may be assigned one (1) self-issue permit.

(B) **Application procedure.** Properly completed permits allow for immediate temporary operating authority for vehicles added to the fleet, duplicate cab cards, substitute license plates, state add and weight increase applications. Upon issuance, the original permit should be placed in the vehicle, and one copy mailed **immediately** to the Prorate Section, Motor Vehicle Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73194. Within fifteen (15) days of issuance, another copy of the temporary operating authority must also be submitted, along with a completed Schedule C.

(C) **Violations.** Misuse of the permits or failure to maintain proper accountability may result in the Prorate Section's refusal to issue the registrant self-issue permits.

710:60-4-20. Incorporation by reference

(a) **Reference to the International Registration Plan ("IRP").** When reference is made to the International Registration Plan or "IRP", it shall mean, unless the context clearly indicates otherwise, the registration reciprocity agreement among the various states of the United States and the provinces of Canada, including the ~~Uniform Operation~~ Audit ~~Procedure Guidelines and the implementation policies set out in the Policy and Procedures Manual,~~ Procedures Manual, which provides for payment of license fees for apportionable vehicles on the basis of fleet miles operated in the various jurisdictions, to which Oklahoma is a signatory state, as published by International Registration Plan, Inc., as amended through ~~August 22, 1994~~ October 1, 2003.

(b) **Incorporation.** The following Articles are, unless otherwise specifically provided, incorporated by reference in their entirety:

(1) Articles I through ~~XXII~~ XXIII of the International Registration Plan ("IRP"); and,

(2) The International Registration Plan ~~Uniform Operation~~ Audit ~~Procedure Guidelines~~ Procedures Manual.~~; and~~

~~(3) The International Registration Plan Policy and Procedures Manual~~

(c) **Inclusion of IRP citations and definitions.** When a provision of the IRP is incorporated by reference, all citations and definitions contained therein are also incorporated by reference.

(d) **Inconsistencies or duplication.** In the case of any inconsistency or duplication between the requirements of those provisions incorporated by reference in this Section, and the rules set out in this Subchapter, the provisions incorporated by reference shall prevail, except where the rules in this Subchapter are more particular. The provisions incorporated by reference are subject to any limitations provided by Oklahoma law.

[OAR Docket #04-585; filed 4-8-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 70. TOBACCO, ~~AND~~ TOBACCO PRODUCTS, AND CIGARETTES

[OAR Docket #04-586]

RULEMAKING ACTION:
Permanent final adoption.
RULES:
Subchapter 2. Cigarette Stamp Tax [NEW]
710:70-2-1. Purpose [NEW]
710:70-2-2. Definitions [NEW]
710:70-2-3. When stamps must be applied [NEW]
710:70-2-4. Conditions under which a cigarette license may be granted, maintained, or renewed [NEW]
710:70-2-5. Filing requirements for persons making "delivery sales of cigarettes" [NEW]
710:70-2-6. Requirements placed on vendors making delivery sales of cigarettes [NEW]
710:70-2-7. Payment of taxes due on delivery sales of cigarettes [NEW]
710:70-2-8. Penalties for failure to comply with statutory provisions [NEW]
AUTHORITY:
Oklahoma Tax Commission; 68 O.S. §§ 203, 312.1
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ANALYSIS:
New Subchapter 2, has been adopted to assist the public with the requirements of the Cigarette Stamp Tax law. Specifically, the new rules implement the provisions of House Bill 1814 of the 49th Legislature, 1st Regular Session, which provided for certain restrictions on license renewals, and defined and clarified the tax status, licensing, and duties of those making "delivery sales" of cigarettes into Oklahoma, including specific recordkeeping and notice requirements.
CONTACT PERSON:
Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 2. CIGARETTE STAMP TAX

710:70-2-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250.1 et seq, and to facilitate the administration, enforcement, and collection of the levies enacted by the Oklahoma Legislature with respect to cigarettes. [68 O.S. § 301 et seq.]

