

Volume 22  
Number 10  
February 1, 2005  
Pages 365 - 420

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules



**Brad Henry, Governor**  
**M. Susan Savage,**  
**Secretary of State**  
**Peggy Coe, Managing Editor**

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**INFORMATION ABOUT THIS PUBLICATION** may be obtained by contacting the Oklahoma Secretary of State, Office of Administrative Rules, 2401 North Lincoln Boulevard, Will Rogers Building, Room 220, P.O. Box 53390, Oklahoma City, OK 73152-3390, or by calling (405) 521-4911 or faxing (405) 522-3555. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

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ISSN 0030-1728

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Board of <b>CHIROPRACTIC</b> Examiners	140	Office of <b>HANDICAPPED</b> Concerns	305
Oklahoma Department of <b>EMERGENCY</b> Management ( <i>Formerly:</i> Department of <b>CIVIL</b> Emergency Management)	145	Oklahoma State Department of <b>HEALTH</b>	310
Oklahoma Department of <b>COMMERCE</b>	150	Oklahoma Basic <b>HEALTH</b> Benefits Board ( <i>abolished</i> <i>11-1-97</i> )	315
<b>COMMUNITY</b> Hospitals Authority	152	Oklahoma <b>HEALTH</b> Care Authority	317
<b>COMPSOURCE</b> Oklahoma ( <i>Formerly:</i> State <b>INSURANCE</b> Fund) - <i>See</i> Title 370		<b>HIGHWAY</b> Construction Materials Technician Certification Board	318
Oklahoma <b>CONSERVATION</b> Commission	155	Oklahoma <b>HISTORICAL</b> Society	320
<b>CONSTRUCTION</b> Industries Board	158	Oklahoma <b>HORSE</b> Racing Commission	325
Department of <b>CONSUMER</b> Credit	160	Oklahoma <b>HOUSING</b> Finance Agency	330
<b>CORPORATION</b> Commission	165	Oklahoma <b>HUMAN</b> Rights Commission	335
Department of <b>CORRECTIONS</b>	170	Department of <b>HUMAN</b> Services	340
State Board of <b>COSMETOLOGY</b>	175	Committee for <b>INCENTIVE</b> Awards for State Employees	345
Oklahoma State <b>CREDIT</b> Union Board	180	Oklahoma <b>INDIAN</b> Affairs Commission	350
<b>CRIME</b> Victims Compensation Board	185	Oklahoma <b>INDIGENT</b> Defense System	352
Joint <b>CRIMINAL</b> Justice System Task Force Committee	190	Oklahoma <b>INDUSTRIAL</b> Finance Authority	355
Board of <b>DENTISTRY</b>	195	Oklahoma State and Education Employees Group <b>INSURANCE</b> Board	360
Oklahoma <b>DEVELOPMENT</b> Finance Authority	200		

Agency	Title	Agency	Title
<b>INSURANCE</b> Department	365	Oklahoma <b>PUBLIC</b> Employees Retirement System	590
<b>COMPSOURCE</b> Oklahoma ( <i>Formerly:</i> State <b>INSURANCE</b> Fund	370	Department of <b>PUBLIC</b> Safety	595
Oklahoma State Bureau of <b>INVESTIGATION</b>	375	<b>REAL</b> Estate Appraiser Board	600
Council on <b>JUDICIAL</b> Complaints	376	Oklahoma <b>REAL</b> Estate Commission	605
Office of <b>JUVENILE</b> Affairs	377	Board of Regents of <b>REDLANDS</b> Community College	607
Department of <b>LABOR</b>	380	State <b>REGENTS</b> for Higher Education	610
Department of the Commissioners of the <b>LAND</b> Office	385	State Department of <b>REHABILITATION</b> Services	612
Council on <b>LAW</b> Enforcement Education and Training	390	Board of Regents of <b>ROGERS</b> State College	615
Oklahoma <b>LAW</b> Enforcement Retirement System	395	Board of Regents of <b>ROSE</b> State College	620
Board on <b>LEGISLATIVE</b> Compensation	400	Oklahoma <b>SAVINGS</b> and Loan Board ( <i>abolished</i> <i>7-1-93</i> )	625
Oklahoma Department of <b>LIBRARIES</b>	405	<b>SCENIC</b> Rivers Commission	630
<b>LIEUTENANT</b> Governor	410	Oklahoma Commission on <b>SCHOOL</b> and County Funds Management	635
Oklahoma <b>LINKED</b> Deposit Review Board	415	Advisory Task Force on the Sale of <b>SCHOOL</b> Lands ( <i>functions concluded 2-92</i> )	640
Oklahoma <b>LIQUEFIED</b> Petroleum Gas Board	420	The Oklahoma School of <b>SCIENCE</b> and Mathematics	645
Oklahoma <b>LIQUEFIED</b> Petroleum Gas Research, Marketing and Safety Commission	422	Oklahoma Center for the Advancement of <b>SCIENCE</b> and Technology	650
<b>LITERACY</b> Initiatives Commission	425	<b>SECRETARY</b> of State	655
<b>LONG-RANGE</b> Capital Planning Commission	428	Department of <b>SECURITIES</b>	660
Board of Trustees for the <b>MCCURTAIN</b> County Higher Education Program	430	Board of Regents of <b>SEMINOLE</b> State College	665
Commission on <b>MARGINALLY</b> Producing Oil and Gas Wells	432	<b>SHEEP</b> and Wool Commission	670
State Board of <b>MEDICAL</b> Licensure and Supervision	435	State Board of Licensed <b>SOCIAL</b> Workers	675
<b>MEDICAL</b> Technology and Research Authority of Oklahoma	440	<b>SOUTHERN</b> Growth Policies Board	680
Board of <b>MEDICOLEGAL</b> Investigations	445	Oklahoma <b>SOYBEAN</b> Commission ( <i>abolished 7-1-97</i> )	685
Department of <b>MENTAL</b> Health and Substance Abuse Services	450	Board of Examiners for <b>SPEECH-LANGUAGE</b> Pathology and Audiology	690
<b>MERIT</b> Protection Commission	455	<b>STATE</b> Agency Review Committee	695
<b>MILITARY</b> Planning Commission, Oklahoma Strategic	457	<b>STATE</b> Use Committee ( <i>Formerly:</i> Committee on Purchases of Products and Services of the Severely <b>HANDICAPPED</b> ) – <i>See</i> Title 304	
Department of <b>MINES</b>	460	Oklahoma <b>STUDENT</b> Loan Authority	700
Oklahoma <b>MOTOR</b> Vehicle Commission	465	<b>TASK</b> Force 2000	705
Board of Regents of <b>MURRAY</b> State College	470	Oklahoma <b>TAX</b> Commission	710
Oklahoma State Bureau of <b>NARCOTICS</b> and Dangerous Drugs Control	475	Oklahoma Commission for <b>TEACHER</b> Preparation	712
Board of Regents of <b>NORTHERN</b> Oklahoma College	480	<b>TEACHERS'</b> Retirement System	715
Oklahoma Board of <b>NURSING</b>	485	State <b>TEXTBOOK</b> Committee	720
Oklahoma State Board of Examiners for <b>NURSING</b> Home Administrators	490	Oklahoma <b>TOURISM</b> and Recreation Department	725
Board of Regents of <b>OKLAHOMA</b> City Community College	495	Department of <b>TRANSPORTATION</b>	730
Board of Regents of <b>OKLAHOMA</b> Colleges	500	Oklahoma <b>TRANSPORTATION</b> Authority	731
Board of Examiners in <b>OPTOMETRY</b>	505	State <b>TREASURER</b>	735
State Board of <b>OSTEOPATHIC</b> Examiners	510	Board of Regents of <b>TULSA</b> Community College	740
<b>PARDON</b> and Parole Board	515	Oklahoma <b>TURNPIKE</b> Authority ( <i>name changed - see Title</i> <i>731</i> )	745
Oklahoma <b>PEANUT</b> Commission	520	Board of Trustees for the <b>UNIVERSITY</b> Center at Tulsa	750
Oklahoma State <b>PENSION</b> Commission	525	<b>UNIVERSITY</b> Hospitals Authority	752
State Board of Examiners of <b>PERFUSIONISTS</b>	527	Board of Regents of the <b>UNIVERSITY</b> of Oklahoma	755
Office of <b>PERSONNEL</b> Management	530	Board of Regents of the <b>UNIVERSITY</b> of Science and Arts of Oklahoma	760
Oklahoma State Board of <b>PHARMACY</b>	535	Oklahoma <b>USED</b> Motor Vehicle and Parts Commission	765
<b>PHYSICIAN</b> Manpower Training Commission	540	Oklahoma Department of <b>VETERANS</b> Affairs	770
Board of <b>PODIATRIC</b> Medical Examiners	545	Board of <b>VETERINARY</b> Medical Examiners	775
Oklahoma <b>POLICE</b> Pension and Retirement System	550	Oklahoma Department of <b>CAREER</b> and Technology Education ( <i>Formerly:</i> Oklahoma Department of <b>VOCATIONAL</b> and Technical Education)	780
State Department of <b>POLLUTION</b> Control ( <i>abolished</i> <i>1-1-93</i> )	555	Oklahoma <b>WATER</b> Resources Board	785
<b>POLYGRAPH</b> Examiners Board	560	Board of Regents of <b>WESTERN</b> Oklahoma State College	790
Oklahoma Board of <b>PRIVATE</b> Vocational Schools	565	Oklahoma <b>WHEAT</b> Commission	795
State Board for <b>PROPERTY</b> and Casualty Rates	570	Department of <b>WILDLIFE</b> Conservation	800
State Board of Examiners of <b>PSYCHOLOGISTS</b>	575	<b>WILL</b> Rogers and J.M. Davis Memorials Commission	805
Department of <b>CENTRAL</b> Services ( <i>Formerly:</i> Office of <b>PUBLIC</b> Affairs)	580		
<b>PUBLIC</b> Employees Relations Board	585		



# 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 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 50. IGNITION INTERLOCK DEVICE**

*[OAR Docket #05-17]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Chapter 50. Ignition Interlock Device [NEW]

### **SUMMARY:**

Statutory changes require the Board of Tests to take over and oversee the Ignition Interlock Devices rules. The Board concurred on emergency rules, which were then approved by the Governor. These emergency rules will expire on the 14<sup>th</sup> day of July 2005 and it is evident that these rules are to protect the health and safety of driving public. Our intention is to get these rules approved as permanent rules to govern the Ignition Interlock manufactures, their constituents and the users of the programs.

### **AUTHORITY:**

Board of Tests for alcohol and Drug Influence, OAC Title 40, Chapter 1-1-3 (e), Title 40, Chapter 1-1-4 and Title 47 O.S. Chapter 67, Section 759.

### **COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so on March 4, 2005 (10:00AM) at the following address: Board of Tests for Alcohol and Drug Influence, Administrative Offices, 3600 North Martin Luther King Blvd., Building Number 9, Oklahoma City, Oklahoma 73111.

### **PUBLIC HEARING:**

A public hearing will be held at 10:00 a.m. on Wednesday, March 4, 2005 at the Board of Tests for Alcohol and Drug Influence, Administrative Offices, 3600 North Martin Luther King Blvd., Building Number 9, Oklahoma City, Oklahoma 73111.

### **REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level to be direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to McBeth Sample, Jr., State Director of Tests for Alcohol and Drug Influence at the above address during the period from February 2, 2005 to March 4, 2005 (10:00 a.m.)

### **COPIES OF PROPOSED RULES:**

Copies of Proposed rules may be obtained from the Administrative Offices of the Board of Tests for Alcohol and Drug Influence located at 3600 North Martin Luther King Blvd., Building Number 9, Oklahoma City, Oklahoma 73111. Copies may be obtained by written request mailed to this address.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., § 303 (D), a rule impact statement is being prepared and will be available for review after January 2, 2005 at the above address for the Board of tests for Alcohol and Drug Influence, Administrative Offices.

### **CONTACT PERSON:**

McBeth Sample, Jr.; State Director of Tests for Alcohol and Drug Influence, 405-425-2460.

*[OAR Docket #05-17; filed 1-6-05]*

## **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

*[OAR Docket #05-18]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Chapter 30. Medical Providers-Fee for Service  
[AMENDED]

**(Reference APA WF # 04-27B)**

### **SUMMARY:**

Medical Providers-Fee for Service rules are revised to conform to new federal qualification requirements for Audiologists.

### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.110

### **COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005, through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

## Notices of Rulemaking Intent

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### **PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

### **RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

### **CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-18; filed 1-7-05]*

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### **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

*[OAR Docket #05-20]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Chapter 30. Medical Providers-Fee for Service  
[AMENDED]

(Reference APA WF # 04-26A)

### **SUMMARY:**

Medical Providers-Fee for Services, Long Term Care Facilities specific, rules are being revised to require an annual eligibility re-certification for residents in ICF/MR facilities to assure that Medicaid reimbursement is paid only for those residents who continue to require active treatment services. Other revisions correct scrivener errors, reorganize rules to reflect current practice and align rules with other rules within the Administrative code.

### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 483.440(b)(1)

### **COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005, during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

### **PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

### **RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

### **CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-20; filed 1-7-05]*

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### **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

*[OAR Docket #05-22]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-95.3. [AMENDED]

(Reference APA WF # 04-15)

### **SUMMARY:**

Medical Providers-Fee for Services, Inpatient Psychiatric Hospitals specific, rules are being revised to reflect the exclusion for payment of crossover for individuals over 21 and under 65 years of age.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

**COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005, during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

**PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-22; filed 1-7-05]*

**TITLE 317. OKLAHOMA HEALTH CARE  
AUTHORITY  
CHAPTER 30. MEDICAL PROVIDERS-FEE  
FOR SERVICE**

*[OAR Docket #05-25]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 5. Pharmacies

317:30-5-72. [AMENDED]

(Reference APA WF # 04-22)

**SUMMARY:**

Medical Providers-Fee for Service, Pharmacy specific, rules are revised to establish an exclusion from the prescription

drug benefit for individuals who qualify for the Medicare Part D benefit. This exclusion is effective January 1, 2006, or the date Medicare Part D is implemented, whichever is later.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

**COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

**PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-25; filed 1-7-05]*

**TITLE 317. OKLAHOMA HEALTH CARE  
AUTHORITY  
CHAPTER 30. MEDICAL PROVIDERS-FEE  
FOR SERVICE**

*[OAR Docket #05-26]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 5. Pharmacies

317:30-5-86.1. [AMENDED]

(Reference APA WF # 04-08)

# Notices of Rulemaking Intent

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**SUMMARY:**

Medical Providers-Fee for Service, Pharmacy specific, rules are revised to better define Disease State Management criteria.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

**COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

**PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-26; filed 1-7-05]*

**TITLE 317. OKLAHOMA HEALTH CARE  
AUTHORITY  
CHAPTER 30. MEDICAL PROVIDERS-FEE  
FOR SERVICE**

*[OAR Docket #05-27]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 30. Medical Providers-Fee for Service  
[AMENDED]

(Reference APA WF # 04-21)

**SUMMARY:**

Medical Providers-Fee for Service, Pharmacy specific, rules are issued to establish a pharmacy audit appeals process. The procedures allow appeals to findings of audits conducted by the Health Care Authority Pharmacy department. Aggrieved providers may appeal to a subcommittee of the Drug Utilization Review Board.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

**COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

**PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-27; filed 1-7-05]*

**TITLE 317. OKLAHOMA HEALTH CARE  
AUTHORITY  
CHAPTER 30. MEDICAL PROVIDERS-FEE  
FOR SERVICE**

*[OAR Docket #05-29]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
[AMENDED]

(Reference APA WF # 04-24)

**SUMMARY:**

Medical Providers-Fee for Service rules are revised to reorganize and better describe services provided by a public health clinic.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

**COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

**PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #05-29; filed 1-7-05]

**TITLE 317. OKLAHOMA HEALTH CARE  
AUTHORITY  
CHAPTER 30. MEDICAL PROVIDERS-FEE  
FOR SERVICE**

[OAR Docket #05-30]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 30. Medical Providers-Fee for Service  
[AMENDED]

(Reference APA WF # 04-14B)

**SUMMARY:**

Medical Providers-Fee for Service rules are revised to establish guidelines for a new Family Planning Waiver program for adults. This newly approved Medicaid Waiver will provide a limited array of family planning services to men, women and couples who would not otherwise be eligible for Medicaid.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 1115(a) Research and Demonstration Waiver

**COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005, through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

**PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #05-30; filed 1-7-05]

## Notices of Rulemaking Intent

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### **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

*[OAR Docket #05-32]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 21. Outpatient Behavioral Health Services  
317:30-5-240. through 317:30-5-241. [AMENDED]  
317:30-5-243. [REVOKED]  
317:30-5-247. [REVOKED]  
317:30-5-248. [AMENDED]  
(Reference APA WF # 04-06)

#### **SUMMARY:**

Medical Providers-Fee for Service, Outpatient Behavioral Health Services specific, rules are revised to better describe appropriate Alcohol and Other Drug (AOD) treatment services, establish separate service descriptions and allow AOD providers a window to contract to be a provider (if certified by the state to perform AOD services on July 1, 2004, and meet other specifications) without having national accreditation by January 1, 2006. Revisions also add Behavioral Health Aide services to the array of outpatient behavioral health rehabilitation services; this service would be limited to children who qualify for the Systems of Care service model. Mental Health Clubhouse Services would also become a new compensable Medicaid service under these revisions. This service allows seriously mentally ill adults who need rehabilitation services to access a treatment model that functions around a work order day in order to facilitate recovery. The Oklahoma Department of Mental Health and Substance Abuse Services would pay the state match for these three services. Additional revisions would require Mental Health Professionals and Behavioral Health Rehabilitation Specialists who perform services in contracted Outpatient Behavioral Health agencies to obtain individual provider numbers and use them when billing for services; this would increase provider accountability and the agency's claim monitoring capability. Further revisions would: (1) add additional detail regarding the prior authorization process; (2) remove obsolete language regarding Vocational Rehabilitation; (3) remove billing information from rules that is found in the Provider Billing Manual; and (4) clarify existing language that has been identified as unclear or confusing.

#### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

#### **COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority,

4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

#### **PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

#### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

#### **RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

#### **CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-32; filed 1-7-05]*

### **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

*[OAR Docket #05-19]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Chapter 35. Medical Assistance for Adults and Children-Eligibility [AMENDED]  
(Reference APA WF # 04-27A)

#### **SUMMARY:**

Medical Assistance for Adults and Children-Eligibility rules are revised to conform to new federal qualification requirements for Audiologists.

#### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.110

#### **COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005, through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority,

4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

**PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-19; filed 1-7-05]*

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

*[OAR Docket #05-21]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 35. Medical Assistance for Adults and Children-Eligibility [AMENDED]

(Reference APA WF # 04-26B)

**SUMMARY:**

Medical Assistance for Adults and Children-Eligibility rules are being revised to require an annual eligibility recertification for residents in ICF/MR facilities to assure that Medicaid reimbursement is paid only for those residents who continue to require active treatment services. Other revisions correct scrivener errors, reorganize rules to reflect current practice and align rules with other rules within the Administrative code.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 483.440(b)(1)

**COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005, during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

**PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-21; filed 1-7-05]*

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

*[OAR Docket #05-28]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 10. Medical Aid to Families with Dependent Children

Part 5. Income

317:35-10-38. [NEW]

(Reference APA WF # 04-25)

## Notices of Rulemaking Intent

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### SUMMARY:

Medical Assistance for Adults and Children-Eligibility rules are revised to clarify who may be considered temporarily absent from the home when determining financial eligibility for the benefit group.

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

### COMMENT PERIOD:

Written and oral comments will be accepted February 1, 2005, through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

### PUBLIC HEARING:

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

### COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

### RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

### CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-28; filed 1-7-05]*

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## TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY

### CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

*[OAR Docket #05-31]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Chapter 35. Medical Assistance for Adults and Children-Eligibility [AMENDED]

**(Reference APA WF # 04-14A)**

### SUMMARY:

Medical Assistance for Adults and Children-Eligibility rules are revised to establish guidelines for a new Family Planning Waiver program for adults. This newly approved Medicaid Waiver will provide a limited array of family planning services to men, women and couples who would not otherwise be eligible for Medicaid.

