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Brad Henry, Governor
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Secretary of State
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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 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #06-1296]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 40. Bovine Tuberculosis
Part 5. Herd Status Requirements
35:15-40-71. [AMENDED]

SUMMARY:

This rule mirrors the previous emergency rule is necessary to effectuate the new federal changes to the Bovine Tuberculosis Eradication Uniform Methods and Rules regarding reaccreditation of Tuberculosis accredited herds. Oklahoma must incorporate the federal requirements into state law to ensure the state maintains its Tuberculosis Free Status. Producers in Oklahoma would receive a severe economic hardship if the state does not maintain its Tuberculosis Free Status. The rule extends the time period from one year to two years for retesting to obtain reaccreditation of the herd.

AUTHORITY:

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. 2001 §§ 2-4(2), (7), and (29), 6-2 and 6-141; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from October 2, 2006 through November 3, 2006.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., November 3, 2006, in the Consumer Protection Services Conference Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, (405) 522-4576, teena.gunter@oda.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, (405) 522-4576, teena.gunter@oda.state.ok.us

CONTACT PERSON:

Dr. Becky Brewer, (405) 522-6134,
becky.brewer@oda.state.ok.us

[OAR Docket #06-1296; filed 9-8-06]

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

[OAR Docket #06-1297]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 42. Tuberculosis eradication in cervidae
Part 1. definitions
35:15-42-1. [AMENDED]
Part 3. Rules adopted from USDA Uniform Methods and Rules for Tuberculosis Eradication in Cervidae
35:15-42-34. [AMENDED]
35:15-42-37. [AMENDED]
35:15-42-39. [AMENDED]
35:15-42-41. [AMENDED]
35:15-42-43. [AMENDED]
35:15-42-44. [AMENDED]
Part 5. Herd status requirements
35:15-42-51. [AMENDED]

SUMMARY:

The proposed rule mirrors the previous emergency rule and is necessary to effectuate the new federal changes to the Tuberculosis in Captive Cervids rules regarding reaccreditation of Tuberculosis accredited herds and removing the use of the blood tuberculosis test. Oklahoma must incorporate the federal requirements into state law to ensure Oklahoma cervidae herds to maintain their Tuberculosis Free Status. Producers in Oklahoma would receive a severe economic hardship if the state does not adopt the rules. The rule extends the time period from two years to three years for retesting to obtain reaccreditation of the herd.

Notices of Rulemaking Intent

AUTHORITY:

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. 2001 §§ 2-4(2), (7), and (29), 6-2; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

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CONTACT PERSON:

Dr. Becky Brewer, (405) 522-6134, becky.brewer@oda.state.ok.us

[OAR Docket #06-1297; filed 9-8-06]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #06-1290]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 240:1-1-5. Offices of Commission [AMENDED]
- Subchapter 3. Records and Inspections
- 240:1-3-3. Confidential records [AMENDED]
- 240:1-3-5. Charges [AMENDED]
- 240:1-3-6. Search fees [AMENDED]

SUMMARY:

The amendments to these rules will set out the current offices maintained by the Commission and will conform the rules regarding the retrieval and reproduction of agency records with requirements of the Oklahoma Open Records Act.

AUTHORITY:

40 O.S. §4-302; 51 O.S. §24A.5; and the Oklahoma Employment Security Commission.

REQUEST FOR COMMENTS:

The Oklahoma Employment Security Commission requests that business entities affected by this rule provide the Oklahoma Employment Security Commission, 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, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Written and oral comments will be accepted through November 2, 2006, during regular business hours by the contact person listed below.

PUBLIC HEARING:

No public hearing is scheduled at this time, but will be scheduled if a written request is submitted to the contact person listed below by: (1) at least twenty-five individuals, (2) a political subdivision, (3) an agency, or (4) an association having not less than twenty-five members.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review from the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review from the contact person listed below.

CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver or John E. Miley at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us.