710:70-2-2. Definitions

The following words and terms shall have the following meaning unless the context clearly indicates otherwise:

*"**Cigarette**" means all rolled tobacco or any substitute therefor, wrapped in paper or any substitute therefor and weighing not to exceed three (3) pounds per thousand cigarettes.* [68 O.S. § 301(1)]

*"**Delivery sale**" means:*

(A) *Any sale of cigarettes to a consumer in Oklahoma where either:*

(i) *The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, by use of the mails, or by any other delivery service, including the Internet or other online service; or,*

(ii) *The cigarettes are delivered by use of the mails or other delivery service.*

(B) *A sale of cigarettes which satisfies the criteria in subparagraph (A) of this paragraph shall be a "**delivery sale**" regardless of whether the seller is located within or outside of Oklahoma.*

*"**Delivery sale**" shall include any sale of cigarettes to an individual in Oklahoma and shall be treated as a sale to a consumer unless such individual is licensed as a distributor or retailer of cigarettes by the Tax Commission; but shall not include a sale of cigarettes, not for personal consumption, to a person who is a wholesale dealer or a retail dealer.* [68 O.S. § 301(13)]

710:70-2-3. When stamps must be applied

Oklahoma cigarette stamps and Oklahoma Tribal stamps may be applied only to cigarette packages that the wholesaler, jobber, distributor, or wholesaler has received directly from either a manufacturer or importer of cigarettes, providing that manufacturer or importer possesses a valid permit under 26 U.S.C. § 5712.

710:70-2-4. Conditions under which a cigarette license may be granted, maintained, or renewed

(a) *No cigarette license shall be granted, maintained, or renewed pursuant to this Subchapter and Article 3 of Title 68 of the Oklahoma Statutes, if any owner of an interest of ten (10) percent in the applicant, or holder of a license, meets any of the following conditions:*

(1) *Applicant owes Five Hundred Dollars ($500.00) or greater in cigarette taxes that are delinquent;*

(2) *Applicant has been convicted of a crime relating to or for receiving stolen or counterfeit cigarettes;*

(3) *Applicant is a manufacturer, and is not a participating manufacturer as defined in 37 O.S. § 600.22;*

(4) *Applicant is not a participating manufacturer as defined 37 O.S. § 600.22 and is not in full compliance with 37 O.S. § 600.23(A).*

(5) *Applicant is a manufacturer, and cigarettes have been imported into the United States by the applicant in violation of 19 U.S.C. § 1681a; or,*

(6) *Applicant is a manufacturer and has manufactured or imported into the United States, cigarettes that do not fully comply with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. § 1331 et seq.* [68 O.S. § 304(E)]

(b) *In addition to any civil or criminal penalty provided by law, upon a finding that a licensee has violated any provisions of 68 O.S. § 301 et seq., the Tax Commission may revoke or suspend the license or licenses of the licensee pursuant to the procedures applicable to revocation of a license set forth in 68 O.S. § 316.* [68 O.S. § 304(G)]

710:70-2-5. Filing requirements for persons making "delivery sales of cigarettes"

(a) **General.** Before delivering any cigarettes to purchasers, every person making delivery sales into Oklahoma, or mailing, shipping, or otherwise delivering cigarettes in connection with any such sales, must provide to the Oklahoma Tax Commission a written statement containing the following information:

(1) The name of the seller;

(2) The trade name of the seller;

(3) The address of the principal place of business of the seller; and,

(4) The address of any other place of business of the seller. [68 O.S. § 317.5(A)]

(b) **Monthly report of delivery sales required.** No later than the tenth day of each calendar month, each person who has made a delivery sale, or mailed, shipped, or otherwise delivered cigarettes in connection with any such sale during the previous month, must make a memorandum report to the Oklahoma Tax Commission of the following information:

(1) The name of the purchaser;

(2) The brands of cigarettes sold; and,

(3) The quantity of cigarettes sold. [68 O.S. § 317.5(B)]