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 1115(a) Research and Demonstration Waiver

### COMMENT PERIOD:

Written and oral comments will be accepted February 1, 2005, through March 3, 2005 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

### PUBLIC HEARING:

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

### COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

### RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

### CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-31; filed 1-7-05]*

**TITLE 317. OKLAHOMA HEALTH CARE  
AUTHORITY  
CHAPTER 40. DEVELOPMENTAL  
DISABILITIES SERVICES**

*[OAR Docket #05-23]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Client Services
  - Part 5. Specialized Foster Care
  - 317:40-5-50. through 317:40-5-52. [AMENDED]
  - 317:40-5-53. [REVOKED]
  - 317:40-5-54. through 317:40-5-64. [AMENDED]
  - 317:40-5-65. [REVOKED]
  - 317:40-5-66. through 317:40-5-67. [AMENDED]
  - Part 7. Standards and Guidelines for Specialized Foster Care
  - 317:40-5-75. through 317:40-5-76. [REVOKED]
- (Reference APA WF # 04-18)**

**SUMMARY:**

Developmental Disabilities Services rules are being revised to: (1) standardize the home profile process for all services needing a home profile; (2) increase respite services provided to Specialized Foster Care providers; (3) clarify use of room and board reimbursement in foster care; (4) clarify roles of DDS case manager and SFC staff; and (5) add updates.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

**COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005, during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

**PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-23; filed 1-7-05]*

**TITLE 317. OKLAHOMA HEALTH CARE  
AUTHORITY  
CHAPTER 40. DEVELOPMENTAL  
DISABILITIES SERVICES**

*[OAR Docket #05-24]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. General Provisions
  - 317:40-1-1. [AMENDED]
  - Subchapter 5. Client Services
  - Part 1. Companion/Adult Foster Care Services by Agency
  - 317:40-5-1. [AMENDED]
  - 317:40-5-3. through 317:40-5-6. [AMENDED]
  - 317:40-5-7. [REVOKED]
  - 317:40-5-8. through 317:40-5-11. [AMENDED]
  - 317:40-5-12. [REVOKED]
  - 317:40-5-13. [AMENDED]
  - 317:40-5-14. through 317:40-5-15. [REVOKED]
  - Part 3. Guidelines to Staff
  - 317:40-5-37. through 317:40-5-39. [REVOKED]
  - 317:40-5-40. [NEW]
  - Subchapter 7. Waiver Employment Services
  - 317:40-7-1. through 317:40-7-8. [AMENDED]
  - 317:40-7-11. through 317:40-7-13. [AMENDED]
  - 317:40-7-15. [AMENDED]
  - 317:40-7-19. [REVOKED]
  - 317:40-7-20. through 317:40-7-21. [AMENDED]
- (Reference APA WF # 04-17)**

**SUMMARY:**

Developmental Disabilities Services rules are being revised to: (1) clarify determination of eligibility for Waiver services for persons with mental retardation; (2) simplify rules on relief time for agency companions; (3) address retirement for people receiving Waiver employment services; (4) clarify coordination with the Department of Rehabilitation Services; (5) clarify activities eligible for authorization as community-based vocational services; (6) remove the limit of 15 hours per week on center-based services for all but Homeward Bound class members; (7) revise stabilization services; (8) allow claims for job development after three months; and (9) add updates.

## Notices of Rulemaking Intent

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### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

### **COMMENT PERIOD:**

Written and oral comments will be accepted February 1, 2005 through March 3, 2005, during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

### **PUBLIC HEARING:**

A public hearing is scheduled for March 3, 2005, 10:00 a.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on March 3, 2005.

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

### **RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

### **CONTACT PERSON:**

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

*[OAR Docket #05-24; filed 1-7-05]*

## **TITLE 365. INSURANCE DEPARTMENT CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #05-03]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 9. Description of Forms and Instructions  
365:1-9-15.1. License renewals and reinstatements  
[AMENDED]

### **SUMMARY:**

The proposed amendments to Rule 365:1-9-15.1 provides that licensees must submit certificates of course completion only when requested by the Insurance Commissioner. The proposed amendments also include the deletion of the

requirement that licensees provide a photo when applying for reinstatement of a license.

### **AUTHORITY:**

Insurance Commissioner, 36 O.S. §§ 307.1 and 1435.19.

### **COMMENT PERIOD:**

Persons wishing to make written or oral comments may do so by 5:00 p.m., March 4, 2005, at the offices of the Oklahoma Insurance Commissioner, State Insurance Department, Attn: Karl F. Kramer, Assistant General Counsel, 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

### **PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer input on the content of the proposed rules. The public hearing will be held at 9:00 a.m. on March 8, 2005, in the Commissioner's Conference Room at the office of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

### **REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities are requested to provide the State Insurance Department, within the comment period set out above, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with these proposed rules. Business entities may submit this information to Karl F. Kramer, Assistant General Counsel, at the above address, before the close of the public comment period on March 4, 2005.

### **COPIES OF PROPOSED RULES:**

Interested persons may inspect proposed rules at the Offices of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107. Additional copies of proposed rules may be obtained at the State Insurance Department.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to February 1, 2005, and may be obtained from the State Insurance Department at the above address.

### **CONTACT PERSON:**

Karl F. Kramer, Assistant General Counsel, (405) 521-2746.

*[OAR Docket #05-03; filed 1-4-05]*

## **TITLE 365. INSURANCE DEPARTMENT CHAPTER 10. LIFE, ACCIDENT AND HEALTH**

*[OAR Docket #05-02]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Part 1. Minimum Standards And Benefits For Accident And Health Insurance
- 365:10-5-4. Prohibited policy provisions [AMENDED]
- Part 5. Long-Term Care Insurance
- 365:10-5-43. Policy practices and provisions [AMENDED]
- Part 13. Medicare Supplement Insurance Minimum Standards [AMENDED]
- 365:10-5-123. Definitions [AMENDED]
- 365:10-5-124. Policy definitions and terms [AMENDED]
- 365:10-5-125. Policy provisions [AMENDED]
- 365:10-5-126. Minimum benefit standards for policies or certificates issued for delivery prior to July 1, 1992 [AMENDED]
- 365:10-5-127. Benefit standards for policies issued or delivered on or after July 1, 1992 [AMENDED]
- 365:10-5-128. Standard Medicare Supplement benefit plans [AMENDED]
- 365:10-5-128.1. Medicare Select Policies and Certificates [AMENDED]
- 365:10-5-129.1. Guaranteed issue for eligible persons [AMENDED]
- 365:10-5-131. Loss ratio standards and refund or credit of premium [AMENDED]
- 365:10-5-132. Filing and approval of policies and certificates and premium rates [AMENDED]
- 365:10-5-134. Required disclosure provisions [AMENDED]
- 365:10-5-135. Requirements for application forms and replacement coverage [AMENDED]
- 365:10-5-138. Appropriateness of recommended purchase and excessive insurance [AMENDED]
- 365:10-Appendix Q. Medicare Supplement [REVOKED]
- 365:10-Appendix Q. Medicare Supplement [REENACTED]
- 365:10-Appendix S. Outline of Coverage [REVOKED]
- 365:10-Appendix S. Outline of Coverage [REENACTED]
- 365:10-Appendix T. Notice To Applicant Regarding Replacement Of Medicare Supplement Insurance [REVOKED]
- 365:10-Appendix T. Notice To Applicant Regarding Replacement Of Medicare Supplement Insurance [REENACTED]
- 365:10-Appendix V. Disclosure Statements [REVOKED]
- 365:10-Appendix V. Disclosure Statements [REENACTED]
- 365:10-Appendix FF. Medicare Supplement Insurance Questions [NEW]

**SUMMARY:**

The proposed amendments to Rule 365:10-5-4 and 43 are intended to prevent an insurer from refusing to pay health insurance claims based on an act of war exclusion when an insured is not serving in the military or an auxiliary unit attached to the military. The proposed amendments to Rules 365:10-5-123 through 128.1, 129.1, 131, 132, 135, 138 and Appendices Q, S, T, V and FF are mandated by the Federal

Medicare Prescription Drug, Improvement, and Modernization Act of 2003 effective January 1, 2004.

**AUTHORITY:**

Insurance Commissioner, 36 O.S. §§ 307.1, 3610, 3611.1, 4426 and 4427.

**COMMENT PERIOD:**

Persons wishing to make written or oral comments may do so by 5:00 p.m., March 4, 2005, at the offices of the Oklahoma Insurance Commissioner, State Insurance Department, Attn: Karl F. Kramer, Assistant General Counsel, 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

**PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer input on the content of the proposed rules. The public hearing will be held at 9:00 a.m. on March 8, 2005, in the Commissioner's Conference Room at the office of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities are requested to provide the State Insurance Department, within the comment period set out above, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with these proposed rules. Business entities may submit this information to Karl F. Kramer, Assistant General Counsel, at the above address, before the close of the public comment period on March 4, 2005.

**COPIES OF PROPOSED RULES:**

Interested persons may inspect proposed rules at the Offices of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107. Additional copies of proposed rules may be obtained at the State Insurance Department.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to February 1, 2005, and may be obtained from the State Insurance Department at the above address.

**CONTACT PERSON:**

Karl F. Kramer, Assistant General Counsel, (405) 521-2746

*[OAR Docket #05-02; filed 1-4-05]*

**TITLE 365. INSURANCE DEPARTMENT  
CHAPTER 15. PROPERTY AND CASUALTY**

*[OAR Docket #05-04]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

# Notices of Rulemaking Intent

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## PROPOSED RULES:

- Subchapter 1. General Provisions
- 365:15-1-3. Property and casualty form filings [AMENDED]
- Subchapter 7. Commercial Property And Casualty Competitive Loss Cost Rating Regulation
- 365:15-7-6. Excess consent rate filings [AMENDED]
- 365:15-7-16. Statistical plans [AMENDED]
- 365:15-7-17. Suspension or modification of filing requirements [AMENDED]
- 365:15-7-18. Technicians [AMENDED]
- 365:15-7-26. Weather related claims [NEW]
- 365:15-7-27. Credit related policies [NEW]
- 365:15-7-28. Property and Casualty Policies [NEW]
- 365:15-7-29. Use of lack of prior insurance in underwriting or rating [NEW]
- 365: 15-7-30. Use of auto accidents in underwriting or rating [NEW]
- Subchapter 9. Medical Professional Liability Rate Setting
- 365:15-9-3. Notice to Policyholders [AMENDED]
- 365:15-9-6.1. Umbrella medical professional liability coverage [NEW]
- 365:15-9-8. Miscellaneous [AMENDED]
- 365:15-9-9. Rate change application is a public record [NEW]

## SUMMARY:

The proposed amendments to Rule 365:15-1-3 is to provide consistency between this rule and Rules 365:15-1-3(b)(2)(D) and 365:15-7-3(b)(2)(D). The proposed amendments to Rules 365:15-7-6, 16 and 17 and 365:15-9-8 remove the word "commercial" as a result of the amendments to 36 O.S. § 981, et seq., in House Bill 2470. The proposed amendments to Rule 365:15-7-18 allows actuarial review consistent with the amendments to 36 O.S. § 981, et seq. in House Bill 2470. The proposed amendments to Rules 365:15-7-26 through 30 addressed issues previously under the jurisdiction of the State Board for Property and Casualty Rates (see Rules 570:10-7-32, 34, 35, 36, and 37), but due to the passage of House Bill 2470 are now part of 36 O.S. § 981, et seq. The proposed amendments to Rule 365:15-9-3 permits a policyholder, policyholder representative or medical professional liability insurer to submit a letter waiving the right to hearing as authorized by 36 O.S. § 6821(C)(1) thereby expediting the process as set out in Section 6821. Certain commercial policies available to physicians and other medical professionals provide umbrella coverage for medical professional liability claims, in addition to other liability claims, therefore the proposed new Rule 365:15-9-6.1 limits 36 O.S. §§ 6810-6821 to primary medical professional liability coverage. The proposed new Rule 365:15-9-9 provides that medical liability insurance rate change applications filed pursuant to 36 O.S. § 6821 are public records.

## AUTHORITY:

Insurance Commissioner, 36 O.S. § 307.1 and 6821.

## COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., March 4, 2005, at the offices of the Oklahoma Insurance Commissioner, State Insurance Department, Attn: Karl F. Kramer, Assistant General Counsel, 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

## PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer input on the content of the proposed rules. The public hearing will be held at 9:00 a.m. on March 8, 2005, in the Commissioner's Conference Room at the office of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

## REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide the State Insurance Department, within the comment period set out above, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with these proposed rules. Business entities may submit this information to Karl F. Kramer, Assistant General Counsel, at the above address, before the close of the public comment period on March 4, 2005.

## COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the Offices of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107. Additional copies of proposed rules may be obtained at the State Insurance Department.

## RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to February 1, 2005, and may be obtained from the State Insurance Department at the above address.

## CONTACT PERSON:

Karl F. Kramer, Assistant General Counsel, (405) 521-2746.

*[OAR Docket #05-04; filed 1-4-05]*

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## TITLE 365. INSURANCE DEPARTMENT CHAPTER 25. LICENSURE OF AGENTS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, AND VIATICAL AND LIFE SETTLEMENTS PROVIDERS AND BROKERS

*[OAR Docket #05-05]*

## RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 3. Agents, Brokers, Adjusters and Limited Representatives
  - 365:25-3-1. Insurance agents continuing education [AMENDED]
  - 365:25-3-13. Surplus line insurance with non-admitted insurer; approval prior to issuance; collection and remittance of taxes; claims for tax adjustments; procedures; forms [AMENDED]
- Subchapter 11. Viatical Settlements Regulation
  - 365:25-11-3. License requirements for viatical settlement brokers [AMENDED]
- Subchapter 13. Life Settlements Regulation
  - 365:25-13-3. License requirements for life settlement brokers [AMENDED]
- Subchapter 15. Captive Insurance Companies Regulation [NEW]
  - 365:25-15-1. Purpose and authority [NEW]
  - 365:25-15-2. Annual reporting requirements [NEW]
  - 365:25-15-3. Annual Audit [NEW]
  - 365:25-15-4. Independent certified public accountant [NEW]
  - 365:25-15-5. Deposit requirement [NEW]
  - 365:25-15-6. Organizational examination [NEW]
  - 365:25-15-7. Reinsurance [NEW]
  - 365:25-15-8. Insurance managers and intermediaries [NEW]
  - 365:25-15-9. Executive officers and directors [NEW]
  - 365:25-15-10. Conflict of interest [NEW]
  - 365:25-15-11. Rescission of captive license [NEW]
  - 365:25-15-12. Acquisition of control of or merger with domestic company [NEW]
  - 365:25-15-13. Change of business [NEW]
  - 365:25-15-14. Prior approval [NEW]
- Appendix C. Application For Original Permit [REVOKED]
- Appendix C. Application For Original Permit [REENACTED]

**SUMMARY:**

The proposed amendments to subsection (d) of Rule 365:25-3-1 provides that agents provide certificates of continuing education course completion only if requested by the Insurance Commissioner; proposed amendments to subsection (f) of Rule 365:25-3-1 provides that providers of continuing education provide with ten business days a list of agents completing the course, that the list shall contain course number and date of completion, and provides for a late report fee of \$50.00; and the proposed amendments to subsection (e) of Rule 365:25-3-1 adds a late renewal fee of double the amount of the annual renewal. Proposed amendments to Rule 365:25-3-13 provides that the brokers affidavit required pursuant to 36 O.S. § 1107 is to be submitted to the Insurance Commissioner after procuring any surplus lines insurance thereby providing consistency with 36 O.S. § 1107. Proposed amendments to subsection (d) of Rule 365:25-3-14 clarifies that the twenty-four month period for continuing education requirement begins the first day of the

month following the month in which an insurance adjuster license is granted; proposed amendments provide that the adjuster continuing course completion certificate shall be attached to the license renewal form only if requested by the Insurance Commissioner; and corrects a reference to twelve months changing it to twenty-four months. Proposed amendments to subsection (f) of Rule 365:25-3-14 provides that adjuster continuing education providers submit a list of all insurance adjusters completing the course within ten business days after completion of the course, that the list shall contain course number and date of completion, and provides for a late report fee of \$50.00. The proposed amendments to Rules 365:25-11-3 and 365:25-13-3 set out changes to the requirements for licensure of viatical and life settlement brokers that permit persons licensed as a resident or nonresident insurance producer with a life insurance line of authority for one year to qualify for a license to conduct the business of a viatical and life settlement broker. Rules 365:25-11-3 and 365:25-13-3 are currently effective as emergency rules. Proposed Rules 365:25-15-1 through 14 create the new Captive Insurance Companies Regulation to provide to administering the Oklahoma Captive Insurance Company Act, 36 O.S. § 6470.1, et seq. Proposed amendments to Appendix C of Chapter 25, Application For Original Permit to sell prepaid funeral benefits contracts, corrects an error in the form by providing that the Applicant is the name of the funeral establishment. The proposed amendments of Appendix C of Chapter 25 also provides that a trust agreement must be in a form prescribed by the Insurance Commissioner and clarifies that the form must include each financial institution where trust monies will be deposited.

**AUTHORITY:**

Insurance Commissioner, 36 O.S. §§ 307.1, 1107, 1435.19, 4050, 4094, 6123, and 6470.21.

**COMMENT PERIOD:**

Persons wishing to make written or oral comments may do so by 5:00 p.m., March 4, 2005, at the offices of the Oklahoma Insurance Commissioner, State Insurance Department, Attn: Karl F. Kramer, Assistant General Counsel, 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

**PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer input on the content of the proposed rules. The public hearing will be held at 9:00 a.m. on March 8, 2005, in the Commissioner's Conference Room at the office of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities are requested to provide the State Insurance Department, within the comment period set out above, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred

## Notices of Rulemaking Intent

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by a particular entity due to compliance with these proposed rules. Business entities may submit this information to Karl F. Kramer, Assistant General Counsel, at the above address, before the close of the public comment period on March 4, 2005.

### COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the Offices of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107. Additional copies of proposed rules may be obtained at the State Insurance Department.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to February 1, 2005, and may be obtained from the State Insurance Department at the above address.

### CONTACT PERSON:

Karl F. Kramer, Assistant General Counsel, (405) 521-2746.

*[OAR Docket #05-05; filed 1-4-05]*

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## TITLE 365. INSURANCE DEPARTMENT CHAPTER 35. PRIVACY

*[OAR Docket #05-06]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

- Subchapter 3. Standards For Safeguarding Customer Information Regulation [NEW]
- 365:35-3-1. Preamble [NEW]
- 365:35-3-2. Definitions [NEW]
- 365:35-3-3. Information security program [NEW]
- 365:35-3-4. Objectives of information security program [NEW]
- 365:35-3-5. Examples of methods of development and implementation [NEW]
- 365:35-3-6. Assess risk [NEW]
- 365:35-3-7. Manage and control risk [NEW]
- 365:35-3-8. Oversee service provider arrangements [NEW]
- 365:35-3-9. Adjust the program [NEW]
- 365:35-3-10. Violation [NEW]
- 365:35-3-11. Effective date [NEW]

### SUMMARY:

This proposed regulation establishes standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505(b), and 507 of the Gramm-Leach-Bliley Act, codified at 15 U.S.C. 6801, 6805(b) and 6807.

### AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1 and 307.2.

### COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., March 4, 2005, at the offices of the Oklahoma

Insurance Commissioner, State Insurance Department, Attn: Karl F. Kramer, Assistant General Counsel, 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

### PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer input on the content of the proposed rules. The public hearing will be held at 9:00 a.m. on March 8, 2005, in the Commissioner's Conference Room at the office of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide the State Insurance Department, within the comment period set out above, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with these proposed rules. Business entities may submit this information to Karl F. Kramer, Assistant General Counsel, at the above address, before the close of the public comment period on March 4, 2005.

### COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the Offices of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107. Additional copies of proposed rules may be obtained at the State Insurance Department.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to February 1, 2005, and may be obtained from the State Insurance Department at the above address.

### CONTACT PERSON:

Karl F. Kramer, Assistant General Counsel, (405) 521-2746.

*[OAR Docket #05-06; filed 1-4-05]*

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## TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 5. DISCIPLINARY ACTIONS

*[OAR Docket #04-1612]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

- 435:5-1-4.1. Administrative fines [NEW]

### SUMMARY:

This is a new rule establishing administrative fines after formal hearing.

### AUTHORITY:

TITLE 59 O.S., Section 489, State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from February 1, 2005 to March 4, 2005. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on March 10, 2005, 9:00 a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 4, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after February 1, 2005 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

Jan Ewing, Deputy Director (405) 848-6841, ext. 104

*[OAR Docket #04-1612; filed 12-29-04]*

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION  
CHAPTER 10. PHYSICIANS AND SURGEONS**

*[OAR Docket #04-1612A]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 7. Regulation of Physician and Surgeon Practice

435:10-7-11. Intractable pain [AMENDED]

**SUMMARY:**

This section provides guidelines and requirements for allopathic physicians who treat and prescribe for patients with chronic, intractable pain. The rule is being updated based on recommendations from the Federation of State Medical Boards.