[OAR Docket #06-1290; filed 9-8-06]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #06-1291]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 240:10-1-2. Definitions [AMENDED]
- 240:10-1-3. Time computation [AMENDED]
- Subchapter 3. Benefits
- Part 1. General Provisions
- 240:10-3-2. Claimant's notification of change of address [AMENDED]

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- Part 5. Eligibility
- 240:10-3-20. Instructions to secure work [AMENDED]
- 240:10-3-22. Claims for benefits [AMENDED]
- 240:10-3-23. Claims for total unemployment benefits [AMENDED]
- 240:10-3-24. Claims for partial unemployment benefits [AMENDED]
- 240:10-3-26. Payment of benefits to interstate claimants [AMENDED]
- 240:10-3-27. Social Security account numbers or claim ID number [AMENDED]
- 240:10-3-28. Application of payments made to repay an overpayment of benefits [AMENDED]
- Part 7. Protection of Rights and Benefits
- 240:10-3-30. Notice to claimants of income tax withholding program [AMENDED]
- 240:10-3-35. Personal identification numbers [AMENDED]
- Part 9. Disqualification
- 240:10-3-42. Labor disputes [AMENDED]
- 240:10-3-43. Performed service and earned remuneration; reemployed and has earned wages [AMENDED]
- Part 11. Filing Claims - Notice
- 240:10-3-52. Information to separated workers [AMENDED]
- Part 12. Interest Waiver for Benefit Overpayments
- 240:10-3-63. Request letter [AMENDED]
- 240:10-3-65. Appeal of initial determination [AMENDED]
- Subchapter 5. Contributions
- Part 3. Rates
- 240:10-5-10. Payment of contributions [AMENDED]
- 240:10-5-13. Experience rating contribution rates - appeal [REVOKED]
- Subchapter 11. Assessment Board ~~Procedure~~ Procedures
- Part 1. General Provisions
- 240:10-11-3. Organization [AMENDED]
- Part 5. Hearings
- 240:10-11-25. Motion to reopen after failure to appear [AMENDED]
- Part 7. Witnesses and Subpoenas
- 240:10-11-30. Subpoenas [AMENDED]
- Subchapter 13. Appeal Tribunal ~~Procedure~~ Procedures
- Part 3. Appeals to Appeal Tribunal
- 240:10-13-20. Filing an appeal [AMENDED]
- Part 5. Hearings
- 240:10-13-39. Nonappearance [AMENDED]
- 240:10-13-40. Reopen [AMENDED]
- Part 7. Witnesses and Subpoenas
- 240:10-13-60. Subpoenas [AMENDED]

SUMMARY:

The amendments to these rules will provide necessary clean up, clarification of word usage, and correct statutory citations.

Obsolete language is being deleted. The rules will provide for the Commission to utilize the Internet and telecommunication technology to provide faster and more efficient service to unemployment benefit claimants and employers in Oklahoma.

AUTHORITY:

40 O.S. §§1-224, 2-203, 2-503, 2-603, 2-604, 3-102, 4-302, 4-504; and the Oklahoma Employment Security Commission.

REQUEST FOR COMMENTS:

The Oklahoma Employment Security Commission requests that business entities affected by this rule provide the Oklahoma Employment Security Commission, 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, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Written and oral comments will be accepted through November 2, 2006, during regular business hours by the contact person listed below.

PUBLIC HEARING:

No public hearing is scheduled at this time, but will be scheduled if a written request is submitted to the contact person listed below by: (1) at least twenty-five individuals, (2) a political subdivision, (3) an agency, or (4) an association having not less than twenty-five members.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review from the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review from the contact person listed below.

CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver or John E. Miley at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oes.state.ok.us.

[OAR Docket #06-1291; filed 9-8-06]

**TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 15. BOARD OF REVIEW PROCEDURES**

[OAR Docket #06-1292]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 240:15-1-7. Attorney fees - approval [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

The amendment to this rule will set a time limit of one year after the final disposition of the claim for an attorney of the claimant to request approval of attorney fees by the Board of Review.

AUTHORITY:

40 O.S. §§2-302, 4-202, 4-302; and the Oklahoma Employment Security Commission.

REQUEST FOR COMMENTS:

The Oklahoma Employment Security Commission requests that business entities affected by this rule provide the Oklahoma Employment Security Commission, 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, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Written and oral comments will be accepted through November 2, 2006, during regular business hours by the contact person listed below.