(c) **Alternative method of compliance with reporting requirement.** Any person who satisfies the requirements set out in 15 U.S.C. § 376 shall be deemed to have met the reporting requirements set out in (b) of this Section. [68 O.S. § 317.5(C)]

710:70-2-6. Requirements placed on vendors making delivery sales of cigarettes

(a) *No person shall mail, ship or otherwise deliver cigarettes in connection with a delivery sale unless, prior to the first delivery sale to such consumer, the person:*

(1) *Obtains from the prospective customer a certification which includes:*

(A) *Reliable confirmation that the purchaser is at least the legal minimum purchase age; and,*

(B) *A statement signed by the prospective purchaser, in writing and under penalty of perjury, which:*

(i) *Certifies the prospective purchaser's address and date of birth; and,*

(ii) *Confirms that the prospective purchaser understands:*

(I) *That signing another person's name to such certification is illegal;*

(II) *That sales of cigarettes to individuals under the legal minimum purchase age are illegal;*

(III) *That the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of Oklahoma; and,*

(IV) *That the prospective consumer wants to receive mailings from a tobacco company;*

(2) *Makes a good-faith effort to verify the information contained in the certification provided by the prospective purchaser pursuant to (a)(1) of this Section against a commercially available database or obtains a photocopy or other image of the valid, government-issued identification, stating the date of birth or age of the individual placing the order;*

(3) *Provides to the prospective purchaser, via e-mail or other means, a notice which meets the requirements of (c) of this Section and requests confirmation that the delivery sale order was placed by the prospective purchaser; and,*

(4) *In the case of an order for cigarettes pursuant to an advertisement on the Internet, receives payment for the delivery sale from the prospective purchaser by a credit or debit card that has been issued in such purchaser's name or by check.*

(b) *Persons taking delivery sale orders may request that prospective purchasers provide their e-mail addresses.* [68 O.S. § 317.2]

(c) *The notice required under (a)(3) of this Section shall include:*

(1) *A prominent and clearly legible statement that cigarette sales to individuals below the legal minimum purchase age are illegal;*

(2) *A prominent and clearly legible statement that consists of one of the warnings set forth in Section 4(a)(1) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. § 1333(a)(1), rotated on a quarterly basis;*

(3) *A prominent and clearly legible statement that sales of cigarettes are restricted to those individuals who provide verifiable proof of age in accordance with (a)(1) of this Section; and,*

(4) *A prominent and clearly legible statement that cigarette sales are taxable under Section 301 et seq. of Title 68 of the Oklahoma Statutes, and an explanation of how such tax has been, or is to be, paid with respect to such delivery sale.* [68 O.S. § 317.3]

(d) *Each person who mails, ships or otherwise delivers cigarettes in connection with a delivery sale:*

(1) *Shall include as part of the shipping documents a clear and conspicuous statement providing as follows: "CIGARETTES: OKLAHOMA LAW PROHIBITS SHIPPING TO INDIVIDUALS UNDER THE AGE OF EIGHTEEN, AND REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES";*

(2) *Shall use a method of mailing or shipping that obligates the delivery service to require:*

(A) *The purchaser placing the delivery sale, or another adult of legal minimum purchase age residing at the purchaser's address, to sign to accept delivery of the shipping container; and,*

(B) *Proof, in the form of a valid, government-issued identification bearing a photograph of the individual who signs to accept delivery of the shipping container, demonstrating that such person is either the addressee or another adult of legal minimum purchase age residing at the purchaser's address, but such proof shall be required only if that individual appears to be under twenty-seven (27) years of age; and*

(3) *Shall provide to the delivery service retained to deliver such delivery sale evidence of full compliance with 710:70-2-7.*

(e) *If the person taking a purchase order for a delivery sale delivers the cigarettes without using a delivery service, such person shall comply with all requirements of this act applicable to a delivery service and shall be in violation of this act if it fails to comply with any such requirement.* [68 O.S. § 317.4]