**AUTHORITY:**

TITLE 59 O.S., Section 489, State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from February 1, 2005 to March 4, 2005. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on March 10, 2005, 9:00

a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 4, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after February 1, 2005 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

Jan Ewing, Deputy Director (405) 848-6841, ext. 104

*[OAR Docket #04-1612A; filed 12-29-04]*

**TITLE 570. STATE BOARD FOR PROPERTY AND CASUALTY RATES  
CHAPTER 10. FILING PROCEDURES, INTERPRETATIONS AND ADDITIONAL BOARD RULES**

*[OAR Docket #05-07]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

570:10-1-4. Certification [AMENDED]

570:10-1-5. Bureau deviations [AMENDED]

570:10-1-13. Homeowners filings [REVOKED]

570:10-1-32. Weather related claims [REVOKED]

570:10-1-34. Credit related policies [REVOKED]

570:10-1-35. Property and casualty policies [REVOKED]

570:10-1-36. Use of lack of prior insurance in underwriting or rating [REVOKED]

570:10-1-37. Use of auto accidents in underwriting or rating [REVOKED]

570:10-1-41. Worker's compensation excess insurance [NEW]

**SUMMARY:**

The proposed amendments to Rules 570:10-1-4, 5 and 13 are proposed, because homeowners insurance is no longer under the jurisdiction of the State Board for Property and Casualty Rates pursuant to House Bill 2470. The proposed revocation of Rules 570:10-1-32, 34, 35, 36 and 37 are revoked and relocated from the rules of the State Board for Property and Casualty Rate to the Property and Casualty Competitive Loss Cost Rating regulations which is located in the rules of the Insurance Commissioner in Subchapter 7 of Chapter 15 of Title 365. Proposed new Rule 570:10-1-41 gives the Board the specific authority to review and approve excess workers compensation coverage, because self-insured employers

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or associations must maintain excess workers compensation coverage over and above the limits of the letter of credit or bond filed with the Workers' Compensation Court Administrator.

### AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 901.1, 902.2 and 907.

### COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., March 4, 2005, at the offices of the Oklahoma Insurance Commissioner, State Insurance Department, Attn: Karl F. Kramer, Assistant General Counsel, 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

### PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer input on the content of the proposed rules. The public hearing will be held at 9:30 a.m. on March 24, 2005, in the Commissioner's Conference Room at the office of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide the State Insurance Department, within the comment period set out above, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with these proposed rules. Business entities may submit this information to Karl F. Kramer, Assistant General Counsel, at the above address, before the close of the public comment period on March 4, 2005.

### COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the Offices of the Oklahoma Insurance Commissioner, State Insurance Department, at 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107. Additional copies of proposed rules may be obtained at the State Insurance Department.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to February 1, 2005, and may be obtained from the State Insurance Department at the above address.

### CONTACT PERSON:

Karl F. Kramer, Assistant General Counsel, (405) 521-2746.

*[OAR Docket #05-07; filed 1-4-05]*

## TITLE 605. OKLAHOMA REAL ESTATE COMMISSION CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

*[OAR Docket #05-01]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

### PROPOSED RULES:

Chapter 10. Requirements, Standards and Procedures  
[AMENDED]

### SUMMARY:

Permanent revisions to the Rules and Regulations are proposed as described herein. These proposed amendments affect real estate licensees, school entities and instructors, and the general public, and if promulgated will have an effective date of July 1, 2005. Proposed revisions are summarized as follows:

#### **605:10-5-1. Approval of prelicense course offerings.**

Amending the section to clarify that (e) not only covers the "instructor application", it also covers the "instructor approval" requirements. The amendment also makes the wording consistent with the wording for the continuing education and postlicense instructors.

Adding to the rules that one of the requirements for a prelicense instructor to be approved is to submit with the application documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

#### **605:10-5-1.1 Approval of postlicense course offerings.**

Adding to the rules that one of the requirements for a postlicense instructor to be approved is to submit with the application documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

#### **605:10-5-2. Approval of continuing education offerings.**

Amending paragraph (g) heading to clarify that all items listed are requirements.

Amending the section to clarify that (I) not only covers the "continuing education instructor approval requirements", it also covers the "instructor application" requirements. The amendment also makes the wording consistent with the wording for the prelicense and postlicense instructors.

Adding to the rules that one of the requirements for a continuing education instructor to be approved is to submit with the application documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

#### **605:10-11-3. Associate's corporation or association.**

Amending language to clarify that items (1) through (8) are requirements.

**605:10-13-1. Duty to account; broker.** Updating reference from bank to financial institution, and adding the requirement that when a broker deposits all checks and monies of whatever kind and nature belonging to others, it must be in a financial institution wherein the deposits are insured by an agency of the federal government.

Amendments made to language for clarification/consistency.

The current rule requires brokers to deposit all escrow funds before the end of the next banking day following acceptance of

an offer by an offeree unless otherwise agreed to in writing by all interested parties. Amending language to allow brokers to deposit all escrow funds before the end of the third banking day following acceptance of an offer by an offeree unless otherwise agreed to in writing by all interested parties.

**605:10-15-3. Guidelines for furnishing psychological factors.** Amending section heading and to clarify that items (1) through (7) are requirements.

**605:10-17-5. Substantial misrepresentation.** Changing the word "contract" to "instrument", as the word "contract" was not broad enough.

**605:10-17-6. Guidelines for suspended/revoked brokers and associates.** Amending section heading and to clarify that items (1) through (14) are requirements.

**605:10-17-7. Cessation of Licensed Activities Upon Loss of License.** Deleting unnecessary language in (b) and (c)

**AUTHORITY:**

Oklahoma Real Estate Commission; 59 O.S., Section 858-208

**COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 4:00 p.m. on March 4, 2005 at the following address:

Oklahoma Real Estate Commission  
Shepherd Mall  
2401 N. W. 23<sup>rd</sup> St., Suite 18  
Oklahoma City, Oklahoma 73107-2431

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. Date, time and place of public hearing:

March 9, 2005 - 10:00 a.m.  
Shepherd Mall  
2401 N.W. 23<sup>rd</sup> St., Suite 18  
Oklahoma City, Oklahoma 73107-2431

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (with the exception of legal holidays) at the following location:

Oklahoma Real Estate Commission  
2401 N. W. 23<sup>rd</sup> St., Suite 18  
Oklahoma City, Oklahoma 73107-2431

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303 (D), a rule impact statement will be prepared and available on February 16, 2005 at the Oklahoma Real Estate Commission (address and phone number listed above).

**CONTACT PERSON:**

Anne M. Woody, Executive Director - (405) 521-3387

[OAR Docket #05-01; filed 1-3-05]

**TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS  
CHAPTER 12. GUIDELINES FOR SUPERVISION**

[OAR Docket #04-1607]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

675:12-1-6. Board Approved Supervisors [AMENDED]

**SUMMARY:**

This rule sets forth the requirements and expectations of a licensee applying for and obtaining the status of Board Approved Supervisor. The proposed amendments require persons approved as a Board Approved Supervisor to obtain initial supervisor training within one year of approval.

**AUTHORITY:**

Title 59 O.S., Section 1250.1-1256, State Board of Licensed Social Workers

**COMMENT PERIOD:**

The comment period will run from February 1, 2005 to March 3, 2005. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on March 4, 2005, 10:00 a.m. at the office of the Board of Medical Licensure and Supervision, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 3, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after February 1, 2005 at the office of the Board, 5104 North Francis, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

Jan Ewing, Deputy Director (405) 848-6841, ext. 104

[OAR Docket #04-1607; filed 12-29-04]



# 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.

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## TITLE 165. CORPORATION COMMISSION CHAPTER 5. RULES OF PRACTICE

[OAR Docket #04-1613]

### RULEMAKING ACTION:

Submission for gubernatorial/legislative review

### RULES:

Subchapter 1. General Provisions

Part 1. General

165:5-1-10. Exemption from the Registration of Out of State Attorneys Act [NEW]

### SUBMITTED TO GOVERNOR:

December 21, 2004

### SUBMITTED TO HOUSE:

December 21, 2004

### SUBMITTED TO SENATE:

December 21, 2004

[OAR Docket #04-1613; filed 12-29-04]

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## TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #04-1614]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 33. Homeland Security and Critical Infrastructure [NEW]

165:35-33-1. Purpose and scope [NEW]

165:35-33-2. [RESERVED]

165:35-33-3. Definitions [NEW]

165:35-33-4. [RESERVED]

165:35-33-5. Utility Security Plan [NEW]

165:35-33-6. [RESERVED]

165:35-33-7. Reporting requirements [NEW]

165:35-33-8. [RESERVED]

165:35-33-9. Cost recovery [NEW]

165:35-33-10. Commission authorized participation [NEW]

165:35-33-11. Confidentiality [NEW]

### SUBMITTED TO GOVERNOR:

December 10, 2004

### SUBMITTED TO HOUSE:

December 10, 2004

### SUBMITTED TO SENATE:

December 10, 2004

[OAR Docket #04-1614; filed 12-29-04]

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## TITLE 165. CORPORATION COMMISSION CHAPTER 45. GAS SERVICE UTILITIES

[OAR Docket #04-1615]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 21. Homeland Security and Critical Infrastructure [NEW]

165:45-21-1. Purpose and scope [NEW]

165:45-21-2. [RESERVED]

165:45-21-3. Definitions [NEW]

165:45-21-4. [RESERVED]

165:45-21-5. Utility Security Plan [NEW]

165:45-21-6. [RESERVED]

165:45-21-7. Reporting requirements [NEW]

165:45-21-8. [RESERVED]

165:45-21-9. Cost recovery [NEW]

165:45-21-10. Commission authorized participation [NEW]

165:45-21-11. Confidentiality [NEW]

### SUBMITTED TO GOVERNOR:

December 10, 2004

### SUBMITTED TO HOUSE:

December 10, 2004

### SUBMITTED TO SENATE:

December 10, 2004

[OAR Docket #04-1615; filed 12-29-04]

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## TITLE 165. CORPORATION COMMISSION CHAPTER 55. TELECOMMUNICATIONS SERVICES

[OAR Docket #04-1616]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 25. Homeland Security and Critical Infrastructure [NEW]

165:55-25-1. Purpose and scope [NEW]

165:55-25-2. [RESERVED]

## Submissions for Review

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165:55-25-3. Definitions [NEW]  
165:55-25-4. [RESERVED]  
165:55-25-5. FBP Security Plan [NEW]  
165:55-25-6. [RESERVED]  
165:55-25-7. Reporting requirements [NEW]  
165:55-25-8. [RESERVED]  
165:55-25-9. Cost recovery [NEW]  
165:55-25-10. Commission authorized participants [NEW]  
165:55-25-11. Confidentiality [NEW]

**SUBMITTED TO GOVERNOR:**

December 10, 2004

**SUBMITTED TO HOUSE:**

December 10, 2004

**SUBMITTED TO SENATE:**

December 10, 2004

*[OAR Docket #04-1616; filed 12-29-04]*

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# 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 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #04-1608]

### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

### RULES:

Subchapter 3. Animal Health Reportable Diseases  
35:15-3-2. [AMENDED]  
35:15-3-3. [AMENDED]

### GUBERNATORIAL APPROVAL:

December 20, 2004

[OAR Docket #04-1608; filed 12-29-04]

## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #04-1609]

### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

### RULES:

Subchapter 15. Equine Infectious Anemia (EIA)  
Part 3. Procedures  
35:15-15-34. [AMENDED]

### GUBERNATORIAL APPROVAL:

December 20, 2004

[OAR Docket #04-1609; filed 12-29-04]

## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #04-1610]

### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

### RULES:

Subchapter 30. Soil Amendment [NEW]

### GUBERNATORIAL APPROVAL:

December 20, 2004

[OAR Docket #04-1610; filed 12-29-04]

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 410. WIC

[OAR Docket #05-08]

### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

### PROPOSED RULES:

Subchapter 3. Vendor Management  
Part 1. General Provisions  
310:410-3-2. [AMENDED]  
Part 3. WIC Vendor Application and Authorization Process  
310:410-3-10. [AMENDED]  
310:410-3-14. [AMENDED]  
Part 5. WIC Vendor Education  
310:410-3-20. [AMENDED]  
310:410-3-22. [AMENDED]  
310:410-3-23. [AMENDED]  
Part 7. WIC Vendor Authorization and Responsibilities  
310:410-3-30. [AMENDED]  
310:410-3-31. [AMENDED]  
310:410-3-32. [AMENDED]  
310:410-3-34. [AMENDED]  
310:410-3-35. [AMENDED]  
310:410-3-39. [AMENDED]  
310:410-3-40. [AMENDED]  
310:410-3-42. [AMENDED]  
310:410-3-43. [AMENDED]  
Part 9. WIC Vendor Compliance and Sanctions  
310:410-3-51. [AMENDED]  
310:410-3-52. [AMENDED]  
310:410-3-53. [AMENDED]  
310:410-3-55. [AMENDED]

### GUBERNATORIAL APPROVAL:

December 21, 2004

[OAR Docket #05-08; filed 1-4-05]

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 550. NEWBORN SCREENING PROGRAM

[OAR Docket #05-09]

### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

### PROPOSED RULES:

Subchapter 5. Specimen Collection  
310:550-5-1. [AMENDED]

## Gubernatorial Approvals

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Subchapter 7. Hospital Recording

310:550-7-1. [AMENDED]

Subchapter 21. Information

310:550-21-1. [AMENDED]

Subchapter 23. Standards, Procedures, and Follow-Up for

Certified Laboratories

310:550-23-1. [AMENDED]

Appendix A. Instructions for Filter Paper Sample Collection

[REVOKED AND REENACTED]

**GUBERNATORIAL APPROVAL:**

December 21, 2004

*[OAR Docket #05-09; filed 1-4-05]*

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# 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 10. OKLAHOMA ACCOUNTANCY BOARD CHAPTER 15. LICENSURE AND REGULATION OF ACCOUNTANCY

[OAR Docket #04-1611]

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 21. Reciprocity  
10:15-21-7. [NEW]  
Subchapter 22. Substantial Equivalency  
10:15-22-1. [AMENDED]  
Subchapter 23. Registration  
10:15-23-1. [AMENDED]  
10:15-23-2. [AMENDED]  
Subchapter 25. Permits  
10:15-25-2. [AMENDED]  
10:15-25-4. [AMENDED]  
Subchapter 29. Continuing Professional Education  
10:15-29-3. [AMENDED]  
10:15-29-4. [AMENDED]  
10:15-29-5. [AMENDED]  
Subchapter 33. Quality/Peer Review  
10:15-33-4. [AMENDED]  
10:15-33-6. [AMENDED]

### AUTHORITY:

Oklahoma Accountancy Board, 59 O.S. Section 15.5.B.6

### DATES:

#### Adoption:

November 19, 2004

#### Approved By Governor:

December 21, 2004

#### Effective:

Immediately upon Governor's approval

#### Expiration:

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATED BY REFERENCE:

N/A

### FINDING OF EMERGENCY:

Senate Bill 1488, enacted in April 2004, amended the Oklahoma Accountancy Act (the "Act") in ways that significantly impact the registrants of the Oklahoma Accountancy Board. Current rules allow for an exemption from the completion of continuing professional education (CPE) for new Certified Public Accountants (CPAs) and Public Accountants (PAs) when applying for their initial permits to practice public accounting in conjunction with the initial registration of their CPA certificates or PA licenses. Current rules also allow for the pro-rating of CPE for the initial permit renewal for new CPAs and PAs, for individuals applying for a permit in conjunction with an application for reciprocity, and for individuals applying for initial interim permits. SB 1488 requires that *all* certificate and license holders complete a

minimum of 40 hours of CPE to obtain a permit. Since the amendments to the Act became effective November 1, 2004, before permanent rules could be promulgated, it is necessary to promulgate emergency rules in order to comply with the Act and to solve the problem of inequities in the requirements for individuals who may be applying for their initial permits late in the permit period. Without the amendments in the emergency rules, these individuals may be required to complete 80 hours of CPE in a very short period of time.

Amendments to the Act also change the deadline for registration of CPA certificates and PA licenses from June 30 to July 31 and for firms from August 31 to May 31. Emergency rules must be promulgated to bring the rules into compliance with the Act.

Further amendments to the Act provide for international reciprocity. Rules must be promulgated to establish a means of implementing and administering this provision.

Amendments to the Section 12.A of the Act provide that the Oklahoma Accountancy Board will no longer require notice from individuals entering the state under the Substantial Equivalency provision from a jurisdiction that does not require notice by Oklahoma registrants entering that jurisdiction to practice public accounting. Emergency rules are required to clarify that these individuals are not required to give notice since existing rules indicate that notice must be given by qualified individuals seeking practice privileges in this state.

Because of an ambiguity in the 2003 rules relating to the qualifying period for participation in the peer review program, there has been confusion among the Oklahoma Accountancy Board's registrants as to when individuals and firms must begin participating in the peer review program. The amendments to the peer review subchapter are intended to clarify the situation to allow those who participate sufficient time to comply.

### ANALYSIS:

SB 1488 became effective November 1, 2004 before permanent rules could be promulgated, thus requiring emergency rule amendments to Title 10, Chapter 15.

SB 1488 created a new section 59 O.S. § 15.13A, allowing for international reciprocity. Subchapter 21-7 sets forth the procedures for implementing and administering the new provision.

SB 1488 amendment to 59 O.S. § 12A requires that notification be waived for certificate and license holders from other jurisdictions exercising the substantial equivalency privilege afforded under this section by that jurisdiction to an Oklahoma certificate or license holder for the equivalent privilege to practice in that jurisdiction. The amendment to Subchapter 22-1 provides for the waiver required by SB 1488.

SB 1488 amendment to 59 O.S. § 15.14 moved the individual registration of CPA certificates and PA licenses from June 30 to July 31, necessitating the amendments to Subchapter 23-1.

SB 1488 amendment to 59 O.S. § 15.15 moved firm registration from August 31 to May 31 of each year, necessitating amendments to Subchapter 23-2, 25-2, and 25-4. In addition, an amendment to 59 O.S. § 15.15A eliminated the requirement that each office of a firm must obtain a firm permit to practice, thus necessitating further amendments to Subchapter 23-2.

SB 1488 amendment to 59 O.S. § 15.35(B) requires that *all* certificate and license holders complete a minimum of 40 hours of continuing professional education (CPE) to obtain a permit to practice public accounting. Consequently the CPE exemption in Subchapter 29-3 for new CPAs and PAs can no longer be allowed; nor can the pro-rated CPE currently provided for in Subchapter 29-3, 29-4 and 29-5. Because the individuals addressed in Subchapter 29-3, 29-4 and 29-5 might be applying for an initial permit at any time during the permit period rather than at the beginning, allowing them to

# Emergency Adoptions

re-use the credit reported on their initial permits for their first permit renewals is more equitable to them than requiring them to report 80 hours of CPE in, quite often, a very short period of time.

Because of an ambiguity in the 2003 rules relating to the qualifying period for participation in the peer review program, there has been confusion as to when individuals and firms must begin participating in the peer review program, thus necessitating clarification in Subchapter 33-4 and 33-6.

## CONTACT PERSON:

Edith Steele (405) 521-2397

**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 21. RECIPROCITY

### 10:15-21-7. International reciprocity

In addition to the requirements found in Rule 10:15-21-1, the Board shall rely on the International Qualifications Appraisal Board for evaluation of foreign credential equivalency for a foreign reciprocal certificate. Such foreign applicant shall report any investigations undertaken, or sanctions imposed, by a foreign credentialing body against the applicant's foreign credential. Suspension or revocation of, or refusal to renew, the applicant's foreign accounting credential by the foreign credentialing body, or conviction of a felony or any crime involving dishonesty or fraud under the laws of a foreign country may be evidence of conduct reflecting adversely upon the foreign reciprocal certificate holder's fitness to retain the certificate and may be a basis for Board action. The Board shall notify the appropriate foreign credentialing authorities of any sanctions imposed against the foreign reciprocal certificate holder. The Board shall participate in joint investigations with foreign credentialing bodies and rely on evidence supplied by such bodies in disciplinary hearings.

## SUBCHAPTER 22. SUBSTANTIAL EQUIVALENCY

### 10:15-22-1. Notification

(a) A qualified individual seeking practice privileges in this state pursuant to Section 15.12A of the Oklahoma Accountancy Act shall comply with the notice requirement as follows:

- (1) Notice may be given electronically or in writing on forms prescribed by the Board;
- (2) Notice is immediately due and shall be received by the Board within thirty (30) days after the individual knowingly avails him/herself of the laws of this State by:
  - (A) Accepting an engagement or an assignment to render professional services in this State, or
  - (B) Offering to render professional services through direct solicitation or marketing targeted to persons in this state.

(3) In lieu of the procedure set out in paragraph (a)(2), at anytime prior to entering this State, an individual, directly or through the individual's firm, may be included in a master notice to all participating substantially equivalent jurisdictions including the Board by giving notice to the NASBA National Qualification Appraisal Service or other comparable service designated by the Board; and, provided the firm accepts responsibility for each individual's compliance with the accountancy laws and rules of this State for as long as the individual is included in the firm's master notice, keeps the master notice reasonably current and renews the notice annually. In any event, the individual seeking practice privileges is responsible for complying with the requirement that the notification required under this Section has been made.