PUBLIC HEARING:

No public hearing is scheduled at this time, but will be scheduled if a written request is submitted to the contact person listed below by: (1) at least twenty-five individuals, (2) a political subdivision, (3) an agency, or (4) an association having not less than twenty-five members.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review from the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review from the contact person listed below.

CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver or John E. Miley at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us.

[OAR Docket #06-1292; filed 9-8-06]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #06-1289]

RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:410-1-7. [AMENDED]

Subchapter 10. Radioactive Materials Program

Part 1. General Provisions

252:410-10-1. [AMENDED]

Part 30. Byproduct Material Licensing in General

252:410-10-30. [AMENDED]

Part 31. Byproduct Material: General Licenses

252:410-10-31. [AMENDED]

Part 32. Byproduct Material: Specific Licenses for Manufacturing and Transferring Certain Items

252:410-10-32. [AMENDED]

Part 34. Industrial Radiographic Operations

252:410-10-34. [AMENDED]

Part 35. Medical Use of Byproduct Material

252:410-10-35. [AMENDED]

Part 39. Well Logging

252:410-10-39. [AMENDED]

Part 70. Special Nuclear Material: Licensing

252:410-10-70. [AMENDED]

Part 71. Packaging and Transporting Radioactive Material

252:410-10-71. [AMENDED]

Subchapter 20. Standards for Protection Against Radiation

252:410-20-1. [AMENDED]

SUMMARY:

The proposed Subchapter 1 amendments (1) update the reference to the Nuclear Regulatory Commission (NRC) regulations in Title 10 of the Code of Federal Regulations (10 CFR) to incorporate by reference the 10 CFR regulations as they existed on January 1, 2005, with the addition of four later-promulgated NRC regulations covering the recognition of specialty boards for the medical use of byproduct material, a correction to the medical use of byproduct material changes with respect to the training of Radiation Safety Officers, increased security requirements for portable gauges, and a NRC regulation with provisions to establish a National Source Tracking System (NSTS); and (2) clarify that when a provision of CFR is incorporated by reference all referenced citations are also incorporated by reference.

The proposed Subchapter 10 and Subchapter 20 amendments contain conforming changes resulting from the updated incorporations by reference. In addition, the amendments correct scrivener's errors, make minor formatting changes to simplify reading, and delete explanatory material regarding the effect of the State of Oklahoma becoming an agreement state, which language was significant in 2000 but is no longer needed. The amendments also update the listing of 10 CFR authorities reserved to NRC.

AUTHORITY:

Environmental Quality Board and Radiation Management Advisory Council powers and duties, 27A O.S. §§ 2-2-101, 2-2-104, 2-2-201, and 2-9-104

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from October 2, 2006 through November 2, 2006. Oral comments may be made at the Radiation Management Advisory Council meeting on November 2, 2006

and the November 14, 2006 meeting of the Environmental Quality Board.

PUBLIC HEARINGS:

Before the Radiation Management Advisory Council meeting on November 2, 2006 at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board meeting on November 14, 2006 at 9:30 a.m. at OSU-Tulsa, 700 N. Greenwood, Tulsa, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPY OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person or may be viewed on the DEQ website at www.deq.state.ok.us or may be reviewed in person at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules is on file at the Department of Environmental Quality and may be requested from the contact person.

CONTACT PERSON:

Mike Broderick, Land Protection Division, Radiation Management Section, P.O. Box 1677, Oklahoma City, OK 73101-1677; e-mail at mike.broderick@deq.state.ok.us, phone 405-702-5100, or fax 405-702-5100

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Radiation Management Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-5100 or by using TDD relay number 1-800-722-0353.