710:70-2-7. Payment of taxes due on delivery sales of cigarettes

Any person accepting a purchase order for a delivery sale of cigarettes in Oklahoma shall collect and remit all taxes due on the cigarettes sold, except that cigarette excise tax need not be collected and remitted if proof has been obtained that the cigarette packages sold already bear the correct Oklahoma Cigarette Excise Tax Stamps, showing that the correct tax has previously been paid. [68 O.S. § 317.6]

710:70-2-8. Penalties for failure to comply with statutory provisions

Section 316 of Title 68 of the Oklahoma Statutes provides for both administrative and criminal penalties for failure to comply with the laws concerning the sale of cigarettes, including the possession, distribution, manufacture or sale of counterfeit cigarettes.

[OAR Docket #04-586; filed 4-8-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[OAR Docket #04-587]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Waste Tire Recycling
710:95-5-8. Transactions to which the fee is inapplicable [Amended]
710:95-5-14. Procedure to be used by businesses that manufacture new products or derive energy benefits from processed waste tire material to request compensation [Amended]
710:95-5-17. Documentation to be provided to the Commission [Amended]
Subchapter 6. Oklahoma Safe Playground Surfaces Program
710:95-6-5. Review and determination of requests for reimbursement or payment [Amended]
Subchapter 11. State Employee Licensing Compliance Review [NEW]
710:95-11-1. Purpose [NEW]
710:95-11-2. Definitions [NEW]
710:95-11-3. General Provisions [NEW]
710:95-11-4. Procedure of review and notification of state employee [NEW]
710:95-11-5. Procedure for notification of status to appointing authority [NEW]
AUTHORITY:
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N/A

ANALYSIS:

Section 710:95-5-8, describing transactions to which the waste tire fee is not applicable, has been amended to correct citations. [**27A:2-11-403(A)(3)**]

Section 710:95-5-14, has been amended in conformity with the provisions of House Bill 1356, § 1, which altered the basis for computing amounts paid to entities using waste tires for the manufacture of new products or to derive energy benefits, from using the amount of capital invested, to using the number of tons processed. [**27A:2-11-405(B)**]

Section 710:95-5-17, has been amended to conform to statute, by removing references to "Waste Tire Fee Exemption Certificates", which were deleted from statutes by the provisions of Laws 2002, c. 502, § 1 (SB 1406).

Section 710:95-6-5 has been amended to add subsection taglines for improved readability and conformity.

New **Subchapter 11**, concerning state employee income tax compliance, has been added to implement the provisions of House Bill 1593, § 1, and consists of a purpose statement, applicable definitions, general provisions, procedures for review of status and notification to employees, and procedures for notification of statue to appointing authorities. [68:238(F)]

CONTACT PERSON:

Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2004:

SUBCHAPTER 5. WASTE TIRE RECYCLING

710:95-5-8. Transactions to which the fee is inapplicable

(a) The Oklahoma Waste Tire Recycling Fee is not applicable to sales for resale to holders of valid Oklahoma Sales Tax Permits who are in the business of selling tires. The sale for resale provision will only be valid if the purchaser holds an Oklahoma resale permit and actually resells the tires. The fee applies to tires sold to mechanics or others not holding sales tax permits.

(b) Pursuant to ~~27A O.S.Supp.1995, § 2-11-403(A)(5)~~ 27A O.S.Supp.2002. § 2-11-403(A)(3), the Oklahoma Waste Tire Recycling Fee is not applicable to the sale of a used tire by a tire dealer on which the waste tire fee has previously been paid, provided that the tire dealer can document that the tire carcass was one on which the fee was previously paid when the tire was originally purchased, either as a new tire or as a used tire, or when the vehicle upon which it was mounted was first registered in Oklahoma. This documentation may consist of a copy of the bill of sale, invoice, or other document showing when, where, by whom, and the circumstances under which the fee was collected.