(4) Staff will inform the individual if he/she must withdraw based on findings. Withdrawal must be immediate. Individuals may appeal, and practice in this State may continue during the appeal process.

(b) Notice shall be renewed annually on the anniversary date of the original notice for so long as the individual intends to use Substantial Equivalency privileges in this State.

(c) Notice shall be amended within thirty (30) days after the individual changes his/her principal place of business or within 30 days after the license has been denied, revoked, or suspended in any jurisdiction.

(d) A non-resident individual shall not be deemed to have entered this State for purposes of the Section and notice is not required under this Section if the individual's contact with this State is limited to any of the following activities:

- (1) teaching either a college or continuing professional education course,
- (2) delivering a lecture,
- (3) moderating a panel discussion,
- (4) rendering professional services to the individual's employer or to persons employed by the individual's employer, including affiliated, parent, or subsidiary entities, provided such services are not rendered for the employer's clients.

(e) No notice shall be required for a certificate or license holder of a jurisdiction that does not require notice by an Oklahoma certificate or license holder entering that jurisdiction to practice public accounting.

## SUBCHAPTER 23. REGISTRATION

### 10:15-23-1. Registration of individuals

(a) On or before ~~June 30~~ July 31, all individuals shall register biennially as provided in Section 15.14 of the Oklahoma Accountancy Act and shall file a registration statement with the Board on a form prescribed by the Board.

(b) All registration statements shall be accompanied by a registration fee.

(1) In the case of a registrant who has reached the age of sixty-five (65), the registration fee shall be reduced, as provided in Subchapter 27.

(2) In the case of a registrant who is disabled beyond gainful employment, as provided in Section 15.14 of the Oklahoma Accountancy Act, the registration fee may be waived for the period of disability.

(3) All requests for a reduction or waiver of the registration fee shall be addressed to the Board, in writing.

(4) The Board shall use its discretion in determining the conditions required for retirement or disability.

(c) In addition to the regular registration fee paid by an individual, there shall be a fee for registering after close of business on ~~June 30~~ July 31 but within twelve (12) months after the lapse date of the certificate or license.

(d) In addition to the regular registration fee paid by an individual, there shall be a fee for registering later than twelve (12) months following the lapse date of the certificate or license.

(e) Evaluation of qualifications and approval of registrations filed by individuals shall be performed by the Executive Director, subject to the review and supervision of the Board.

(f) Denial of individual registrations shall be by the Board.

(g) During the period when a certificate or license is suspended by the Board, the suspended registrant shall be required to file annually with the Board an informational report on a form prescribed by the Board. No fee shall be required with such filing.

**10:15-23-2. Registration of firms**

(a) On or before ~~August 31~~ May 31 of each year all firms of certified public accountants and all firms of public accountants qualified to register shall file a registration statement with the Board on a form prescribed by the Board.

(b) The registration statement filed on behalf of a firm of certified public accountants shall be made by a partner or shareholder who holds a valid Oklahoma certificate.

(c) The statement filed on behalf of a firm of public accountants shall be made by a partner or shareholder who holds a valid Oklahoma license or certificate.

(d) Evaluation of qualifications and approval of registrations filed by firms shall be performed by the Executive Director, subject to the review and supervision of the Board.

(e) Denial of firm registrations shall be by the Board.

(f) Except for sole proprietorships, all registration statements filed on behalf of a firm shall be accompanied by an annual registration fee and ~~at the~~ the applicable permit fees for the firm, as provided in Subchapter 27.

**SUBCHAPTER 25. PERMITS**

**10:15-25-2. Date of issue**

(a) All permits shall bear a date of issue based on the date the application for a permit is approved by the Board unless such registrant has been granted an exception by the Board. Permits renewed on a timely basis will be effective July 1 for individuals and ~~September 1~~ June 1 for firms.

(b) If an application for a permit which has been returned to the holder for correction or completion of information is returned to the Board in acceptable form within thirty (30)

calendar days of the first denial, the permit shall bear the date on which the permit application was first received in the office of the Board. Failure to resubmit the corrected application within the thirty-day period shall cause the permit to be dated with the date the acceptable application is received in the office of the Board.

(c) Permits applied for and issued after July 1, for individuals; and after ~~September 1~~ June 1, for partnerships and professional corporations; and except for (a) and (b) above, shall bear an issue date of the day such application for a permit is accepted in the office of the Board.

**10:15-25-4. Firm permits**

(a) Each firm permit shall have a maximum term of one (1) year and shall expire on ~~August 31~~ May 31 following the date of issuance.

(b) The application for renewal of a permit shall be filed with the Board on a form prescribed by the Board prior to the expiration of the permit currently held and no later than ~~August 31~~ May 31.

(c) Each firm applying for a permit to practice as a certified public accountant firm or as a public accountant firm shall submit a written affidavit signed by an owner, partner, member or shareholder demonstrating compliance with the requirements set out in Section 15.15A of the Oklahoma Accountancy Act and attesting that each partner, shareholder, owner, member and certified or licensed employee of the firm serving Oklahoma clients holds a valid individual permit or has notified the Board of his/her intent to practice public accountancy in this State in accordance with the Substantial Equivalency provision.

(d) A firm is required to hold a valid permit if that firm is serving Oklahoma clients from outside this state unless such service is incidental to other responsibilities in the firm or involves the internal review procedures of the firm.

(e) Each firm ~~office~~ that serves Oklahoma clients shall be required to hold a ~~separate~~ permit and pay the applicable fee ~~for each office permit~~.

**SUBCHAPTER 29. CONTINUING PROFESSIONAL EDUCATION**

**10:15-29-3. CPE compliance period for new CPAs and PAs**

(a) When a new CPA or PA becomes certified or licensed, and applies for the initial permit to practice public accounting, as a result of successfully completing the examination, including those individuals who are certified or licensed as the result of transferring all credits earned on an examination from another jurisdiction, the new CPA or PA shall be exempt from reporting report a minimum of forty (40) hours of CPE, including two (2) hours of professional ethics, 1) completed within the calendar year immediately preceding the filing of the application for the permit, or (2) completed within the three hundred sixty-five (365) day period immediately

## Emergency Adoptions

preceding the date of the application for permit for the initial permit to practice public accounting.

(b) A new CPA or PA shall provide evidence of successful completion of the AICPA ethics examination or its equivalent as determined by the Board as part of their CPE requirement. The passing score is determined by the Board.

(c) For the first renewal after the initial permit to practice public accounting has been issued to a new CPA or PA, in order to renew the permit, the new CPA or PA shall be required to report:

(1) ~~Forty (40) hours of acceptable CPE, including two (2) hours of professional ethics, must be reported if the certification or licensure was issued during the months of July, August or September;~~

(2) ~~Thirty (30) hours of acceptable CPE, including two (2) hours of professional ethics, must be reported if the certification or licensure was issued during the months of October, November or December;~~

(3) ~~Twenty (20) hours of acceptable CPE, including two (2) hours of professional ethics must be reported if the certification or licensure was issued during the months of January, February or March; or~~

(4) ~~Ten (10) hours of acceptable CPE, including two (2) hours of professional ethics must be reported if the certification or licensure was issued during the months of April, May or June.~~

### 10:15-29-4. Required CPE for issuance of a permit

(a) An individual who applies for a permit to practice public accounting shall comply with the CPE requirements prior to filing the application for a permit.

(b) An individual who applies to renew a permit, other than a new CPA, new PA, or reciprocal applicant shall document that the applicant has:

(1) completed a minimum of forty (40) hours of qualifying CPE, including two (2) hours of professional ethics, within the calendar year immediately preceding the filing of the application for the permit; or

(2) completed a minimum of forty (40) hours of qualified CPE, including two (2) hours of professional ethics, within the three hundred sixty-five (365) day period immediately preceding the date of the application for the permit.

(c) An individual who applies for an initial interim permit shall document that the individual has completed within the previous calendar year or within the 365 days immediately preceding the date of application, a minimum of CPE prorated according to the following schedule:

(1) ~~If permit is applied for any time in July, August, or September, forty (40) hours of acceptable CPE, including two (2) hours of professional ethics, are required;~~

(2) ~~If permit is applied for any time in October, November, or December, thirty (30) hours of acceptable CPE, including two (2) hours of professional ethics, are required;~~

(3) ~~If permit is applied for any time in January, February, or March, twenty (20) hours of acceptable CPE, including two (2) hours of professional ethics, are required;~~  
or

(4) ~~If permit is applied for any time in April, May or June, ten (10) hours of acceptable CPE, including two (2) hours of professional ethics, are required.~~

(5d) An individual applying for an initial interim permit shall provide evidence of successful completion of the AICPA ethics examination or its equivalent as determined by the Board as part of their CPE requirement.

(6e) Unless exempted by 10:15-29-10, every permit holder shall complete at least two (2) hours of professional ethics CPE as a part of the qualifying CPE requirement.

(6f) An individual other than a new CPA or PA who applies for a permit after the permit has been suspended or revoked, or has lapsed, shall have completed forty (40) hours of qualifying CPE, including two (2) hours of professional ethics, within the three hundred sixty-five (365) day period immediately preceding the date of the application for a permit.

(6g) Regardless of the time frame in which CPE credit is earned, once credit has been claimed to the Board toward the issuance of a permit to practice, such credit may not be claimed again, except in the following circumstances:

(1) An individual who applies for a permit as a new CPA or PA with a minimum of forty (40) hours of CPE, including two (2) hours of professional ethics, may use the same credit when applying for the first renewal of the initial permit as long as the permit has not lapsed and as long as the credit was completed within the previous calendar year or within the 365 days immediately preceding the date of application for permit renewal.

(2) An individual who applies for an initial permit with a minimum of forty (40) hours of CPE, including two (2) hours of professional ethics, in conjunction with an application for reciprocity may use the same credit when applying for the first renewal of the initial permit as long as the permit has not lapsed and as long as the credit was earned within the previous calendar year or within the 365 days immediately preceding the date of application for permit renewal; or

(3) An individual who applies for an initial interim permit with a minimum of forty (40) hours of CPE, including two (2) hours of professional ethics, may use the same credit when applying for the first renewal of the initial permit as long as the permit has not lapsed and as long as the credit was earned within the previous calendar year or within the 365 days immediately preceding the date of application for permit renewal.

(6h) Qualified CPE credit hours from any one course may not be split in any manner between two consecutive compliance periods. Multiple CPE courses taken on the same day may be claimed between two consecutive compliance periods, but only if the sponsor of each separate CPE course issues a separate letter or certification attesting to the completion of each individual course.

### 10:15-29-5. Reciprocity

(a) An individual who applies for a certificate or license by reciprocity shall comply with the CPE requirements provided for in the Oklahoma Accountancy Act and the rules implementing that Act, except that an applicant who is not practicing

public accounting shall not be required to report CPE in conjunction with the application for reciprocity.

(b) An individual who applies for an initial permit shall document that the applicant has completed within the previous calendar year or within the 365 days immediately preceding the date of application, a minimum of CPE prorated according to the following schedule:

- ~~(1) If permit is applied for any time in July, August, or September, forty (40) hours of acceptable CPE, including two (2) hours of professional ethics, are required;~~
- ~~(2) If permit is applied for any time in October, November, or December, thirty (30) hours of acceptable CPE, including two (2) hours of professional ethics, are required;~~
- ~~(3) If permit is applied for any time in January, February, or March, twenty (20) hours of acceptable CPE, including two (2) hours of professional ethics, are required; or~~
- ~~(4) If permit is applied for any time in April, May or June, ten (10) hours of acceptable CPE, including two (2) hours of professional ethics, are required.~~

(5c) An individual applying for a certificate by reciprocity and a permit to practice shall provide evidence of successful completion of the AICPA ethics examination or its equivalent as determined by the Board as part of their CPE requirement. The passing score is determined by Board.

### **SUBCHAPTER 33. QUALITY/PEER REVIEW**

#### **10:15-33-4. Enrollment and Participation**

~~The following rules are effective July 1, 2005 and thereafter.~~

~~(1a) Participation in the program is required of each firm holding a permit from the Board that performs any review or audit services after July 1, 2004, unless the firm ceases performing review or audit services before July 1, 2005.~~

~~(2b) Firm enrollment is required as follows:~~

- ~~(A1) An existing firm required to participate under subsection (1) shall enroll in the Quality/Peer review program of an approved sponsoring organization within one (1) year from the performance of services that require a quality/peer review. The firm shall adopt the Quality/Peer Review Due Date assigned by the sponsoring organization, and must notify the Board of the date within thirty (30) days of its assignment. In addition, the firm shall schedule and begin an additional quality/peer review within three (3) years of the previous Quality/Peer Review Due Date, or earlier as may be required by the sponsoring organization. It is the responsibility of the firm to anticipate its needs for quality/peer review services in sufficient time to enable the reviewer to complete the quality/peer review by the assigned review due date.~~
- ~~(B2) An existing firm that subsequently begins providing services as set forth in subsection (1) shall notify the Board of the change in status within thirty (30) days and~~

provide the Board with enrollment information within twelve (12) months of the date the services were first provided and have a quality/peer review within eighteen (18) months of the date the services were first provided. This provision shall also apply to any new firm that provides the services set forth in subsection (1).

~~(3c) In the event that a firm is merged, otherwise combined, dissolved, or separated, the sponsoring organization shall determine which firm is considered the succeeding firm. Any dispute of the sponsoring organization's determination shall be resolved by the Board. The succeeding firm shall retain its quality/peer review status and the quality/peer review due date.~~

~~(4d) The Board will accept extensions granted by the sponsoring organization to complete a quality/peer review, provided the Board is notified by the firm within thirty (30) days of the date that an extension is granted.~~

~~(5e) A firm that has been rejected by a sponsoring organization for whatever reason shall notify the Board of:~~

- ~~(A1) Name of sponsoring organization rejecting the enrollment;~~
- ~~(B2) Reasons for the rejection;~~
- ~~(C3) Name of subsequently selected sponsoring organization.~~

~~(6f) A firm choosing to change to another sponsoring organization may do so provided that the firm authorizes the previous sponsoring organization to communicate to the succeeding sponsoring organization any outstanding corrective actions related to the firm's most recent quality/peer review. Any outstanding actions must be cleared and outstanding fees paid prior to transfer between sponsoring organizations.~~

#### **10:15-33-6. Reporting to the Board**

~~The following rules are effective July 1, 2005 and thereafter.~~

~~(1a) A firm shall submit to the Board effective with its 2005 firm registration:~~

- ~~(A1) A copy of the report and the final letter of acceptance from the sponsoring organization, if such report is unmodified with or without comments; or~~
- ~~(B2) A copy of the report, letter of comments, letter of response, the conditional letter of acceptance, and final letter of acceptance if the report is modified in any respect or adverse; and~~
- ~~(C3) A copy of the Public Committee Accounting Oversight Board (PCAOB) report, if applicable.~~

~~(2b) Any report or document required to be submitted under subsection (1) shall be filed with the Board within thirty (30) days of receipt of the letter of acceptance from the sponsoring organization.~~

~~(3c) Any document submitted to the Board under this subsection is confidential pursuant to the Act.~~

*[OAR Docket #04-1611; filed 12-29-04]*

# Emergency Adoptions

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 550. NEWBORN SCREENING PROGRAM

[OAR Docket #05-10]

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 5. Specimen Collection

310:550-5-1. [AMENDED]

Subchapter 7. Hospital Recording

310:550-7-1. [AMENDED]

Appendix A. Instructions for Filter Paper Sample Collections [REVOKED  
AND REENACTED]

Appendix A. Instructions for Filter Paper Sample Collections [NEW]

### AUTHORITY:

Oklahoma State Board of Health; 63 O.S. Supp. 2002, Section 1-533 and  
63 O.S. 2001, 1-534

### DATES:

#### Comment Period:

October 1, 2004 through November 4, 2004

#### Public Hearing:

November 4, 2004

#### Adoption:

November 4, 2004

#### Approved by Governor:

December 21, 2004

#### Effective:

Immediately upon Governor's approval

#### Expiration:

Effective through July 14, 2005, unless superseded by another rule or  
disapproved by the Legislature.

#### SUPERSEDED EMERGENCY ACTIONS:

n/a

#### INCORPORATIONS BY REFERENCE:

n/a

#### FINDING OF EMERGENCY:

The State Board of Health finds an emergency amendment is required to  
ensure infants are identified promptly after birth by updating the time of testing  
to reflect current practices by screening programs in the United States. Failure  
to amend the requirements for time of collection could result in irreversible  
health problems or death for affected infants.

#### ANALYSIS:

This proposal amends the existing rule. This action updates time of  
screening requirements and addresses transportation of specimens.

#### CONTACT PERSON:

Pamela King, MPA, RN, State Genetics Coordinator, Screening, Special  
Services and SoonerStart, (405) 271-6617

**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 5. SPECIMEN COLLECTION

#### 310:550-5-1. Specimen collection

(a) **Specimen collection for hospital births.** For all live  
hospital births, the physician, licensed or certified birth atten-  
dant shall order the collection of a newborn screening specimen  
on all newborns prior to transfusion, ~~at three to five days of  
age~~ as early as possible after 24 hours of age or immediately  
prior to discharge, whichever comes first. Due to the need to

identify infants at risk for the disorders quickly, the specimen  
should be collected as early as possible after 24 hours of age.  
Specimens shall be collected on a single Newborn Screening  
Form Kit using capillary or venous blood. Cord blood is unac-  
ceptable. The hospital is responsible for collecting specimens  
on all infants.

(1) If the initial specimen for any infant is collected  
prior to 24 hours of age, the hospital and the physician are  
responsible for notifying the infant's parents verbally and  
in writing, utilizing the parent educational form on the  
Newborn Screening Form Kit, that a repeat specimen is  
necessary at three to five days of age. The infant's physi-  
cian is responsible for insuring that the repeat specimen is  
collected.

(2) The hospital is responsible for submitting a Satis-  
factory Specimen and for documenting all requested in-  
formation on the form kit including the parent/guardian's  
name, address, phone or contact phone number and the  
planned health care provider who will be providing well  
care for the infant after discharge or if the infant is to be  
hospitalized for an extended period of time the name of the  
infant's physician.

(3) The hospital is responsible for documenting speci-  
men collection and results in the infant's hospital record.

(4) Infants who are transferred from one hospital to  
another during the newborn period shall have specimen  
collection documented in the infant's hospital record. It  
is the responsibility of the physician and the receiving  
hospital to insure the specimen is collected.

(5) It is the responsibility of the hospital and physi-  
cian to insure that all ~~infant's infants~~ infants are screened prior  
to discharge. If an infant is discharged prior to specimen  
collection, the Newborn Screening Program Coordinator  
shall be notified. The physician is responsible for insuring  
the specimen is collected ~~at three to five days of age~~ as  
required.

(b) **Screening for premature/sick infants.** For all prema-  
ture/sick infants, the physician shall order the collection of  
a newborn screening specimen prior to red blood cell trans-  
fusion, at three to seven days of age or immediately prior to  
discharge, whichever comes first. Due to the need to identify  
infants at risk for the disorders quickly, the specimen should  
be collected as early as possible after 24 hours of age. It  
is recommended that a repeat newborn ~~metabolic disorder~~  
screening specimen be collected at 14 days of age. Specimens  
shall be collected on the Newborn Screening Form Kit using  
capillary or venous blood. The hospital and the physician are  
responsible for ensuring that specimens are collected on all  
premature/sick infants.

(1) Premature/sick infants screened prior to 24 hours of  
age must be re-screened between 7-14 days of age.

(2) Premature/sick infants who could not be screened  
prior to a red blood cell transfusion should be screened by  
the 7th day of life, with a repeat specimen collected when  
plasma and/or red cells will again reflect the infant's own  
metabolic processes and hemoglobin type (the accepted  
time period to determine hemoglobin type is 90 to 120  
days after transfusion).

(3) The recommended follow-up study for an abnormal thyroid screen in a premature infant is a serum free T4 (measured by direct dialysis or an equivalent method) at 7-14 days of age.

(c) **Specimen collection for out-of-hospital births.**

(1) All infants who are not born in a hospital shall be tested at ~~three to five days of age~~ as early as possible after 24 hours of age. The infant's physician, licensed or certified birth attendant is responsible for submitting a Satisfactory Newborn Screening Specimen. If there is not a physician, licensed or certified birth attendant involved in a non-hospital birth, the person attending the birth and the parents of the infant are responsible for submitting a Satisfactory Newborn Screening Specimen.

(2) If a physician examines a child in the first three months of life who was not born in a hospital, or born out of state, the physician will verify that the child has been screened. If the child has not been screened or if results of screening are not available, the physician should submit a Satisfactory Newborn ~~Metabolic Disorder~~ Screening Specimen.

**SUBCHAPTER 7. HOSPITAL RECORDING**

**310:550-7-1. Hospital recording**

(a) The hospital shall implement a procedure to assure that a newborn screening specimen has been collected on every newborn and ~~mailed~~ transported to the Newborn Screening Laboratory within 24 - 48 hours of collection.