[OAR Docket #06-1289; filed 9-7-06]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 205. ALARM AND LOCKSMITH
INDUSTRY**

[OAR Docket #06-1293]

RULEMAKING ACTION:

Notice of proposed EMERGENCY rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

- 310:205-1-1. [AMENDED]
- 310:205-1-2. [AMENDED]
- 310:205-1-3.1. [AMENDED]
- Subchapter 3. License Requirements
- 310:205-3-1. [AMENDED]
- 310:205-3-2. [AMENDED]
- 310:205-3-3. [AMENDED]
- 310:205-3-4. [AMENDED]
- 310:205-3-5. [AMENDED]
- 310:205-3-7. [AMENDED]
- 310:205-3-8. [NEW]
- 310:205-3-9. [NEW]
- 310:205-3-10. [NEW]
- 310:205-3-11. [NEW]
- Subchapter 5. Special Provisions
- 310:205-5-1. [AMENDED]
- 310:205-5-2. [AMENDED]
- Subchapter 7. Enforcement
- 310:205-7-1. [AMENDED]
- 310:205-7-2. [AMENDED]

SUMMARY:

The proposed rule changes are necessary to implement the provisions of Senate Bill 1741, which require licensing for the Locksmith Industry. This includes licensing of four newly defined categories, which are Closed Circuit TV, Nurse Call, Electronic Access Control, and Locksmith. The proposed changes include the criteria to qualify for initial licensing and the minimum qualifications for licensing thereafter. Additionally the proposed rule changes include the creation of subcategories, qualifications, and requirements for companies, managers, technicians, salespersons, and trainees along with the respective licensing fees, within each category. In order to facilitate the transition for licensing of the new categories in a uniform and consistent manner, minor changes were made within the existing alarm industry categories.

AUTHORITY:

Oklahoma State Board of Health; Alarm Industry Act, 59 O.S. Sections 1800.1 et seq., as amended by Enrolled Senate Bill No. 1741 of the Second Regular Session of the 50th Oklahoma Legislature, effective January 1, 2007.

COMMENT PERIOD:

October 2, 2006 through November 9, 2006. Interested persons may informally discuss the proposed rules with Protective Health Services staff; or before November 9, 2006, may submit written comments to Matt Schue, Investigator, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before November 9, 2006, may send electronic mail to matts@health.ok.gov or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, November 9, 2006 which begins at 1:00 p.m. in Room 305 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

Notices of Rulemaking Intent

REQUESTS 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 of 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 before November 9, 2006, to Matt Schue, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or may send electronic mail to matts@health.ok.gov

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Occupational Licensing Division at the above address or by electronic mail request to matts@health.ok.gov

RULE IMPACT STATEMENT:

A rule impact statement will be available beginning October 2, 2006, and may be obtained from the Occupational Licensing Division, Consumer Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299.

CONTACT PERSON:

Matt Schue, Oklahoma State Department of Health, (405) 271-9444.Ext 57905

[OAR Docket #06-1293; filed 9-8-06]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 531. VISION SCREENING

[OAR Docket #06-1294]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 531. Vision Screening [NEW]

SUMMARY:

This proposed rule will establish vision screening standards, the Oklahoma Vision Screening Advisory Committee for Children, and a statewide registry of qualified vision screening providers.

AUTHORITY:

Oklahoma State Board of Health; 70 O.S. § 1210.284; 63 O.S. §§ 1-105 and 1-106.

COMMENT PERIOD:

October 2, 2006 through November 9, 2006. Interested persons may informally discuss the proposed rules with Suzanna Dooley, MS, ARNP, Chief of Maternal and Child Health Service; or before November 9, 2006 may submit written comments to Suzanna Dooley, MS, ARNP, Maternal and Child Health Service, Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before November 9, 2006, may send electronic

mail to suzannad@health.ok.gov; or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules: Part of the regular meeting of the State Board of Health, November 9, 2006 which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS 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 of 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 before November 9, 2006, to Suzanna Dooley, MS, ARNP, Chief of Maternal and Child Health Service, Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from Suzanna Dooley, MS, ARNP, Chief of Maternal and Child Health Service, Room 809, Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning October 2, 2006 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Suzanna Dooley, MS, ARNP, Chief of Maternal and Child Health Service, Oklahoma State Department of Health, (405) 271-4480.