(c) The Oklahoma Waste Tire Recycling Fee is not applicable to the transfer of a tire carcass by a tire owner to a tire recapper, who after completion of the recapping, delivers the recapped
tire back to the owner of the tire, since no sale of the tire has been make, but rather, a service has been performed.

(d) The Oklahoma Waste Tire Recycling Fee is not applicable to the sale of a recapped tire by a tire dealer where the fee has previously been paid and the documentation described in (b) of this Section has been obtained.

710:95-5-14. Procedure to be used by businesses that manufacture new products or derive energy benefits from processed waste tire material to request compensation

(a) **Qualification.** Businesses that either manufacture new products or derive energy benefits from waste tires which have been processed by waste tire facilities shall be qualified to apply for compensation, not to exceed the total amount invested in capital equipment necessary to utilize processed waste tires, pursuant to this Section.

(b) **Limitations.** The following limitations shall apply to compensation paid pursuant to this Section.

(1) The compensation shall be payable each month for an amount equal to $20.00 per ton of processed waste tires consumed in the manufacturing process of making new products or used in processes which derive energy benefits from processed waste tires.

(2) The total amount a business may receive in compensation is an amount not in excess of One-Hundred percent (100%) of its capital investment in equipment necessary to utilize processed waste tires, provided no compensation shall be payable for capital investment in equipment which was purchased before January 1, 1995.

(3) If the funds available for any month are not sufficient to fully pay all requests for compensation, the available funds will be awarded on a ~~proportional basis, using the ratios each applicant has to the total available for compensation, as the product of the tons of material used by each, times the dollar amount of capital investment in equipment made by each bears, to the sum of the total products determined in this manner for all requests for compensation during the month~~ proportionate share of the funds available and based on the relative amount of tons of processed waste tires consumed.

(4) If the balance of the monies remaining which have been allocated for the purpose of compensating businesses that manufacture new products or which derive energy benefits from processed waste tires is insufficient to fully compensate all claimants for a particular month, they shall be compensated in the manner set out in (b)(3) of this Section and no further compensation shall be granted in the future for the processed waste tires on which compensation was previously requested.

(c) **Application process.** All persons who believe that they do qualify or will qualify for compensation shall file an application/intent to request compensation with the Commission on forms to be provided by the Commission and shall include as attachments, specification of the manufacturing operation or energy recovery process, a complete description of the product to be manufactured or a description of the use which will be made of the energy benefit, a listing of the equipment and the capital investment therein which is necessary to utilize processed waste tires which they believe qualifies to be included in the amount on which compensation will be based, and copies

of purchase invoices which show the cost of the equipment listed.

(d) **Review.** The application will be reviewed upon receipt for completeness and compliance with the requirements contained in 27A O.S. § 2-11-405. An on-site review will be conducted by personnel of the Commission if it is deemed necessary to determine that the equipment is necessary to the utilization of processed waste tires. The applicant will be notified of any action taken in regard to the application, and if approved, will be given a list of the capital equipment and the costs which the Commission has determined to be eligible for compensation.

710:95-5-17. Documentation to be provided to the Commission

In order to facilitate the administration of the Waste Tire Recycling Act, the following documentation, along with any update which may occur, will be provided by the DEQ to the Commission:

~~(1) A copy of any exemption certificate issued to users who do not have tires entering the waste stream;~~

(~~2~~1) A copy of any priority enforcement list or information on any authorized community-wide clean up event;

(~~3~~2) A copy of the Statewide Collection Plan of each waste tire facility;

(~~4~~3) A copy of the narrative description of the processor's design, development, and operational plan; an example of the approved daily log; and a copy of the intended use and secondary plan of disposal narratives, as required by OAC 252:520-21-6 for each waste tire facility;

(~~5~~4) A copy of the waste tire processing facility permit;

(~~6~~5) A copy of any progress reports which must be filed by the facility;

(~~7~~6) A copy of any permit or other authorization from either the United States Army Corps of Engineers or a local Conservation District, approving a written plan for utilizing waste tires for the purpose of erosion control, bank stabilization, or other conservation project.