(b) The hospital shall immediately notify the infant's physician, parents or guardians, and Newborn Screening Program Coordinator if an infant is discharged without a sample having been collected. This notification shall be documented in the infant's hospital record.

(c) If no test results are received within fifteen (15) days after the date of collection, the hospital shall contact the Newborn Screening Laboratory to verify that a specimen had been received. If no specimen has been received, the hospital shall notify the physician.

(d) Any hospital or any other laboratory which collects, handles or forwards newborn screening samples shall keep a log containing name and date of birth of the infant, name of the attending physician, name of the planned health care provider who will be providing well care for the infant after discharge, medical record number, serial number of the Newborn Screening Form Kit used, date the specimen was drawn, date the specimen was forwarded, date the test results were received and the test results.

(e) Specimens should be transported in the manner designated by the Department.

### APPENDIX A. INSTRUCTIONS FOR FILTER PAPER SAMPLE COLLECTIONS [REVOKED]

### APPENDIX A. INSTRUCTIONS FOR FILTER PAPER SAMPLE COLLECTIONS [NEW]

Adapted from NCCLS *Blood Collection on Filter Paper for Newborn Screening Programs*; Approved Standard-Fourth Edition, LA4-A4, Vol.23 No.21, July 2003.

#### **Preliminary Steps**

Ensure that the expiration date of the filter paper form kit has not passed. Complete the required information on the filter paper form kit. A ballpoint pen should be used; soft-tip pins will not copy through to the other sheets of paper. Address imprint devices (or adhesive labels) should never be used unless the handling process ensures that the patient information is not obscured and the blood collection area is not compromised. Do not use typewriters or printers that might compress the paper. Avoid touching the area within the circles on the filter paper section before, during and after collection (blood spots) of the specimen. Do not allow water, feeding formulas, antiseptic solutions, glove powder, hand lotion, or other materials to come into contact with the specimen card before or after use.

#### **Precautions**

Confirm the identity of the infant and ensure accuracy of the demographic data on the card. Wash hands vigorously before proceeding. All appropriate precautions, including wearing powder-free gloves (changing gloves between infants), should be taken for handling blood and disposing of used lancets in a biohazard container for sharp objects.

#### **Site Preparation**

Warm the newborn's heel, since warming the skin-puncture site can help increase blood flow. A warm, moist towel or diaper at a temperature no higher than 42° C may be used to cover the site for 3 minutes. This technique increases the blood flow sufficiently and will not burn the skin. In addition, positioning the infant's leg lower than the heart will increase venous pressure.

#### **Cleaning the Site**

The skin should be wiped with alcohol (isopropanol/water: 70/30 by volume, "70%"). Allow the skin to air dry.

#### **Puncture**

To obtain sufficient blood flow, puncture the infant's heel on the plantar surface of the heel with a sterile lancet or with a heel incision device. The incision device provides excellent blood flow by making a standardized incision 1.0 mm deep by 2.5 mm long. Any puncture device used should be selected so that the puncture does not exceed 2.0 mm in depth. For infant safety, scalpel blades or needles must not be used to puncture the skin for blood collection. Disposable skin puncture lancets of different designs are commercially available for performing the heel stick on infants. For worker safety, disposable skin puncture devices that protect the user from unintentional self-inflicted skin punctures should be used.

In small, premature infants, the heel bone (calcaneus) might be no more than 2.0 mm beneath the plantar heel skin surface and half this depth at the posterior curvature of the heel. Studies indicate that for some infants (including full-term infants) a puncturing depth of 2.0 mm might be excessive and might cause bone damage. In this situation other collection methods should be considered.

### **Direct Application**

After the heel has been punctured, wipe away the first drop of blood with a sterile gauze pad or cotton ball and allow a larger drop of blood to form. (Intermittently apply gentle pressure to the heel with the thumb, and ease this pressure as drops of blood form). Touch the filter paper gently against the large blood drop and, in one step, allow a sufficient quantity of blood to soak through and completely fill a preprinted circle on the filter paper. Do not press the filter paper against the puncture site on the heel. Blood should be applied only to one side of the filter paper. Both sides of the filter paper should be examined to assure that the blood uniformly penetrated and saturated the paper. During collection avoid milking or layering:

**Milking:** Excessive milking or squeezing the puncture might cause hemolysis of the specimen or result in an admixture of tissue fluids with the specimen and might adversely affect the test result.

**Layering:** Do not apply layers of successive blood drops to the same printed circle. Applying successive drops of blood to already partially dried spots causes nonuniform analyte concentrations and invalidates the specimens.

After blood has been collected from the heel of the newborn, the foot should be elevated above the body, and a sterile gauze pad or cotton swab pressed against the puncture site until the bleeding stops. It is not advisable to apply adhesive bandages over skin puncture site on newborns.

### **Collection**

The required blood spots should be collected so that there is one in each pre-printed circle of the filter paper. Failure to collect and fill each pre-printed circle might result in the specimen being rejected (unsatisfactory) for testing. If blood flow diminishes so that a circle is not completely filled, repeat the sampling technique using a new circle or, if necessary, a new blood collection card.

For alternative methods to specimen collection (e.g., capillary tube, dorsal hand vein, umbilical venous catheter or umbilical arterial catheter) refer to the NCCLS *Blood Collection on Filter Paper for Newborn Screening Programs*; Approved Standard-Fourth Edition (LA4-A4, Vol. 23 No. 21) or contact the Newborn Screening Program Coordinator.

### **Drying**

Avoid touching or smearing the blood spots. Allow the blood specimen to air dry on a horizontally level, nonabsorbent, open surface for at least 3 hours at an ambient temperature of 15° C to 22° C. Keep the specimen away from direct sunlight (indirect room light is not usually detrimental unless accompanied by heat). Blood spots on the filter paper should not be heated, stacked, or allowed to touch other surfaces during the drying process.

The Filter Paper has a new fold-over protective cover. This protective cover is used to protect the blood spots from contamination and can be used in the drying process. To use the protective cover in the drying process simply elevate the blood spots to gently rest on the edge of the protective cover. After drying, the protective cover should be placed over the spots to prevent contamination.

### **Stacking**

Since leaching (cross-contamination) between specimens might occur, specimen-to-specimen contact is not appropriate. Before placing the specimens in a

## **Emergency Adoptions**

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paper envelope for mailing, use the fold-over protective cover to cover each individual blood spot. When stacking of exposed blood spots cannot be avoided, the following procedure should be done:

Before placing the specimens in a paper envelope for mailing, the dried blood spots on the collection card should be rotated 180° from the blood spots on the cards in the stack immediately above and below.

If the physical barrier is used (fold-over protective cover), specimen rotation is not necessary.

### **Mailing**

Specimens should be transported in the manner designated by the Department. The collection card should be transported or mailed to the Newborn Screening Program laboratory within 24 hours after collection. Mailing delays at collection sites should be avoided, and the postal or transport environment relative to possible delays should be considered. Never place the filter paper specimen in plastic bags. Use the form kit's protective overlay to cover the filter paper spots when mailing or transporting. If mailing the specimens use a U.S. Postal Service approved envelope.

### **Information**

For information regarding specimen collection, Postal regulations, envelope and form kit purchasing, please contact the Newborn Screening Program Laboratory at (405) 271-5070.

450 Form Kit's Detachable Educational Slip  
Front & Back

Baby's Last Name	Baby's First Name

Oklahoma State Department of Health  
Newborn Metabolic Disorder Screening



**THE NEWBORN METABOLIC DISORDER SCREENING TEST**

A special blood test has been done to protect your baby from hidden disease. The test screens for congenital hypothyroidism, galactosemia, phenylketonuria (PKU) and sickle cell disease. These disorders are harmful if treatment is not started within the first month of life (each disorder is explained on the back of this sheet).

ATTENTION  
PROVIDER

**WILL FURTHER TESTING BE REQUIRED?**

TIME OF TESTING	
<input type="checkbox"/> Under 24 hours of age	<input type="checkbox"/> Over 24 hours of age

DETACH AND GIVE TO  
PARENT  
OR GUARDIAN

If your baby is tested before 24 hours of age, the test must be repeated at 3 to 5 days of age. If the blood test is abnormal or inadequate to test, a repeat test will be needed. If the time of testing is not indicated on this form, please contact your baby's physician to determine if your baby needs a repeat test.

**ASK YOUR BABY'S DOCTOR FOR THE TEST RESULTS**

Please take this form with you to your baby's first doctor visit and ask for test results. If your baby's doctor does not have the test results and you have not been notified by mail, please call the Oklahoma State Department of Health when your baby is three weeks of age at (405) 271-6617 or 1-800-786-2223.

Ser. No. 785614

DETACH AND GIVE TO PARENT OR GUARDIAN  
NEWBORN METABOLIC DISORDER SCREENING

**EARLY DETECTION AND TREATMENT IS IMPORTANT**

**CONGENITAL HYPOTHYROIDISM -**

If not treated, this disorder results in mental retardation and poor growth. Congenital hypothyroidism is usually caused by abnormal development or absence of the thyroid gland. Treatment with daily thyroid medication is necessary for normal growth and development.

**GALACTOSEMIA -**

If not treated, this disorder can harm the baby's eyes, liver and result in mental retardation or even death. Galactosemia occurs when the baby cannot break down a special sugar in milk called galactose. A special diet without galactose is required to prevent mental retardation or death.

**PHENYLKETONURIA (PKU) -**

If not treated, this disorder can result in severe brain damage. PKU is caused by the body's inability to break down the protein in food called phenylalanine. Treatment with a special diet is necessary to prevent mental retardation.

**SICKLE CELL DISEASE and other hemoglobin diseases -**

If not treated, this disorder may result in severe illness or death. Sickle cell disease occurs when the hemoglobin in the red blood cells does not develop normally. Red blood cells have the important job of delivering oxygen to different parts of the body. Treatment with antibiotics helps prevent infections that could cause severe illness or death. Other hemoglobin diseases can be detected by screening and will require medical follow-up.

**SICKLE CELL TRAIT and other trait conditions -**

These conditions will not make your baby sick, but genetic counseling and family testing is recommended.

**QUESTIONS ABOUT METABOLIC SCREENING?**

Please call the Newborn Screening Program for answers. The toll-free number is 800-786-2223. The Oklahoma City metropolitan area number is 271-6617. The phone is answered Monday through Friday from 8:00 AM until 5:00 PM.



OHD #450 Form Kit (cont)

**SUBMITTER RESPONSIBILITY**

1. Completion of form.
2. Collection of an adequate specimen for testing.
3. Mailing specimens within 24 hours of collection.
4. The quality of the specimen received by the Public Health Laboratory Section.
5. Using the preferred health care provider who will be providing well care for the infant under discharge or parent's physician if the infant is to be hospitalized for extended period of time.

**SCREENING REQUIREMENTS FOR ALL NEWBORNS**

1. Prior to blood collection.
2. Within the first week of life or immediately prior to discharge, whichever comes first.
3. If infant is screened at less than 24 hours of age, repeat screen at 3-6 days of age (if premature or a sick infant, repeat screen at 7-14 days of age).
4. All premature and sick infants should have a repeat screen at 14 days of age.

**Instruction on Specimen Collection and Mailing (Complies with NCCLS Standard LA 4 - A3)**

**COMPLETION OF FORM**

1. Legible print and complete all information requested.
  2. Use submitter's own address and submitter ID number. Submitter means the facility or provider who has collected the specimen.
  3. List the provider or physician who will be following the baby for well care.
  4. List the parent's correct address and phone number for notification of abnormal results.
- Note: All results are sent to the submitter and the provider listed on the form.

**COLLECTION OF BLOOD SPECIMEN**

1. To prevent specimen contamination do not touch any of the filter paper circles before or after collection. Hand sanitizer should be used before and after hand is wet or dry. Clean procedure site as indicated.



2. Use a sterile, disposable lancet to perform a heel stick procedure.
3. Wipe away the drop of blood with a sterile gauze or cotton ball.
4. Gently touch the filter paper against a single drop of blood and allow a sufficient quantity of blood to soak through to completely fill the preprinted circle on the filter paper. Blood must be applied to only one side of the filter paper and filter area should be dry and clean.
5. Fill all filter circles with blood.
6. Place filter circles in specimen level container.
7. Answer blood questions to be sent to the laboratory for 24 hours in a horizontal position. Do not stack filter specimens. Specimens should be submitted with the label oriented toward the back of the container. DO NOT PLACE FILM OR OTHER MATERIALS IN THE CONTAINER.
8. Order test completely filled in or not thoroughly saturated.
9. Urine: submission of urine or multiple voids in separate container.
10. Calf: dry or clean hand on filter paper or damaged filter paper.
11. Any filter paper due to spillage or other compromise.
12. Incomplete addition of blood from filter paper.
13. Laboratory completion transcripts or irregularly completed.
14. Possible contamination - possibly due to improper sample collection.
15. Specimen discarded on incorrect form.
16. The specimen received with film.
17. Specimen placed in plastic bag while wet.
18. Specimen placed in plastic bag more than 14 days from date of collection.



**MAILING SPECIMENS BY United States Postal Service Mail specimens within 24 hours of collection. Do not hold specimens for bulk mailing.**

**NEWBORN SCREENING SECTION Public Health Laboratory Services P.O. Box 24106 Oklahoma City, OK 73124-0106**

**SPECIAL DELIVERY OF SPECIMENS**

Send specimens within 24 hours of collection. Do not hold specimens for bulk mailing. Use this address only for courier, overnight, next day delivery, example: UPS, FEDEX

**NEWBORN SCREENING SECTION Public Health Laboratory Services 1000 NE 10<sup>th</sup> Street Oklahoma City, OK 73117-1299**

To order American Metabolic Disorder Screening Box, OHD #450, Call (609) 871-6070.

[OAR Docket #05-10; filed 1-4-05]

# Emergency Adoptions

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 566. COMPREHENSIVE BREAST AND CERVICAL CANCER DETECTION AND TREATMENT

[OAR Docket #05-11]

### RULEMAKING ACTION:

Emergency adoption

### RULES:

Subchapter 1. General Provisions [NEW]  
310:566-1-1. through 310:566-1-7. [NEW]  
Subchapter 3. Service Provision [NEW]  
310:566-3-1. through 310:566-3-3. [NEW]

### AUTHORITY:

Oklahoma State Board of Health; 63 O.S., § 1-502, 56 O.S., §§ 1010.1 et seq., Ok Session Laws 2004, Chapter 219, as codified at 63 O.S. Supp. 2004, §§ 1-554 et seq.

### DATES:

#### Public Hearing:

November 4, 2004

#### Adoption:

November 4, 2004

#### Approved by Governor:

December 21, 2004

#### Effective:

Immediately upon Governor's approval

#### Expiration:

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature

#### SUPERSEDED EMERGENCY ACTIONS:

n/a

#### INCORPORATIONS BY REFERENCE:

n/a

#### FINDING OF EMERGENCY:

The State Board of Health finds that a compelling public interest requires seeking an emergency certification to the rules in Chapter 566. Unless an emergency is declared and certified, these rules cannot become effective until approximately June, 2005. Such a delay will result in uninsured women continuing to be denied early detection screening, diagnosis and treatment for breast and cervical cancer, resulting in a delay in reducing the mortality rates from these cancers for Oklahoma women.

#### ANALYSIS:

The proposed rule establishes eligibility criteria for uninsured women to receive breast and/or cervical cancer treatment. The rule establishes the comprehensive breast and cervical cancer early detection program components: early detection methods, diagnostic services for women with abnormal screening findings, educational training for health care providers, public awareness and epidemiological trend studies. The overall goal is to reduce the mortality rates among women with breast and cervical cancer

#### CONTACT PERSON:

Adeline Yerkes, RN, MPH, Chief Chronic Disease Service, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-4072 ext 57123; facsimile: (405) 271-3615; electronic mail: adeliney@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 1. GENERAL PROVISIONS

#### **310:566-1-1. Purpose**

This Chapter implements O.S.L. Chapter 210 "Oklahoma Breast Cancer Prevention and Treatment" and Public Law 101-354, Title XV, Public Service Act, "Breast and Cervical Cancer Mortality Prevention" authorized by Congress in 1990 and amended in 2000. State statutes established a breast and cervical cancer prevention, treatment and research program advised by a group of predetermined individuals. The federal law established a comprehensive population based statewide breast and cervical cancer early detection program with an additional amendment establishing the treatment program. The purpose of both laws is to reduce the mortality of breast and cervical cancer by providing statewide early detection, diagnosis and treatment of breast and cervical cancer.

#### **310:566-1-2. Definitions**

**"Abnormal screen"** means a suspicion of breast or cervical cancer. A suspicion of breast cancer includes clinical breast exam findings of: palpable breast mass, breast dimpling, nipple retraction, bloody nipple discharge, palpable lymph nodes around clavicle or axilla, nipple erythema and scaliness, a mammography result of BiRads 4 (Suspicious Abnormality suggesting need for biopsy) or 5 (Highly Suggestive of Malignancy) (ICD 793.8), breast biopsy result of Ductal Cancer in situ, Lobular Cancer in situ (ICD 233.0), or breast or lymph node (or other) biopsy result of breast cancer. Suspicion of cervical cancer is a Pap test result of Atypical Squamous Cells (ASC), Atypical glandular cells (AGC), Low-grade squamous intraepithelial lesions (LSIL), or High-grade squamous intraepithelial lesions (HSIL) (ICD 622.1), leukoplakia of the cervix, (ICD 622.2), or cervical biopsy result of Cervical intraepithelial neoplasia II or III, or Cancer in situ (ICD 233.1).

**"ACR"** means American College of Radiology. The ACR is the FDA recognized approved accreditation body for minimum quality standards for personnel, equipment, and record keeping in facilities that provide mammography.

**"Benign"** means a non-cancerous condition that does not spread to other parts of the body.

**"Bethesda System"** means a specified system of reporting cervical cytology findings.

**"Biopsy"** means removal of an entire abnormality (excisional biopsy) or a sampling or portion of abnormality (core and incisional biopsy) for microscopic examination in order to diagnose a problem.

**"BiRads"** means Breast Image Reporting and Data System.

**"Breast and Cervical Cancer Program Treatment Act (BCCPTA)"** means a Medicaid plan amendment creating a new categorically needy group consisting of women screened for breast and/or cervical cancer under the BCCEDP and found to be in need of treatment.

**"Breast carcinoma in situ"** means breast changes in which malignant cells are localized and confined to breast ducts or lobules and may press against adjoining breast tissue but have not penetrated or spread beyond the breast.

**"BSE"** means breast self-examination. This is inspection and palpation of a woman's breasts by the woman herself.

**"Cancer"** means a general term for more than 100 diseases characterized by abnormal and uncontrolled growth of cells.

**"CBE"** means clinical breast examination. A complete examination of the breast and axilla with palpation by a health professional, including examination of the breast in both the upright and supine positions.

**"Case management"** means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves establishing, brokering, and sustaining a system of available clinical and essential support services for all women enrolled in the program.

**"Certified provider"** means a healthcare professional who has signed a memorandum of understanding with the Oklahoma Breast and Cervical Cancer Early Detection Program certifying that the woman received breast or cervix screening, was found to be in need of treatment, and meets eligibility criteria for referral to the Medicaid Breast and Cervical Cancer Treatment Program.

**"CLIA"** means the Clinical Laboratory Improvement Act which establishes minimum quality standards for personnel and quality assurance methods which monitor patient test management and assess quality control, proficiency testing and personnel handling of laboratory and pathology specimens.

**"Colposcopy"** means examination of the cervix with a high-powered microscope.

**"Creditable coverage"** means any insurance that pays for medical bills incurred for the screening, diagnosis, or treatment of breast and cervical cancer. Creditable coverage includes, but is not limited to, group health plans, health insurance coverage consisting of medical care under any hospital or medical service policy, or health maintenance organization, Medicare Part A and B, Medicaid, Armed Forces Insurance, and/or state health risk pool. A woman having creditable coverage will not be eligible to apply for Medicaid coverage of breast and cervical cancer screening or treatment.

**"Creditable coverage circumstances"** means there are some circumstances where a woman has creditable coverage but is not actually covered for treatment of breast or cervical cancer. In an instance such as pre-existing condition exclusions, or when the annual or lifetime limit on benefits has been exhausted, a woman is not considered to have creditable coverage for this treatment. If the woman has limited coverage, such as limited drug coverage or limits on number of outpatient visits or high deductibles, the woman is still considered to have creditable coverage and is not eligible to apply for Medicaid coverage of breast and cervical cancer treatment. If the woman has a policy with limited scope of coverage such as only dental, vision, or long term care, or a policy that covers only a specific disease or illness, she is not considered having creditable coverage, unless the policy provides full coverage for breast and cervical cancer treatment. For the purposes of this program eligibility for IHS or Tribal health care is not considered creditable coverage.