[OAR Docket #06-1294; filed 9-8-06]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 15. CONSUMER RIGHTS

[OAR Docket #06-1288]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Consumer Rights

Part 1. Mental Health and Drug or Alcohol Abuse Services

Consumer Bill of Rights

450:15-3-6. [AMENDED]

Part 3. Consumer Grievance Proceedure

450:15-3-45. [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 15 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance advocacy services for individuals receiving services by organizations operated or certified by or under contract with ODMHSAS, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-108 and 2-109.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., November 2, 2006 to the attention of Terri White, Director of Communications and Public Policy. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0637.

PUBLIC HEARING:

The Department will conduct a public hearing on November 3, 2006 at 3:00 p.m. in Conference Rooms A & B of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of 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 until 5:00 p.m., November 2, 2006 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK 73152-3277, Attention: Terri White.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Terri White, Director of Communications and Public Policy, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning October 2, 2006. Copies may be obtained from Terri White, Director of Communications and Public Policy, at the address above.

CONTACT PERSON:

Terri White, Director of Communications and Public Policy. (405) 522-3841.

[OAR Docket #06-1288; filed 9-6-06]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 16. STANDARDS AND CRITERIA FOR COMMUNITY RESIDENTIAL MENTAL HEALTH FACILITIES**

[OAR Docket #06-1287]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Services

450:16-5-1. [AMENDED]

Subchapter 21. Personnel, Staffing and Training

450:16-21-4. [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 16 are part of the Department's review of Title 450. These proposed amendments are intended to clarify certification requirements, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

43A O.S. § 3-315; Board of Mental Health and Substance Abuse Services.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., November 2, 2006 to the attention of Terri White, Director of Communications and Public Policy. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, or by facsimile, at (405) 522-0637.

PUBLIC HEARING:

The Department will conduct a public hearing on November 3, 2006 at 2:00 p.m. in Conference Rooms A and B of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to submit written information to the Department, in dollar amounts if possible, about the increase in the level of 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 until 5:00 p.m., November 2, 2006 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Terri White.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Terri White, Management Analyst, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning October 2,

Notices of Rulemaking Intent

2006. Copies may be obtained from Terri White, Director of Communications and Public Policy, at the address above.

CONTACT PERSON:

Terri White, Director of Communications and Public Policy,
(405) 522-3841.

[OAR Docket #06-1287; filed 9-6-06]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 55. STANDARDS AND CRITERIA
FOR PROGRAMS OF ASSERTIVE
COMMUNITY TREATMENT**

[OAR Docket #06-1286]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

450:55-1-2. [AMENDED]

Subchapter 3. Program Description and PACT Services

450:55-3-2. [AMENDED]

450:55-3-3. [AMENDED]

450:55-3-5. [AMENDED]

450:55-3-6. [AMENDED]

450:55-3-7. [AMENDED]

450:55-3-8. [AMENDED]

Subchapter 5. PACT Clinical Documentation

450:55-5-6. [AMENDED]

450:55-5-7. [AMENDED]

450:55-5-9. [AMENDED]

Subchapter 11. Organizational Management

450:55-11-2. [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 55 are part of the Department's review of Title 450. These actions are intended to amend or revoke rules, clarify certification mandates, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

43A O.S. § 3-319; Board of Mental Health and Substance Abuse Services.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., November 2, 2006 to the attention of Terri White, Director of Communications and Public Policy. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, or by facsimile, at (405) 522-0637.

PUBLIC HEARING:

The Department will conduct a public hearing on November 3, 2006 at 1:00 p.m. in Conference Rooms A and B of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of 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 until 5:00 p.m., November 2, 2006 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Terri White.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Terri White, Director of Communications and Public Policy, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning October 2, 2006. Copies may be obtained from Terri White, Director of Communications and Public Policy, at the address above.

CONTACT PERSON:

Terri White, Director of Communications and Public Policy,
(405) 522-3841.