(~~8~~7) The Monthly Certification and Authorization to Compensate Waste Tire Facilities or Entities utilizing waste tires for erosion control, bank stabilization, or other conservation project.

SUBCHAPTER 6. OKLAHOMA SAFE PLAYGROUND SURFACES PROGRAM

710:95-6-5. Review and determination of requests for reimbursement or payment

(a) **Review and determination of requests for compensation.** Requests for reimbursements or payment should be sent to Oklahoma Tax Commission, Comptroller's Office, 2501 North Lincoln Blvd., Oklahoma City OK 73194. The application may be submitted at the time a contract for sale and installation of the playground surfacing material has been executed. Upon receipt of a proper request for reimbursement, the Oklahoma Tax Commission, shall review the request and determine whether the application reflects compliance with the statutory requirements of the Oklahoma Safe Playground Surfaces Act, and all applicable rules pertaining thereto promulgated by the Commission.

(b) **Procedure for disbursement of funds for approved requests.** If approved, funds shall be obligated for the applicant and a notice of approval sent. Actual disbursement shall not be made until a notice of installation, signed by the contractor, has been received from the applicant.

(c) **Assignment permitted.** Any eligible entity which has been approved by the Tax Commission may assign the payment to a contractor.

(d) **Procedure for notice of disapproved requests.** If the application is not approved, the applicant shall be notified in writing of the Commission's determination, and the reasons therefore.

(e) **Reimbursements to be made on a first come, first served basis.** Applications for reimbursement will be processed on a first come first served basis, based on the date of the postmark. An application resubmitted after an initial disapproval shall be processed in the same fashion as a new submission, based upon the date of the postmark of the resubmitted application.

(f) **Fiscal year limitation.** In the instance where applications totaling more than one million dollars ($1,000,000.00) are received during a fiscal year, requests for reimbursements which would cause the total of reimbursements to exceed that amount will be held over until the start of the next fiscal year in which money for reimbursement is available.

SUBCHAPTER 11. STATE EMPLOYEES COMPLIANCE REVIEW

710:95-11-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq, and to facilitate the implementation, administration, and enforcement of Section 238.2 of Title 68 of the Oklahoma Statutes, which specifically requires that the Oklahoma Tax Commission adopt rules implementing provisions to determine that all employees of the State of Oklahoma are in compliance with state income tax laws.

710:95-11-2. Definitions

In addition to terms defined in Section 238.2(G) of Title 68 of the Oklahoma Statutes, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Appointing authority" means the chief administrative officer of a state agency.

"Employee" *or* ***"state employee"*** *means an appointed officer or employee of a state agency*. However, the term **"employee"** or **"state employee"** does not include an elected official, or an employee of a local governmental entity. [68 O.S.Supp.2003, § 238.2(G)(2)]

"In compliance" with state income tax laws means that all income tax filing obligations have been met, and balances due have been paid in full. For purposes of this Subchapter, in the case of a state employee with an outstanding obligation upon initial review, **"in compliance"** includes the following situations:

(A) The state employee has filed all reports due and entered into a payment program with the Commission for the taxes due;

(B) The state employee has provided documentation that the employee is currently participating in a payment plan and is current in all payments; or,

(C) The state employee has a pending request for relief before the Commission, or has been determined to be an "innocent spouse" with regard to an outstanding obligation, pursuant to 710:50-3-60 through 710:50-3-65. [**See:** 68 O.S.Supp.2003, § 238.2(D)]

"State agency" means any office, department, board, commission, or institution of the executive, legislative, or judicial branch of state government.

"Tax Commission" means the Oklahoma Tax Commission.