**"Diagnostic mammography"** means radiologic examination used to evaluate a patient with a breast mass(es), other breast signs or symptoms (spontaneous nipple discharge, skin

changes, of special cases such as a history of breast cancer with breast conservation or augmented breasts).

**"FDA"** means the United States Food and Drug Administration. The FDA certifies that a mammography facility meets minimum quality standards for personnel, equipment, and record keeping.

**"Follow-up"** means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves a system for seeking information or reviewing an abnormal condition, rescreeing, and/or recall for annual visits.

**"Infrastructure"** means sufficient staff and adequate supporting systems to plan, implement, and evaluate the program components of the Oklahoma Breast and Cervical Cancer Early Detection Program.

**"In need of treatment"** means an abnormal screen determined as a result of a screening for breast and/or cervical cancer under the Oklahoma Breast and Cervical Cancer Early Detection Program.

**"Medicaid"** means a combined federal and state payment source for health care benefits for certain eligible women who are disabled or who have dependent children. Health care benefits must be a part of the state plan for health services.

**"Medicare"** means a federal payment source for health benefits for certain eligible women.

**"Minimum data elements"** means a set of standardized data elements developed by the Centers for Disease Prevention and Control, Division of Cancer Prevention and Control, to ensure that consistent and complete information on screening location, demographic characteristics, screening results, diagnostic procedures, tracking and follow-up, and treatment information are collected on women screened and/or diagnosed with federal funding.

**"Never screened"** means women who have never been screened for breast and/or cervical cancer or who do not utilize preventive health services.

**"Oklahoma Breast and Cervical Cancer Early Detection Program (BCCEDP)"** means a comprehensive breast and cervical cancer program established and funded under Title XV of the federal Public Health Service Act with delegated responsibility of implementation and evaluation to the Centers for Disease Control and Prevention, Division of Cancer Prevention and Control, and administered by the Oklahoma State Department of Health.

**"Oncologist"** means a specialist who treats or studies the physical, chemical, and biologic properties and features of neoplasms, including causation, pathogenesis, and treatment.

**"Outreach"** means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves recruiting high-risk populations, targeted populations or persons who never or rarely utilize preventive health services.

**"Pap smear"** means a screening test for the detection of abnormal cells from the cervix. The Pap smear can detect abnormal cells or pre-cancerous cells before cancer develops.

**"Pathologist"** means a specialist in pathology; a physician who practices, evaluates, or supervises diagnostic tests,

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using materials removed from living or dead patients, and functions as a laboratory consultant to clinicians, or who conducts experiments or other investigations to determine the causes or nature of disease changes.

**"Physician"** means any person who has completed a course of medical training, has received a medical degree and is licensed by the Oklahoma State Board of Medical Licensure or the Oklahoma Osteopathic Board of Examiners to practice medicine.

**"Pre-cancerous lesions"** means poorly differentiated cells that could progress to cancer.

**"Program and fiscal management"** means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that conducts planning, organizing, directing, coordinating, managing, budgeting, and evaluating program activities

**"Radiologist"** means a physician skilled in the diagnostic and/or therapeutic use of x-rays and other forms of radiant energy.

**"Rarely screened"** means women who have not had breast and/or cervical cancer screening within the last five (5) years.

**"Referral"** means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves directing women with abnormal screens to appropriate resources for action.

**"Screening mammography"** means x-ray of the breasts of asymptomatic women in an attempt to detect abnormal lesions of the breast when they are small, non-palpable, and confined to the breast.

**"Service delivery"** means providing either directly or through contractual arrangements for comprehensive breast and cervical cancer services of screening, diagnosis, and treatment through client tracking of screening intervals, timeliness of diagnosis and timeliness of treatment.

**"Surgeon"** means a physician who treats disease, injury, and deformity by operation or manipulation.

**"Surveillance"** means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves the systematic collection, analysis, and interpretation of health data.

**"Ultrasound of the breast"** means the use of sonic energy to produce a pictorial representation of the internal structure of the breast. The image is produced by pulse-echo techniques with detection and display of tissue interfaces rather than densities.

### **310:566-1-3. Agreement with Oklahoma Health Care Authority**

The Oklahoma State Department of Health, the Oklahoma Health Care Authority, and the Department of Human Services have coordinated to develop procedures for women who are residents of Oklahoma, are in need of treatment, meet eligibility criteria. (BCCPTA)

### **310:566-1-4. Eligibility for Breast and/or Cervical Cancer Treatment (BCCPTA)**

A woman who is an Oklahoma resident is able to apply for Medicaid coverage for treatment of breast or cervical cancer including breast carcinoma in situ or precancerous conditions of the cervix if:

(1) She is currently enrolled in the Oklahoma Breast and Cervical Cancer Early Detection Program (OKBC-CEDP). To be considered enrolled in OKBCCEDP she must meet program age guidelines and have at least one of the basic screening services (pap test or CBE) paid by the OKBCCEDP and be in need of treatment due to an abnormal screen which is suspicious for breast or cervical cancer, and/or breast and cervical pre-cancerous conditions; or

(2) She is referred by an OKBCCEDP certified provider and is documented to be in need of treatment due to an abnormal screen which is suspicious for either breast or cervical cancer, and/or breast or cervical pre-cancerous condition.

(3) Have a family income that is at or below one hundred eighty-five percent (185%) of the federal poverty income level.

(4) Have not attained the age of sixty-five (65) years.

(5) Have no or have inadequate creditable health insurance or health benefit coverage.

(6) Is an Oklahoma and US Citizen or qualified alien.

(7) Has an abnormal breast or cervical cancer screening test result, or has been diagnosed with breast or cervical cancer and is still in need of treatment.

### **310:566-1-5. Coverage for treatment (BCCPTA)**

Medicaid shall provide full payment coverage throughout the period of time required for treatment of the individual's breast or cervical cancer. Reimbursement rates for the treatment of breast and cervical cancer will be consistent with established Medicaid rates.

### **310:566-1-6. Loss of eligibility (BCCPTA)**

A woman will no longer meet eligibility criteria for this program when her health care provider deems she is cancer free and will not require continued cancer treatment and/or therapy.

### **310:566-1-7. Criteria for certified screening provider**

Physicians (M.D., D.O.), advanced practice nurses, physician assistants, and Certified Nurse Midwives who have signed a memorandum of understanding with the Oklahoma Breast and Cervical Cancer Early Detection Program can be a certified provider. The provider in signing the memorandum of understanding certifies that the woman received breast or cervix screening, was found to be in need of treatment, and meets eligibility criteria for referral to the Medicaid Breast and Cervical Cancer Treatment Program. Eligibility criteria includes that the woman is between the ages of 19 and 64, is a US Citizen or qualified alien and a resident of Oklahoma, has an income at or below 185% of the current Federal Poverty Level.

has provided a social security number, does not have creditable coverage for breast or cervical cancer treatment, and has an abnormal finding following a breast or cervical cancer screening service. Suspicious findings for breast includes clinical breast exam findings of: palpable breast mass, breast dimpling, nipple retraction, bloody nipple discharge, palpable lymph nodes around clavicle or axilla, nipple erythema and scaliness, a mammography result of BiRads 4 (Suspicious Abnormality suggesting need for biopsy) or 5 (Highly Suggestive of Malignancy) (ICD 793.8), breast biopsy result of Ductal Cancer in situ, Lobular Cancer in situ (ICD 233.0), or breast or lymph node (or other) biopsy result of breast cancer. Suspicion of cervical cancer is a Pap test result of Atypical Squamous Cells (ASC), Atypical glandular cells (AGC), Low-grade squamous intraepithelial lesions (LSIL), or High-grade squamous intraepithelial lesions (HSIL) (ICD 622.1), leukoplakia of the cervix, (ICD 622.2), or cervical biopsy result of Cervical intraepithelial neoplasia II or III, or Cancer in situ (ICD 233.1). Certified screening providers need not be BCCEDP contractors, and will not be reimbursed by the BCCEDP nor by Medicaid for the screening services provided to the woman.

### **SUBCHAPTER 3. SCREENING SERVICE PROVISION**

#### **310:566-3-1. Service provision of the Oklahoma Comprehensive Breast and Cervical Cancer Early Detection Program**

The Oklahoma Comprehensive Breast and Cervical Cancer Early Detection Program shall include the following key components:

- (1) Program and Fiscal Management will be conducted by ensuring strategic planning, implementation, coordination, integration, and evaluation of all programmatic activities and administrative systems, as well as the development of key communication channels and oversight mechanisms to aid in these processes. Program Management will ensure that infrastructure adequately supports service delivery.
- (2) Service Delivery directly provided or provided through contractual arrangements of specific and appropriate clinical procedures to detect breast and/or cervical abnormalities for women enrolled in the Oklahoma Breast and Cervical Cancer Early Detection Program. In the Oklahoma Breast and Cervical Cancer Early Detection Program appropriate clinical screening procedures include clinical breast examinations (CBE), mammograms, screening pelvic exams and pap tests. Appropriate clinical diagnostic procedures include diagnostic mammography, ultrasound of the breast, surgical consultation, biopsy of the cervical or breast, colposcopy of the cervix, and electrical loop excisional biopsies of the cervix. Women should receive patient education directed toward breast self-examination (BSE) and risk reduction.
- (3) Referral, Tracking and Follow-up will be conducted utilizing a data system to monitor an enrolled woman's receipt of screening/re-screening, diagnostic,

and treatment procedures. The enrolled woman will be notified of the results of the service delivery whether the results are normal, benign, or abnormal. The data system will provide tracking of appropriate and timely clinical services following an abnormal test result and/or diagnosis of cancer. Enrolled women with abnormal Pap smears or breast screening procedures will be provided comprehensive referral directing the woman to appropriate additional diagnostic or treatment services. The comprehensive referral will be written. Follow-up will be conducted to seek information about whether services were timely, completed, or met.

(4) Case Management will be provided and involve establishing, brokering, and sustaining a system of available clinical (screening, diagnostic, and treatment) and essential support services for all Oklahoma Breast and Cervical Cancer Early Detection Program enrolled women, and assisting clients diagnosed with cancer through the Program to obtain needed diagnostic and treatment services.

(5) Quality Assurance and Improvement will be conducted utilizing established standards, systems, policies and procedures to monitor, assess and identify practical methods for improvement of the program and its components. Quality assurance tools will include utilizing FDA and ACR minimum standards for mammography facilities and CLIA minimum standards for cytopathology and pathology laboratories. Quality assurance contributes to the identification of corrective actions to be taken to remedy problems found as a result of investigating quality of care.

(6) Professional Education will be provided through a variety of channels and activities that enable professionals to perform their jobs competently, identify needs and resources, and contribute to ensuring that health care delivery systems provide positive clinical outcomes.

(7) Population Based Public Education and Outreach will be provided that involves the systematic design and delivery of clear and consistent messages about breast and cervical cancer and the benefits of early detection, using a variety of methods and strategies to reach priority populations. Outreach activities should focus on women who have never been screened or rarely been screened and work toward the removal of barriers to care, i.e.: the need for childcare, respite care, interpreter services and transportation through collaborative activities with other community organizations.

(8) Coalitions and Partnerships will be developed to bring together groups and individuals who establish a reciprocal agreement for sharing resources and responsibilities to achieve the common goal of reducing breast and cervical cancer mortality.

(9) Surveillance will be conducted utilizing continuous, proactive, timely and systematic collection, analysis, interpretation and dissemination of breast and cervical cancer screening behaviors, incidence, prevalence, survival, and mortality of breast and/or cervical cancer. Epidemiological studies will be conducted utilizing Minimum Data Elements and other data sources to establish trends

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of disease, diagnosis, treatment, and research needs. Program planning, implementation, and evaluation shall be based on the epidemiological evidence.

(10) Evaluation will be conducted through systematic documentation of the operations and outcomes of a program, compared to a set of explicit or implicit standards or objectives. The Oklahoma Breast and Cervical Cancer Prevention and Treatment Advisory Committee shall review the service delivery contractual agreements as to their outcomes. The Oklahoma Breast and Cervical Cancer Prevention and Treatment Advisory Committee shall make recommendations based on the evaluation in its annual report.

### **310:566-3-2. Eligibility criteria for the early detection program**

(a) Women who are Oklahoma residents and who meet the following criteria are eligible for breast and cervical cancer early detection services:

(1) Women 19-65 years of age whose incomes are less than 185% of poverty and lack creditable health insurance coverage are eligible with the following criteria.

(2) Women 50-65 years of age will be the priority population to receive annual breast and cervical cancer screening.

(3) Women 40-49 years of age who are symptomatic of breast cancer will receive breast cancer diagnostic work-up and cervical cancer screening if appropriate.

(4) Women 35-65 years of age with an intact cervix who have not had a pap test in 5 or more years will be the priority population to receive cervical cancer screening.

(5) Women 35-65 years of age who have had a hysterectomy due to cervical cancer or pre-cancerous conditions of the cervix may receive Pap smears.

(6) Women 19-35 years of age will be eligible for cervical cancer screening depending on appointment availability.

(b) All enrolled women will receive annual recall for screening.

(c) Women who have creditable medical insurance, including Medicare Part B and Medicaid shall be referred to their primary care provider or facility for services.

### **310:566-3-3. Criteria for screening services contractors**

Criteria for contractors to provide services include the following:

(1) Contractors shall ensure approved services are performed by board certified radiologists, pathologists, GYN physicians, surgeons, and oncologists.

(2) Contractors agree that procedures and services provided shall not exceed the amount that would be paid under Medicare Part B rates of Title XVIII of the Social Security Act.

(3) Mammography contractors shall ensure current FDA certification and ACR accreditation; be Medicare and Medicaid approved facilities; their participating

physicians/providers be Medicare and Medicaid approved providers; and their services must be delivered with personnel and equipment in accordance with the Mammography Quality Standards Act.

(4) Mammography facilities shall utilize the Breast Image Reporting and Data System (BIRADS) and follow the ACR guidelines for mammography report content.

(5) A board certified radiologist must be immediately available to determine selection of views, and readings when a diagnostic mammogram is performed.

(6) Cytology and pathology specimens obtained shall be submitted to a CLIA approved laboratory for processing. The laboratory will provide cytological reading and analysis of cervical and vaginal Pap smears by Certified/Registered Cytotechnologists. And cytology (Pap) smears will be reported using the current Bethesda classification system. The laboratory will provide board certified pathologists or experienced certified cytotechnologists to re-screen all Pap smears with specified abnormal diagnosis. The Laboratory will provide surgical pathology analyses and readings of cervical and breast biopsies.

(7) Contract physicians shall practice according to the current standards of medical care for breast and cervical cancer early detection, diagnosis and treatment.

(8) Service delivery can be provided by a variety of settings. Service delivery must include:

(A) Providing screening services for a specific geographic area.

(B) Providing a point of contact for scheduling appointments.

(C) Providing age and income eligibility screening.

(D) Providing comprehensive breast and cervical cancer screening to eligible women.

(E) Providing referral and follow-up for women with abnormal screening results.

(F) Providing required reporting system for screening and follow-up activities.

(G) Providing population based education, out-reach, and recruitment activities.

[OAR Docket #05-11; filed 1-4-05]

## **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

[OAR Docket #05-14]

### **RULEMAKING ACTION:**

EMERGENCY adoption

### **RULES:**

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-96. [AMENDED]

(Reference APA WF # 04-12)

### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

**DATES:**

**Adoption:**

October 14, 2004

**Approved by Governor:**

December 1, 2004

**Effective:**

Immediately upon Governor's approval or December 1, 2004, whichever is later

**Expiration:**

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**FINDING OF EMERGENCY:**

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of revisions to insure accessibility and uninterrupted services for Medicaid patients in need of hospitalization for psychiatric treatment.

**ANALYSIS:**

Medical Providers-Fee for Service, Inpatient Psychiatric Hospitals specific, rules are revised to change the reimbursement methodology for state owned Residential Treatment Centers. In order to insure access at these facilities (whose patient level is primarily Medicaid), the agency is proposing to change the reimbursement system from prospective payment to a cost-based retrospective method. At the current rates, only 60% of the cost of these facilities is being reimbursed. Revisions will help to adequately fund these state owned and operated facilities and recognize the uniqueness of their operating circumstances (i.e., state mandated salary raises, etc.). The change will allow the state to utilize federal funds rather than totally state funds in paying for these reimbursement shortages. Rule revisions are needed to change the reimbursement methodology for state owned Residential Treatment Centers.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2004, WHICHEVER IS LATER:**

**SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES**

**PART 6. INPATIENT PSYCHIATRIC HOSPITALS**

**317:30-5-96. Reimbursement for inpatient services**

(a) **Reimbursement for inpatient hospital services.** Reimbursement for inpatient hospital services is made based on a prospective per diem level of care payment system. The per diem includes all non-physician services furnished either directly or under arrangements. This does not include reimbursement for services in Residential Psychiatric Treatment Facilities.

(1) **Components.** There are three distinct payment components under this system. Total per diem reimbursement under the new reimbursement system will equal the sum of two rate components:

(A) Level of care per diem; plus

(B) Fixed capital per diem.

(2) **Level of care per diem rates.** The level of care per diem rate is payment for operating costs and movable capital costs. Hospitals with actual costs above the statewide median level of care will be limited to reimbursement of the statewide median level of care rate. The median was calculated by level of care using FY 1988 base year operating and moveable capital costs trended forward to the beginning of the third quarter FY 1991. Beginning July 1, 1993, when a hospital's actual costs are less than the statewide median level of care, 25 percent of the difference between the statewide median level of care rate and the hospital's specific level of care cost will be added to the level of care rate.

(A) **Level of care.** The only level of care is psychiatric care (Level 6). The range of primary diagnosis codes is 290 through 316.

(B) **Adjustments.** Level of care per diem rates will be reviewed periodically and adjusted as necessary through a public process.

(3) **Fixed capital per diem.**

(A) **Fixed capital per diem methodology for freestanding psychiatric hospitals.** Inpatient psychiatric hospitals fixed rate capital cost will be reimbursed using the average fixed capital cost of all Medicaid enrolled freestanding psychiatric inpatient hospitals from calendar year 1991 cost reports.

(B) **Adjustments.** The statewide fixed capital per diem average of all freestanding psychiatric hospitals will be reviewed periodically and adjusted as necessary through a public process.

(4) **Disproportionate share hospitals (DSH).**

(A) **Eligibility.** A hospital shall be deemed a disproportionate share hospital, as defined by Section 1923 of the federal Social Security Act, if the hospital's Medicaid inpatient utilization rate is at least one standard deviation above the mean Medicaid inpatient utilization rate for hospitals receiving Medicaid payments in the state or if the hospital's low-income utilization rate exceeds 25%.

(i) Eligibility for disproportionate share hospital payments will be determined annually by the OHCA before the beginning of each federal fiscal year based on cost and revenue survey data completed by the hospitals. The survey must be received by OHCA each year by April 30. The information used to complete the survey must be extracted from the hospital's financial records and fiscal year cost report ending in the most recently completed calendar year, for entities that meet the Medicare Provider designation (refer to Medicare Program Memorandum No. A-96-7 for requirements). A hospital may not include costs or revenues on the survey which are attributable to services rendered in a separately licensed/certified entity. Hospitals found to be ineligible for disproportionate share status upon audit shall be required

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to reimburse the Authority for any disproportionate share payment adjustments paid for the period of ineligibility.

(ii) Beyond meeting either of the tests found in (i) of this subparagraph, there are three additional requirements which are:

(I) Any hospital offering non-emergency obstetrical services must have at least two obstetricians with staff privileges who have agreed to provide services to Medicaid beneficiaries. This requirement does not apply to children's hospitals.

(II) In the case of an urban hospital, a hospital located in an MSA, an "obstetrician" is defined as any board-certified obstetrician with staff privileges who performs non-emergency obstetrical services at the hospital. In the case of a rural hospital, an "obstetrician" is defined to include any physician with staff privileges who performs non-emergency obstetrical services at the hospital.

(III) A hospital must have a Medicaid inpatient utilization rate of at least one percent.

**(B) Payment adjustment.**

(i) Beginning federal fiscal year 1993 and each year thereafter, DSH payment adjustments will be capped by the federal government. Financial participation from the federal government will not be allowed for expenditures exceeding the capped amount. Eligible DSH hospitals will be assigned to one of the three following categories:

(I) public-private acute care teaching hospital which has 150 or more full-time equivalent residents enrolled in approved teaching programs (using the most recently completed annual cost report) and is licensed in the state of Oklahoma. Public-private hospital is a former state operated hospital that has entered into a joint operating agreement with a private hospital system;

(II) other state hospitals; or

(III) private hospitals and all out-of-state hospitals.

(ii) Payment adjustments will be made on a quarterly basis for federal fiscal year 1994 and thereafter using the following formula that determines the hospital's annual allocation:

(I) Step 1. The Medicaid revenue and imputed revenue for charity are totaled for each hospital qualifying for disproportionate share adjustments.