[OAR Docket #06-1286; filed 9-6-06]

Submissions for Review

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

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

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

[OAR Docket #06-1280]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 7. Environmental Permit Process
Part 5. Land Protection Division Tiers and Time Lines
252:4-7-51. [AMENDED]
252:4-7-52. [AMENDED]
252:4-7-53. [AMENDED]

SUBMITTED TO GOVERNOR:

August 29, 2006

SUBMITTED TO HOUSE:

August 29, 2006

SUBMITTED TO SENATE:

August 29, 2006

[OAR Docket #06-1280; filed 8-30-06]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #06-1281]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Incinerators
Part 9. Commercial and Industrial Solid Waste Incineration
Units [AMENDED]
252:100-17-61. [AMENDED]

SUBMITTED TO GOVERNOR:

August 29, 2006

SUBMITTED TO HOUSE:

August 29, 2006

SUBMITTED TO SENATE:

August 29, 2006

[OAR Docket #06-1281; filed 8-30-06]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #06-1282]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 8. Permits for Part 70 Sources
Part 11. Visibility Protection Standards [NEW]
252:100-8-70. [NEW]
252:100-8-71. [NEW]
252:100-8-72. [NEW]
252:100-8-73. [NEW]
252:100-8-74. [NEW]
252:100-8-75. [NEW]
252:100-8-76. [NEW]
252:100-8-77. [NEW]

SUBMITTED TO GOVERNOR:

August 29, 2006

SUBMITTED TO HOUSE:

August 29, 2006

SUBMITTED TO SENATE:

August 29, 2006

[OAR Docket #06-1282; filed 8-30-06]

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 #06-1283]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 33. Peer Review
10:15-33-7. [AMENDED]

AUTHORITY:

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

DATES:

Adoption:

July 21, 2006

Approved by Governor:

July 21, 2006

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2007, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATED BY REFERENCE:

N/A

FINDING OF EMERGENCY:

Section 15.30 of the Oklahoma Accountancy Act provides that as a condition for issuance or renewal of permits, the Board may require applicants who perform review or audit services to undergo peer reviews conducted not less than once every three years. Subchapter 33 of Title 10 of the Oklahoma Administrative Code established rules requiring peer review effective July 1, 2005. The Peer Review Committee consists of three members nominated by the OAB Chair and approved by the Board, none of whom is a current member of the OAB. Established effective July 1, 2005, its purpose is to protect the public by monitoring firms' compliance with applicable accounting and auditing standards adopted by generally recognized standard-setting bodies, reviewing the policies and procedures of sponsoring organization applications as to their conformity with peer review minimum standards, and reporting to the Board on the conclusions and recommendations reached as a result of performing the first two functions. The current rules do not allow for the reappointment of a Peer Review Committee member until a three-year period has lapsed after the committee member's previous appointment. This limitation seriously hampers the effectiveness of the Peer Review Committee during the first critical three years because losing one experienced member after the first year and another after the second year and adding inexperienced members, providing they could be found, could cause a serious inconsistency in the way the committee operates and makes decisions. Many registrants will be going through the peer review process for the first time during this preliminary three-year period. The Board believes it is critical for them to work with the same committee members during this initial phase. Therefore, they believe there is a compelling public interest for an emergency status for the proposed amendment to the current peer review rules.

ANALYSIS:

Section 15.30 of the Oklahoma Accountancy Act provides that as a condition for issuance or renewal of permits, the Board may require applicants who perform review or audit services to undergo peer reviews. It also provides that the peer reviews shall be conducted in such manner and in accordance with such standards as the Board may specify by rule. The Peer Review Committee was established July 1, 2005 and has been operating for one year. It has become clear it is essential to the success of the program that there is a consistency in the way the committee operates and makes decisions during the first critical three years of the program. For this reason, the OAB believes it is critical to remove the provision in the rules that committee members cannot be reappointed until three years have lapsed after the previous appointment and believes a compelling public interest exists to do so.

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 33. PEER REVIEW

10:15-33-7. Peer review committee

(a) The Board shall appoint a Peer Review Committee for the purpose of:

- (1) Monitoring sponsoring organizations to provide reasonable assurance that peer reviews are being conducted and reported on in accordance with peer review minimum standards;
- (2) Reviewing the policies and procedures of sponsoring organization applicants as to their conformity with the peer review minimum standards; and
- (3) Reporting to the Board on the conclusions and recommendations reached as a result of performing functions in paragraphs (A) and (B) of this subsection.