710:95-11-3. General provisions

(a) **Information to be provided.** The Office of State Finance shall provide to the Tax Commission a list of all state employees, along with social security numbers and other identifying information that may be required by the Commission. The list should be provided to the Commission not later than August 1 of each year and shall include all employees of the state as of the preceding July 1. [**See:** 68 O.S.Supp.2003, § 238.1(B)]

(b) **Contact information.** The Commission's State Employee Compliance Unit can be reached by phone at 522-6800 or by Email at employees-review@oktax.state.ok.us.

710:95-11-4. Procedure for review of status and notification to state employee

(a) **Review and notification to state employee.** Information from the Office of State Finance shall be reviewed to determine those state employees for whom compliance cannot be confirmed. Each state employee for whom compliance cannot be confirmed shall be notified, no later than November 1 of each year, in a letter mailed to the address provided by the Office of State Finance, that Commission records indicate non-compliance with the Oklahoma Income Tax laws. The state employee will be informed that the employee will be subject to disciplinary action by the appointing authority unless the state employee is determined to be in compliance by the Commission. The notice shall include a statement of the reasons the taxpayer is considered to be out of compliance with the Oklahoma Income Tax laws, the amount of any tax, penalty, and interest due, or a list of tax years for which income tax returns have not been filed, or both, in applicable cases. The notice shall also provide information regarding the rights of the employee and what procedures must be followed in order to come into compliance with the income tax laws.

(b) **Compliance assistance.** The Commission shall make every reasonable effort to assist non-compliant state employees to attain compliance status within six (6) months from the date of notification.

710:95-11-5. Procedure for notification of status to appointing authority

(a) **Notification of noncompliance to appointing authority.** The Commission shall notify the appointing authority of each state agency of noncompliance of a state employee if:

(1) An employee has been notified of noncompliance pursuant to Section 710:95-11-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the employee has failed to respond to the notice;

(2) An employee has been notified of noncompliance pursuant to Section 710:95-11-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the employee has failed to come into compliance with the income tax laws of this state after an assessment has become final; or,

(3) An employee has been notified of noncompliance pursuant to Section 710:95-11-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the employee has failed to come into compliance with the income tax laws of this state and the Commission determines that every reasonable effort has been made to assist the employee to come into compliance.

(b) **Content of notice to appointing authority.** The notice of noncompliance to the appointing authority shall include the provisions of Section 238.2(E) of Title 68 of the Oklahoma Statutes.

(c) **Notification of compliance to appointing authority.** If the Commission has previously reported an employee to be non-compliant to the respective appointing authority, and the employee comes into compliance, the appointing authority shall be immediately so notified.

(d) **Exception.** The appointing authority shall not be notified pursuant to this Section if the employee has timely protested a proposed income tax assessment, unless the protest has been resolved in favor of the Commission, all available appeals have been exhausted, and the employee has been given an opportunity to come into compliance.

[OAR Docket #04-587; filed 4-8-04]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code.*

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2004-11.

EXECUTIVE ORDER 2004-11

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American flags on State property at half-staff from Thursday, April 8, 2004 until the day of interment, to honor former Senator Helen Cole, who died on Wednesday, April 7, 2004.

Senator Helen Cole began public service in 1978, and represented District 54 for three terms in the Oklahoma House of Representatives. Helen also served two full terms in the Oklahoma Senate. She was first elected to the Senate in 1984. In 1990, she left the Senate to become mayor of the City of Moore. Helen returned to the Senate in 1991, winning a special election to fill the seat vacated by her son Tom Cole. She was reelected in 1992 and served another full term.

Helen received numerous citations and awards including those from the Moore Alcohol-Drug Center, the United Methodist Church, and the Educational Support Personnel of Oklahoma. Helen Cole was a giant in Oklahoma politics and public service. She was an accomplished, thoughtful public servant who put policy ahead of politics, always doing what she believed was in the best interest of Oklahoma. Helen Cole will be missed, but her accomplishments will not be forgotten.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 8th day of April 2004.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #04-600; filed 4-8-04]