(II) Step 2. A weight is assigned to each qualifying hospital by dividing each hospital's revenue total (Medicaid and charity) by the revenue total of the public-private acute care teaching hospital, which has the assigned weight of 1.0.

(III) Step 3. A weighted value is then determined for each hospital by multiplying the hospital's assigned weight by the hospital's total Medicaid and charity revenue.

(IV) Step 4. The weighted values of all hospitals qualifying for disproportionate share adjustments are totaled.

(V) Step 5. The percentage of the public-private acute care teaching hospital's weighted value is determined in relation to the weighted values of all qualifying disproportionate share hospitals.

(VI) Step 6. The weighted values of all state hospitals (except public-private acute care teaching hospital) are totaled.

(VII) Step 7. The weighted values of all private and out-of-state hospitals qualifying for disproportionate share adjustments are totaled.

(VIII) Step 8. The percentage of the total weighted values of the hospitals included in Step 6 (State hospitals except public-private acute care teaching hospital) is calculated in relation to the total weighted values (sum of Step 6 and 7) of all remaining hospitals qualifying for disproportionate share adjustment.

(IX) Step 9. The percentage of weighted values of the hospitals included in Step 7 (private hospitals and all out-of-state hospitals) is calculated in relation to the total weighted values (sum of Steps 6 and 7) of all remaining hospitals qualifying for disproportionate share adjustment.

(X) Step 10. The weighted percentages for the three hospital groups are next applied to the capped disproportionate share amount allowed by HCFA for the federal fiscal year. The amount of disproportionate share to be paid to the public-private acute care teaching hospital is determined by multiplying the state disproportionate share allotment by the weighted percentage of the public-private acute care teaching hospital. Beginning FFY 96, the weighted percentage amount to be paid will not exceed 82.82%. Payment of disproportionate share funds to public/private hospitals will be made to the public entity that is organizationally responsible for indigent care. The weighted percentage amount is then subtracted from the state disproportionate share allotment. Once the public-private acute care teaching hospital's share of the state disproportionate share allotment has been subtracted, the state hospitals' weighted percentage is applied to the remainder. Beginning FFY 96, the State hospital's weighted percentage (from VIII of this subunit) will not be less than 75.3%. The balance of the disproportionate share allotment is distributed to private hospitals and all

out-of-state hospitals. Distribution of funds within each group will be made according to the relationship of each hospital's weighted value to the total weighted value of the group.

(iii) Payment adjustments to individual hospitals will be limited to 100 percent of the hospital's costs of providing services (inpatient and outpatient) to Medicaid recipients and the uninsured, net of payments received from Medicaid (other than DSH) and uninsured patients.

(5) **Out-of-state hospitals.**

(A) Out-of-state hospitals, for which the Authority has on file a fiscal year 1989 or more recent cost report, shall be reimbursed as follows:

- (i) the level of care per diem rate
- (ii) a fixed capital per diem
- (iii) a hospital-specific per diem direct medical education rate.

(B) Hospitals, for which the Authority does not have a fiscal year 1989 or more recent cost report on file, will also receive the level of care per diem rates; however, capital and direct medical education rate components will not be reimbursed on a hospital-specific basis. Instead, these hospitals shall receive the statewide median capital per diem amount. The statewide median direct medical education per diem rate will be paid to qualifying hospitals.

(b) **Reimbursement for residential psychiatric treatment facilities.** Effective July 1, 1998, reimbursement for residential psychiatric treatment facilities is at a state-wide per diem system according to the facility category. There are two distinct payment components under this system. Total per diem reimbursement will equal a statewide median per diem operating and movable capital amount plus a statewide median per diem fixed capital amount.

(1) **In-State facilities.** The rates were calculated using peer grouped residential treatment facility 1989 or 1990 audited cost reports. Costs were inflated to a common point in time prior to calculation of the median cost per day.

(A) **Hospital Based and Freestanding.**

(i) **Accreditation.** Hospital-Based and Freestanding facilities must be fully accredited by JCAHO, AOA, or CARF as a psychiatric facility or program and be licensed as a residential child care facility.

(ii) **Reimbursement (Private).** The reimbursement rate is an all-inclusive per diem. The facility must furnish, either directly or under arrangements, all non-physician services, including prescribed drugs.

(iii) **Reimbursement (State Owned and Operated).** Facilities owned and operated by the State of Oklahoma will be reimbursed using either the statewide or facility specific interim rates and settled to total allowable costs as determined by analyses of the cost reports (HCFA 2552) filed with the OHCA.

(B) **Community Based.**

(i) **Accreditation.** Community based facilities must be fully accredited by JCAHO, AOA, or CARF as a psychiatric facility or program and licensed as a child placing agency.

(ii) **Reimbursement.** Payment shall be for routine per diem services, exclusive of ancillary and physician services. Ancillary and physician services are reimbursed separately on a fee for service basis.

(2) **Out-of-state facilities.**

(A) **Accreditation.** Out-of-state facilities must be fully accredited by JCAHO, AOA, or CARF as a psychiatric facility or program and be appropriately state licensed.

(B) **Reimbursement.** Facilities shall be reimbursed in the same manner as in-state residential psychiatric treatment centers. In the event comparable services cannot be purchased from an Oklahoma facility and the current payment levels are insufficient to obtain access for the recipient, OHCA may negotiate an all-inclusive per diem rate.

*[OAR Docket #05-14; filed 1-4-05]*

**TITLE 317. OKLAHOMA HEALTH CARE  
AUTHORITY  
CHAPTER 30. MEDICAL PROVIDERS-FEE  
FOR SERVICE**

*[OAR Docket #05-13]*

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 9. Long Term Care Facilities  
317:30-5-134. [AMENDED]  
(Reference APA WF # 04-10)

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 483.158; 42 U.S.C. § 1396r(f)(2)(A)(iv)(III)

**DATES:**

**Adoption:**

September 9, 2004

**Approved by Governor:**

November 1, 2004

**Effective:**

Immediately upon Governor's approval or November 1, 2004, whichever is later

**Expiration:**

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**FINDING OF EMERGENCY:**

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of revisions to allow for the use of the established maximum reimbursement rate for training costs associated with nurse aide training.

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## ANALYSIS:

Medical Providers-Fee for Service, Long Term Care Facilities specific, rules are revised to establish maximum reimbursement for Nurse Aide Training costs that coincide with the established maximum reimbursement rate. Existing rules provide that the cost of books and course material is paid directly to the nurse aide on a prorated basis. The current limitations involve limiting billing to a period of one year after training has occurred and limits payment to a prorated cost based upon the amount of employment within that one year. Revisions would allow the payment to be made in the daily per diem rate paid the nursing facility if the nurse aide is trained and tested in that Medicaid contracted nursing facility's training program. Requirements for the nurse aide to receive reimbursement for private training courses are delineated in these rules and provide for more clarity regarding the payment of nurse aide training costs. For every month employed in a nursing facility (up to a maximum of twelve months), the agency will reimburse 1/12 of the sum of the eligible expenses incurred by the nurse aide. Revisions to Long Term Care Facilities rules are needed to establish maximum reimbursement for Nurse Aide Training costs.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR NOVEMBER 1, 2004, WHICHEVER IS LATER:**

## SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

### PART 9. LONG TERM CARE FACILITIES

#### 317:30-5-134. Nurse Aide Training Reimbursement

(a) ~~Under the authority of Title IV, Section 4801 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), the Medical Services Division will provide reimbursement by direct payment to any nurse aide who has incurred costs for nurse aide training and/or competency evaluation programs, and is employed by (or received an offer of employment from) a nursing facility not later than 12 months after completing either such program. Reimbursement will be made on a pro rata basis according to the following schedule: Nurse Aide training programs and competency evaluation programs occur in two settings, a nursing facility setting and private training courses. Private training includes, but is not limited to, certified training offered at vocational technical institutions. This rule outlines payment for training in either setting.~~

- ~~(1) Length of employment equals a minimum of three months, the eligible reimbursement amount is 1/4 of eligible expenses;~~
- ~~(2) Length of employment equals a minimum of six months, the eligible reimbursement amount is 1/2 of eligible expenses;~~
- ~~(3) Length of employment equals a minimum of nine months, the eligible reimbursement amount is 3/4 of eligible expenses; and~~
- ~~(4) Length of employment equals a minimum of 12 months, the eligible reimbursement amount is full reimbursement of eligible expenses.~~

(b) In the case of nurse aides trained and tested in a Medicaid contracted nursing facility training program, payment is made by the Oklahoma Health Care Authority in the daily per diem rate paid the nursing facility. In the case a nursing facility provides training and competency evaluation in a program that is not properly certified under federal law, the Oklahoma Health Care Authority may offset the nursing facility's payment for monies paid to the facility for these programs. Such action shall occur after notification to the facility of the period of non-certification and the amount of the payment by the Oklahoma Health Care Authority.

(c) In the case of nurse aide training provided in private training courses, reimbursement is made to nurse aides who have paid a reasonable fee for training in a certified training program at the time training was received. The federal regulations prescribe applicable rules regarding certification of the program and certification occurs as a result of certification by the State Survey Agency. For nurse aides to receive reimbursement for private training courses, all of the following requirements must be met:

- (1) the training and competency evaluation program must be certified at the time the training occurred;
- (2) the nurse aide has paid for training;
- (3) a reasonable fee was paid for training (however, reimbursement will not exceed the maximum amount set by the Oklahoma Health Care Authority);
- (4) the Oklahoma Health Care Authority is billed by the nurse aide receiving the training within 12 months of the completion of the training;
- (5) the nurse aide has passed her or his competency evaluation; and
- (6) the nurse aide is employed at a Medicaid contracted nursing facility as a nurse aide during all or part of the year after completion of the training and competency evaluation.

(d) If all the conditions in subsection (c) are met, then the Authority will compensate the nurse aide based upon the following pro-rata formula:

- (1) For every month employed in a nursing facility, OHCA will pay 1/12 of the sum of eligible expenses incurred by the nurse aide. The term "every month" is defined as a period of 16 days or more within one month.
- (2) The maximum amount paid by the Oklahoma Health Care Authority may be set by the Rates and Standards Committee. The rate paid by the nurse aide, up to the maximum set by the Oklahoma Health Care Authority, will be paid in the event a nurse aide was employed all 12 months after completion of the training program.

~~(be) The claimant must submit a completed Nurse Aide Training Reimbursement Program Form and FIN-12 claim voucher. The Nurse Aide Training Reimbursement Program Form must be signed by the nursing facility administrator (or designee) verifying that the nurse aide meets the employment requirements. Documentation of eligible expenses must also be provided. Eligible expenses include course training fees, textbooks and/or other required course materials and exam~~

fees. Form ADM 12 must be signed and notarized for each schedule of reimbursement.

(f) No nurse aide trained in a nursing facility program that has an offer of employment or is employed by the nursing facility in any capacity at the inception of the training program may be charged for the costs associated with the nurse aide training or competency evaluation program.

[OAR Docket #05-13; filed 1-4-05]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #05-12]

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 21. Breast and Cervical Cancer Treatment Program [NEW]

317:35-21-1. through 35-21-13. [NEW]

(Reference APA WF # 04-13)

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Breast and Cervical Cancer Prevention and Treatment Act of 2000; 1902(a)(10)(A)(ii)(XVIII) of the Social Security Act; Senate Bill 741 of the 1st Session of the 48th Legislature

**DATES:**

**Adoption:**

October 14, 2004

**Approved by Governor:**

December 1, 2004

**Effective:**

Immediately upon Governor's approval or January 1, 2005, whichever is later

**Expiration:**

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**FINDING OF EMERGENCY:**

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of revisions to comply with Senate Bill 741 of the 1st Session of the 48th Legislature by establishing the Breast and Cervical Cancer Prevention and Treatment Act of 2000 program.

**ANALYSIS:**

Medical Assistance for Adults and Children-Eligibility rules are issued to establish criteria that implements the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (BCCPTA) program. The BCCPTA gave states the option of providing Medicaid benefits to uninsured women under age 65 who are in need of treatment for breast and/or cervical cancer and do not have creditable health insurance coverage. Eligible participants must be identified through the Centers for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP) as needing treatment for breast or cervical cancer, including pre-cancerous conditions and early stage, recurrent or metastatic cancer. In May, 2001, the Oklahoma Legislature approved Senate Bill 741 which directed the Agency to coordinate with the State Commissioner of Health to develop procedures to implement a program for Medicaid eligibility and services for individuals who are in need of breast or cervical cancer treatment, contingent upon funds becoming available. Funding has since been provided to implement the program effective January

1, 2005. Women found eligible for medical benefits under this program will receive the full scope of Medicaid coverage as coverage is not limited to treatment of breast and/or cervical cancer.

**CONTACT PERSON:**

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR JANUARY 1, 2005, WHICHEVER IS LATER:**

**SUBCHAPTER 21. BREAST AND CERVICAL CANCER TREATMENT PROGRAM**

**317:35-21-1. Breast and Cervical Cancer Treatment program**

(a) The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (BCCPTA) allows states to provide Medicaid to uninsured women under age 65 who are in need of treatment for breast and/or cervical cancer. Medical eligibility is determined through the Centers for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP) as needing treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage, recurrent or metastatic cancer.

(b) To receive Breast and Cervical Cancer (BCC) Treatment services, the woman must meet all of the following conditions.

- (1) The woman must have been screened for BCC under the CDC Breast and Cervical Cancer Early Detection Program (see OAC 317:35-21-3) established under Title XV of the Public Health Service (PHS) Act, and found to be in need of treatment, including abnormal finding on screening examination, precancerous conditions and early stage, recurrent or metastatic cancer (see OAC 317:35-21-5).
- (2) The woman must:

- (A) not have creditable insurance coverage that covers BCC (see OAC 317:35-21-4),
- (B) not be eligible for any other categorically needy Medicaid eligibility group,
- (C) be under 65 years of age,
- (D) be a US citizen or qualified alien (see OAC 317:35-21-7),
- (E) be a resident of Oklahoma,
- (F) declare her Social Security number,
- (G) assign her rights to Third Party Liability if she has insurance that is not creditable, and
- (H) declare her household income for the purpose of determining that she is not otherwise eligible for Medicaid. For the BCC treatment program, income is not a condition of eligibility and verification of income is not required.

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### **317:35-21-2. Scope of coverage**

The BCC program provides the full scope of Medicaid coverage. Coverage is not limited to treatment of breast and/or cervical cancer.

### **317:35-21-3. CDC screening**

(a) To be eligible for the Breast and Cervical Cancer Treatment program, a woman must be screened under the CDC Breast and Cervical Cancer Early Detection Program. A woman is considered screened under the CDC program if her screening was provided all or in part by CDC Title XV funds, or the service was rendered by a provider funded at least in part by CDC Title XV funds, and/or if she is screened by another provider whose screening activities are pursuant to CDC Title XV of the Public Health Service (PHS) Act.

(b) Prior to certification of the BCC application, the OKDHS worker must verify that the BCC applicant was screened by a CDC provider and found to be in need of treatment.

### **317:35-21-4. Creditable coverage**

(a) Creditable coverage when used in this subchapter means any insurance that pays for medical bills incurred for the diagnosis and/or treatment of breast or cervical cancer. A woman having any one of the following types of coverage is considered to have creditable coverage and would normally be ineligible for the Breast and Cervical Cancer Treatment program:

- (1) Coverage under a group health plan;
- (2) Health insurance coverage, i.e., benefits consisting of medical care under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer;
- (3) Medicare Part A and/or B;
- (4) Medicaid;
- (5) Armed Forces insurance; and/or
- (6) A state health risk pool.

(b) If a woman has limited coverage, such as limited drug coverage or limits on the number of outpatient visits, or high deductibles, she is still considered to have creditable coverage. However, if she has a policy with limited scope coverage such as those that only cover dental, vision, or long term care, or a policy that covers only a specific disease or illness, she is not considered to have creditable coverage, unless the policy provides coverage for breast or cervical cancer.

(c) There may be some circumstances when a woman has creditable coverage but that coverage does not actually cover treatment of breast or cervical cancer. In instances such as pre-existing condition exclusions, or when the annual or life-time limit on benefits has been exhausted, a woman is not considered to have creditable coverage for this treatment. In these types of circumstances the woman may be eligible for Breast and Cervical Cancer services if she meets all other eligibility criteria.

(d) There is no requirement that a woman be uninsured for any specific length of time before she is found eligible for Medicaid under this program. If a woman loses creditable coverage for any reason and satisfies all other eligibility requirements for

the BCC program it is possible for her to become immediately eligible for coverage in this program.

(e) The CDC screener determines whether or not the woman has creditable coverage. All health insurance, creditable or not, is listed on the OKDHS computer system in order for OHCA Third Party Liability Unit to verify insurance coverage.

### **317:35-21-5. In need of treatment**

In need of treatment, when used in this subchapter, means an abnormal screen determined as a result of a screening for BCC under the CDC BCC Early Detection Program established under Title XV of the Public Health Service Act, including pre-cancerous conditions and early stage, recurrent or metastatic cancer.

### **317:35-21-6. Age requirements**

To be eligible for Breast and Cervical Cancer services, a woman must be under 65 years of age. If a woman turns 65 during the certification period, eligibility ends effective the last day of her birth month. The OKDHS worker assists the woman in determining if eligibility may continue in another Medicaid category.

### **317:35-21-7. Citizenship and Residence**

The requirements for citizenship and residence found at OAC 317:35-5-25 and 317:35-5-26 apply to the BCC treatment program.

### **317:35-21-8. Social security number**

Federal regulations require a woman furnish her Social Security number at the time of application for Breast and Cervical Cancer services.

### **317:35-21-9. Income**

(a) There is no income limit imposed by state or federal law for the Breast and Cervical Cancer Treatment program. However, the CDC Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service (PHS) Act does allow CDC program grantees to set maximum income limits.

(b) Even though there is no income limit, the woman is required to declare her household income so that the OKDHS worker may determine if she is otherwise eligible for Medicaid.

### **317:35-21-10. Resources**

There is no resource test for the Breast and Cervical Cancer Treatment program.

### **317:35-21-11. Certification for BCC**

(a) In order for a woman to receive BCC treatment services she must first be screened for BCC under the CDC Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act and found to be in

need of treatment. Once determined to be in need of treatment the CDC screener determines that the woman:

- (1) does not have creditable health insurance coverage.
- (2) is under age 65.
- (3) is a self declared US citizen or qualified alien.
- (4) is a self declared Oklahoma resident.
- (5) has provided her social security number.
- (6) is willing to assign medical rights to TPL, and
- (7) has declared all household income.

(b) If all of the conditions in subchapter (a) are met, the CDC screener assists the woman in completing the BCC application (OHCA BCC-1). The completed BCC-1 is forwarded to the OKDHS office.

(c) If all of the conditions in subchapter (a) are not met, an application is not completed.

(d) The OKDHS worker verifies that the screener is a CDC screener. The worker also establishes whether or not the woman is otherwise eligible for Medicaid. If the woman is not otherwise eligible for Medicaid, she is certified for the BCC program. If the woman is eligible under another Medicaid category, the application is certified in the other Medicaid category.

(e) If a woman does not cooperate in determining her eligibility for other Medicaid programs, her BCC application is denied and the appropriate notice is computer generated. For example, a woman otherwise eligible for Medicaid, related to the low income families with children category, refuses to cooperate with child support enforcement without good cause would not be eligible for the BCC program.

(f) If a woman in treatment for breast or cervical cancer contacts the OKDHS office and has not been through the CDC screening process, she is referred to the BCC program.

(g) An individual determined eligible for BCC may be certified the first day of the month of application or, if the individual had a medical service within three months prior to the application date, the first day of the first, second or third month prior to the month of application, provided the date of certification is not prior to the CDC Screen.

**317:35-21-12. Changes after certification/continued need for treatment**

(a) A woman found to be in need of treatment as the result of an abnormal BCC screen receives diagnostic testing to determine if she has breast and/or cervical cancer. When diagnostic testing is complete, the OKDHS is notified if the woman was found not to have BCC including pre-cancerous conditions and early stage, recurrent or metastatic cancer. When the woman is found not to have breast or cervical cancer, the case is closed by OKDHS and appropriate notification is computer generated.

(b) If it is determined at any time during the certification period that the woman has creditable health insurance coverage, the OKDHS worker closes the case and appropriate notification is computer generated.

(c) If it is determined at any time during the certification period that the woman is no longer in need of treatment, the OKDHS worker closes the case and appropriate notification is computer generated.

(d) If the OKDHS worker later determines that the woman is otherwise eligible for Medicaid, the worker takes necessary actions to certify her for the appropriate category of Medicaid coverage.

**317:35-21-13. Redetermination**

A periodic redetermination of eligibility is required every 12 months. The computer generated redetermination form is mailed to the woman during her 11th month of eligibility. The woman is responsible for having her BCC provider/case manager complete the statement certifying that she continues to be in need of treatment.

- (1) If the completed forms are not returned, the case is closed and appropriate notice is computer generated.
- (2) When the completed forms are returned timely and the woman remains eligible for the BCC program, the computer is updated to show her continued eligibility.

[OAR Docket #05-12; filed 1-4-05]

**TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATIONS  
CHAPTER 40. OKLAHOMA IDENTITY THEFT PASSPORT PROGRAM**

[OAR Docket #05-16]

**RULEMAKING ACTION:**  
EMERGENCY adoption

**RULES:**  
375:40-1-1. through 375:40-1-11. [NEW]

**AUTHORITY:**  
[75 O.S., Section 302(A)(2); 22 O.S. Section 19b]; Oklahoma State Bureau of Investigations

**DATES:**  
**Adoption:**  
November 2, 2004

**Approved by Governor:**  
December 14, 2004

**Effective:**  
Immediately upon Governor's approval

**Expiration:**  
Effective through July 14, 2005, unless superseded by another rule or disapproved by the legislature

**SUPERSEDED EMERGENCY ACTIONS:**  
n/a

**INCORPORATIONS BY REFERENCE:**  
n/a

**FINDING OF EMERGENCY:**  
Pursuant to Title 75 of the Oklahoma Statutes, Section 253(A), the Director of the Oklahoma State Bureau of Investigation finds a compelling public interest which requires emergency rulemaking. The Oklahoma Legislature established the Oklahoma Identity Theft Passport Program by enacting Title 22 Oklahoma Statutes, Section 19b effective July 1, 2004. This program provides a means for victims of identity theft to establish such status and obtain documentation to present to law enforcement to alert them to the possibility that certain criminal records containing their name such as warrants might involve the perpetrator of such crimes rather than the victim. This legislation specifically required the OSBI to prescribe procedures and policies for issuing the identity theft passport. The administration of the program cannot proceed without the adoption of rules detailing how it is to be administered.

**ANALYSIS:**  
The rules in question provide the procedure for a victim of identity theft to follow to request an identity theft passport. It sets forth the specific documentation that must be provided to the OSBI to obtain an identity theft

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passport. It provides the fee for such a service. It provides the procedure for the OSBI to follow in issuing an identity theft passport and the proper restrictions and usages of such an identity theft passport.

## CONTACT PERSON:

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**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):**

### **375:40-1-1. Purpose**

The rules of this chapter have been adopted for the purpose of complying with the relevant provisions of 75 Oklahoma Statutes Sections 250, et seq. (The Oklahoma Administrative Procedures Act), 22 Oklahoma Statutes, Sections 18(9) and 19a (Expungement of Records-Persons authorized), and 22 Oklahoma Statutes, Section 19b (The Oklahoma Identity Theft Passport Program).

### **375:40-1-2. Definitions**

The following words, when used in this Chapter, shall have the following definitions, unless the context clearly dictates otherwise.

**"Application"** means the State of Oklahoma Identity Theft Passport Request Victim Information Sheet.

**"Bureau"** means the Oklahoma State Bureau of Investigation.

**"Certificate"** means the 8  $\frac{1}{2}$ " x 11" State of Oklahoma Identity Theft Passport Certificate issued to identity theft victims.

**"Consumer Reporting Agency"**, as defined in Title 15 United States Code, Section 1681 et seq., The Fair Credit Reporting Act, means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

**"Eligible"** means those victims of identity theft who have been (1) charged with or arrested for a criminal offense or have become the subject of an arrest warrant for a crime that was committed by the unauthorized individual or (2) those whose identities have been stolen, giving an unauthorized person or persons the potential to use the information to obtain false documents or consumer privileges.

**"Fee"** means a reasonable charge prescribed by the OSBI for processing applications for Identity Theft Passports.

**"Identity Theft Affidavit"** means a document created by the Federal Trade Commission to assist victims in reporting identity theft to one or more of the three national consumer

reporting agencies and the fraud departments of their creditors, banks, or utilities/services.

**"Identity Theft Report"** means a report of identity theft (police report) made by the victim to a federal, state, or local law enforcement agency within the State of Oklahoma.

**"Minor Child"** means any person under 18 years of age.

**"Nationally Recognized Credit Card"** means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by the issuer for the use of the cardholder in obtaining goods, services, or anything else of value on credit which is accepted by over one thousand merchants in the state. The Oklahoma State Bureau of Investigation shall determine which nationally recognized credit cards will be accepted by the Bureau.

**"Order of Expungement and Sealing of Records"** means a certified court document issued for the purpose of expunging a criminal charge, arrest or outstanding arrest warrant created or issued as the result of identity theft pursuant to 22 Oklahoma Statutes Sections 18(9) and 19a.

**"OSBI"** means the Oklahoma State Bureau of Investigation.

**"Passport"** means the Oklahoma Identity Theft Passport Card issued to identity theft victims.

**"Reasonable Cause"** means the basis on which the OSBI may deny an application for an Identity Theft Passport to include, but not limited to, failure to complete the application form and/or provide any of the required documents outlined in OAC Rule 375: 40-1-5 Submission of Application and Required Documentation.

**"Victim"** means a person whose name or other identification has been appropriated or used by another without the person's consent or authorization.

### **375:40-1-3. Request for application**

The State of Oklahoma Identity Theft Passport Request Victim Information Sheet and instructions may be requested from the OSBI's Identity Theft Passport Unit by telephone at #405/848-6724 (Oklahoma City metropolitan area) or #1/800/522-8017 (outside the metropolitan area) between 8:00 a.m. and 5:00 p.m., Monday through Friday excluding holidays. The form and instructions are available for download on the Bureau's Internet web site at <http://www.osbi.state.ok.us>; they may also be requested via e-mail at [teresad@osbi.state.ok.us](mailto:teresad@osbi.state.ok.us) or [deb-bieg@osbi.state.ok.us](mailto:deb-bieg@osbi.state.ok.us). The FTC Identity Theft Affidavit is available on the OSBI web site or at <http://www.consumer.gov/idtheft/>.

### **375:40-1-4. Eligibility**

(a) Pursuant to 22 Oklahoma Statutes Section 19b, Subsection B(1), a person shall be eligible for an Oklahoma Identity Theft Passport if the person has obtained:

(1) An Order for Expungement and Sealing of Records pursuant to Sections 18 and 19 of Title 22 of the Oklahoma Statutes on grounds that the person has been charged or arrested or is the subject of an arrest warrant for a crime that was committed by another person who has appropriated

or used the person's name or other identification without the person's consent or authorization or

(2) An Order for Expungement and Sealing of Records pursuant to 22 Oklahoma Statutes, Section 19a from a court that dismissed a charge against the person on such grounds.

(b) Pursuant to 22 Oklahoma Statutes Section 19b, Subsection B(2) a person shall be eligible for an Oklahoma Identity Theft Passport if the person has filed an Identity Theft Report with a federal, state, or local law enforcement agency and an Identity Theft Affidavit with supporting documentation to one or more consumer reporting agencies.

### **375:40-1-5. Submission of application and required documents**

(a) Each identity theft passport applicant shall provide the following documents:

(1) Complete a State of Oklahoma Identity Theft Passport Request Victim Information Sheet;

(2) Provide his or her current Oklahoma driver's license or current Oklahoma ID card (in-person requests) or a legible photocopy of either document (mail requests). If the victim is a minor child, a parent or legal guardian must provide his or her Oklahoma driver's license or ID card, along with a notarized statement in which the parent or guardian attests he or she has legal responsibility for the victim as a minor child;

(3) Provide two current, passport size, color photographs for the Oklahoma Identity Theft Passport Card;

(4) Provide a certified copy of an Order for Expungement and Sealing of Records issued pursuant to 22 O. S. Section 18(9) or 22 O. S. Section 19a; or copies of all of the following documents

(A) An FTC Identity Theft Affidavit

(B) An Identity Theft Report (police report) made to a federal, state or local law enforcement agency within the State of Oklahoma

(C) A completed United States Postal Service Certified Mail/Domestic Return Receipt (PS Form 3811) as proof that an Identity Theft Affidavit and Identity Theft Report have been sent to and received by one of the three major national consumer reporting agencies identified as:

(i) Equifax Credit Information Services, Inc., <http://www.equifax.com>

(ii) Experian Information Solutions, Inc., <http://www.experian.com>

(iii) TransUnion, <http://www.transunion.com>

(b) Each identity theft passport applicant shall mail the application packet to the Oklahoma State Bureau of Investigation, Identity Theft Passport Unit, 6600 North Harvey, Oklahoma City, OK 73116, or deliver all such items to Suite 140 at the same address.

### **375:40-1-6. Review of application**

(a) The Identity Theft Passport Unit will review all applications and documentation for completeness and adherence to

the law. Failure to provide all of the information requested on the application form or to include any of the required documents will be considered reasonable cause to deny issuance of an Identity Theft Passport.

(b) All Orders issued pursuant to 22 Oklahoma Statutes, Sections 18(9) and 19a will be forwarded to the Bureau's Chief Legal Counsel for review. Valid Orders will be processed as prescribed in 22 Oklahoma Statutes, Section 19. Invalid Orders will be considered reasonable cause to deny issuance of an Identity Theft Passport.

(c) When an Order of Expungement and Sealing of Records is received that pertains to an outstanding arrest warrant only, the Bureau will not have a record or document to expunge and the applicant will be notified of that fact by letter.

### **375:40-1-7. Identity theft database**

An Identity Theft Passport record will be created for each request received and issuances made. Information in the database is sealed and not subject to the Open Records Act, 51 Oklahoma Statutes, Section 24A.1 et seq., pursuant to 22 Oklahoma Statute, Section 18(9) and 22 Oklahoma Statute, Section 19b, Subsection F. However, the Bureau may provide information from the database to a law enforcement agency or officer upon receipt of a written request on a form provided by the OSBI.

### **375:40-1-8. Issuance or denial of passport**

(a) Unless a review of the application reveals reasonable cause not to issue a passport, the Identity Theft Passport Unit will create an Identity Theft Passport Card stating whether the passport was issued on the basis of an Order for Expungement or an Identity Theft Report and Affidavit. The card will contain the victim's name, address, birthdate, sex, race, height, weight, hair and eye color, the passport number and date issued.

(b) Identity Theft Passport and Certificate shall be returned by certified mail with return receipt requested to ensure delivery to the applicant only. Notification of a denied application shall be made by letter and include the reason(s) for the denial.

### **375:40-1-9. Notification**

(a) Upon issuing an Identity Theft Passport to an identity theft victim, the OSBI will flag any criminal history or other records in its possession that are associated with the passport and are accessible to law enforcement authorities. The OSBI will provide the Department of Public Safety with the passport information so records accessible to law enforcement through the state telecommunications network may be flagged as well.

(b) The Oklahoma Identity Theft Passport Program was enacted to protect the victims of identity theft. To further this effort, the OSBI will provide information about the program to all law enforcement agencies within the state. Means of notification and education include, but are not limited to, letters, articles in agency publications, and web site postings.

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## **375:40-1-10. Passport restrictions**

An Identity Theft Passport shall be used only for law enforcement purposes, including determining the accuracy criminal background checks by a law enforcement agency and similar public safety purposes. All other uses are prohibited. Financial institutions and other private entities are advised that presentation of the Oklahoma Identity Theft Passport to private individuals or entities is not authorized.

## **375:40-1-11. Improper usage**

Any use or attempted use of an Identity Theft Passport or Certificate not specifically authorized by OAC 375: 40-1-10 (Passport Restrictions) is not authorized and is prohibited.

*[OAR Docket #05-16; filed 1-5-05]*

## **TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 45. DONATION OF SURPLUS PROPERTY**

*[OAR Docket #05-15]*

### **RULEMAKING ACTION:**

EMERGENCY adoption

### **RULES:**

375:45-1-1. through 375:40-1-6. [NEW]

### **AUTHORITY:**

75 O.S., Section 302(A)(2); 74 O.S., Section 62.3; Oklahoma State Bureau of Investigation

### **DATES:**

#### **Adoption:**

November 16, 2004

#### **Approved by Governor:**

December 20, 2004

### **Effective:**

Immediately upon Governor's approval

### **Expiration:**

Effective through July 14, 2005, unless superseded by another rule or disapproved by the legislature

### **SUPERSEDED EMERGENCY ACTIONS:**

n/a

### **INCORPORATIONS BY REFERENCE:**

n/a

### **FINDING OF EMERGENCY:**

Pursuant to Title 75 of the Oklahoma Statutes, Section 253(A), the Oklahoma State Bureau of Investigation Commission finds a compelling public interest that requires emergency rulemaking. The Oklahoma Legislature enacted amendments to 74 Oklahoma Statutes 62.3 that allows the Oklahoma State Bureau of Investigation to donate surplus property to any law enforcement agency of any political subdivision of the State of Oklahoma pursuant to rules promulgated by the Oklahoma State Bureau of Investigation Commission. The Oklahoma State Bureau of Investigation presently has surplus property suitable for donation, and the need for such property among law enforcement agencies is substantial. The OSBI cannot donate the property without the promulgation of these rules.

### **ANALYSIS:**

The administrative rules herein establish the procedures and requirements for the donation of surplus property of the OSBI to political subdivisions of the State of Oklahoma for use in valid and authorized law enforcement efforts as set forth in 74 Oklahoma Statutes, Section 62.3.

### **CONTACT PERSON:**

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**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):**

## **375:45-1-1. Purpose**

The purpose of these rules is to establish a procedure and requirements for the transfer of surplus property of the Oklahoma State Bureau of Investigation to law enforcement agencies of political subdivisions of the State of Oklahoma as authorized pursuant to 74 Oklahoma Statutes, Section 62.3.

## **375:45-1-2. Definitions**

The following words, when used in this Chapter, shall have the following definitions, unless the context clearly dictates otherwise.

"OSBI" shall mean the Oklahoma State Bureau of Investigation

"Receiving Agency" shall mean the law enforcement agency of any political subdivision of the State of Oklahoma receiving donated surplus property from the OSBI

"Surplus property" shall mean items, commodities, materials, supplies or equipment owned by the OSBI that the Director of the OSBI determines to be excess, obsolete, antiquated, unused or not needed

## **375:45-1-3. Determination of need**

The Director of the OSBI is responsible for exercising discretion and determining when and to whom surplus property of the OSBI shall be donated as allowed pursuant to 74 Oklahoma Statutes, Section 62.3. Any surplus property donated to a Receiving Agency shall be used only for valid and authorized law enforcement efforts of the Receiving Agency.

## **375:45-1-4. Transfer of title**

Any donation of surplus property by the OSBI to a Receiving Agency shall result in title and ownership of said property being placed with the Receiving Agency. Upon donation of the surplus property, the OSBI will not continue to maintain any ownership interest in the property, any custody or control of the surplus property, nor any responsibility for the maintenance, upkeep, or proper use of such property.

## **375:45-1-5. No warranty on donated property/"As is"**

Any surplus property donated by the OSBI to a Receiving Agency is donated "as is". The OSBI makes no warranty whatsoever as to the quality, value, safety, or usefulness of the property in question, including but not limited to warranties of merchantability or fitness for a particular use. The Receiving Agency shall hold the OSBI and its employees harmless from

any action or claim arising from the donation of surplus property to the Receiving Agency by the OSBI or the use of such property by the Receiving Agency.

**375:45-1-6. Receipt**

(a) Upon receipt of any surplus property donated to a Receiving Agency by the OSBI, the head of the Receiving Agency or a designee shall sign a receipt identifying the surplus property donated in sufficient detail as to be able to identify the property in the inventory of OSBI property.

(b) At a minimum, the receipt should include the:

- (1) name and address of the Receiving Agency;
- (2) name of the Receiving Agency head and any designee signing the receipt in question;
- (3) make/model, VIN or serial number or other identifying characteristics of the property;
- (4) OSBI inventory number of the property if applicable;

- (5) date of the transfer of property
- (6) general condition of the property.

**375:45-1-7. Inventory**

(a) Upon transfer of donated surplus property to a Receiving Agency, the OSBI shall remove such donated property from its OSBI property inventory and reflect, as necessary within that inventory, the ultimate disposition of that property.

(b) Upon transfer of donated surplus property to a Receiving Agency, the Receiving Agency shall reflect and document the addition of such donated surplus property within the Receiving Agency's property inventories.

*[OAR Docket #05-15; filed 1-5-05]*



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# 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."

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## TITLE 1. EXECUTIVE ORDERS

### 1:2005-1.

#### EXECUTIVE ORDER 2005-1

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by law, so that the status quo shall be maintained and pursuant to the provisions of Subsection D of Section 840-2.14 of Title 74 of the Oklahoma Statutes, hereby order a state agency hiring freeze.

For purposes of this hiring freeze, each statewide elected official shall perform the duties of a Cabinet Secretary in approving or disapproving exemptions to this hiring freeze. These duties shall be accomplished in the same manner as other official actions by the elected officials.

Subject to written approval by the Governor, the Secretary of Human Resources and Administration may delegate specific agencies to a Deputy Secretary for purposes of complying with this Order.

This hiring freeze shall be implemented by all agencies in accordance with the following guidelines:

1. It is my direction that no audits of classified positions or reallocation of unclassified positions shall be initiated or conducted at the request of any agency unless specifically approved by the appropriate Cabinet Secretary.

2. All audits resulting from a classification grievance shall be exempt from the provisions of this Executive Order.

3. Except as specifically provided and authorized by this order, all affected state agencies are prohibited from hiring, reinstating, or promoting employees and from accepting a transferred employee from another agency.

4. Exceptions to this hiring freeze may be granted pursuant to special conditions as declared by the Chief Administrative Officer of any agency and approved by the appropriate Cabinet Secretary for that agency.

a. A Chief Administrative Officer shall submit a written request to the appropriate Cabinet Secretary stating the special conditions requiring the submission of the request and describing the actions taken by the agency to combat the budget shortfall for 2003 and 2004.

b. Such requests may be on forms provided by the Office of Personnel Management. If an agency has an internal form regularly used by that agency which provides all the necessary information, that form may be used in lieu of the Office of Personnel Management forms if approved by the Administrator of the Office of Personnel Management.

c. The Cabinet Secretary shall indicate approval in writing of the submitted request for the granting of an exception to this hiring freeze.

d. All approved requests and approved Cabinet Secretary findings shall be maintained as an official record by the Office of Personnel Management in accordance with Records Management Act. Any agency which does not submit personnel action requests for approval to the Office of Personnel Management shall be responsible for maintaining this documentation.

e. In the event of a vacancy in a Cabinet Secretary position, the Secretary of State shall act as the approving authority for the hiring freeze exception requests.

5. The Administrator of the Office of Personnel Management and the Director of the Office of State Finance are hereby directed to develop and implement procedures necessary to carry out the provisions of this Executive Order.

6. The Director of the Office of State Finance is authorized to require Cabinet Secretaries to provide him with periodic accountings of their approvals and disapprovals of written requests for exemptions to this hiring freeze. These reports shall be provided to the Governor.

7. The Oklahoma Military Department shall not be required to comply with this order for hiring personnel and contracts for which the department receives total federal government reimbursement.

Copies of this Executive Order shall be distributed to the Secretary for Human Resources and Administration for immediate implementation.

The provisions of this Executive Order shall be effective from January 1, 2005, and shall terminate December 31, 2005.

## Executive Orders

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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 11 day of January, 2005.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:  
Tod Wall  
Acting Assistant Secretary of State

*[OAR Docket #05-33; filed 1-11-05]*

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## STATE BOND ADVISOR'S OFFICE NOTICE OF STATE CEILING AMOUNT FOR THE CALENDAR YEAR 2005

In accordance with §695.25, Title 62 O.S., the maximum total volume (also referred to as "Volume Cap" or "State Ceiling Amount") of Private Activity Bonds that may be issued pursuant to federal law by the State of Oklahoma during calendar year 2005 is \$281,884,240. From the first business day of 2005 through September 1, 2005, the Volume Cap is subdivided into the following categories ("Pools") and amounts: (1) Qualified Small Issue Pool, \$33,826,109; (2) Exempt Facility Pool, \$7,047,106; (3) Beginning Agricultural Producer Pool, \$2,818,842; (4) Student Loan Pool, \$43,692,057;

(5) Economic Development Pool, \$33,826,109; (6) Oklahoma Housing Finance Agency Pool, \$42,282,636; (7) State Issuer Pool, \$11,275,370; (8) Metropolitan Area Housing, \$35,235,530; (9) Rural Area Housing, \$22,550,739; and (10) Local Issuer Single Family Pool, \$49,329,742. From September 2, 2005, to December 21, 2005, any amount remaining to be allocated from these pools is combined and managed from the Consolidated Pool. On or after 9:00 a.m. on December 20, 2005, certain Private Activity Bond issuing authorities may apply to the State Bond Advisor to carry forward a portion of any remaining State Ceiling Amount.

*[OAR Docket #04-1616A; filed 12-30-04]*