(b) The Peer Review Committee shall consist of three (3) members nominated by the Chair and approved by the Board, none of whom is a current member of the Board. Initial appointment of the three (3) committee members shall be as follows: one (1) member appointed for three (3) years; one (1) member appointed for two (2) years; and one member appointed for one (1) year. Subsequent committee members shall serve three (3) year terms. ~~A committee member shall not be allowed to be reappointed until a three (3) year period~~

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~~has lapsed after his/her previous appointment.~~ Compensation, if any, of Peer Review Committee members shall be set by the Board, not to exceed One Hundred Fifty Dollars (\$150.00) per hour. Each member of the Peer Review Committee must be active in the practice of public accounting at a supervisory level or above in the accounting or auditing function while serving on the committee or any employee involved at a supervisory level or above in an audit function of a state or local government. The member or member's firm must be enrolled in an approved practice/monitoring program and have received an unmodified report on its most recently completed peer review. A majority of the committee members must satisfy the qualifications required of system peer review team captains as established and reported in the AICPA Standards for Performing and Reporting on Peer Reviews.

- (1) No more than one Peer Review Committee member may be from the same firm.
- (2) A Peer Review Committee member may not concurrently serve as:
 - (A) A member of the AICPA's or any state's CPA society's ethics committee; or
 - (B) A member of the AICPA's or any state's CPA society's Peer Review Committee for a period of twelve (12) months following that person's service on such Peer Review Committee.
- (3) A Peer Review Committee member may not participate in any discussion or have any vote with respect to a reviewed firm when the committee member lacks independence or has a conflict of interest. The Board may appoint alternate committee member(s) to serve in these situations.
- (c) Information concerning a specific firm or reviewer obtained by the Peer Review Committee during oversight activities shall be confidential, and the firm's or reviewer's identity shall not be reported to the Board. Reports submitted to the Board will not contain information concerning specific registrants, firms or reviewers.
- (d) As determined by the Board, the Peer Review Committee shall make periodic recommendations to the Board, but not less than annually, as to the continuing qualifications of each sponsoring organization as an approved sponsoring organization.
- (e) The Peer Review Committee may:
 - (1) When necessary in reviewing reports on peer reviews, prescribe actions designed to assure correction of the deficiencies in the reviewed firm's system of quality control policies and procedures and provide such results to the Board;
 - (2) Monitor the prescribed remedial and corrective actions to determine compliance by the reviewed firm;
 - (3) Establish and perform procedures for ensuring that reviews are performed and reported on in accordance with the AICPA Standards for Performing and Reporting on Peer Reviews or other standards as approved by the Board and the rules promulgated herein by the Board;
 - (4) Establish a report acceptance process, which facilitates the exchange of viewpoints among committee members and sponsoring organization; and

(5) Communicate to the governing body of the sponsoring organization on a recurring basis:

- (A) Problems experienced by the enrolled registrants in their systems of quality control as noted in the peer reviews conducted by the sponsoring organization;
- (B) Problems experienced in the implementation of the peer review program; and
- (C) A summary of the historical results of the peer review program.

(f) Committee members shall become disqualified to serve on Peer Review Committee if any of the provisions that qualify the committee member no longer exist or by majority vote of the Board.

[OAR Docket #06-1283; filed 8-31-06]

TITLE 235. OKLAHOMA FUNERAL BOARD CHAPTER 10. FUNERAL SERVICES LICENSING

[OAR Docket #06-1284]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 13. Continuing Education
235:10-13-10. [AMENDED]
235:10-13-11. [AMENDED]
235:10-13-12. [AMENDED]
235:10-13-13. [AMENDED]
235:10-13-14. [AMENDED]

AUTHORITY:

Oklahoma Funeral Board
59 O.S. Section 396.17
75 O.S. Section 302(A)(1)
75 O.S. Section 307

DATES:

Adoption:

August 10, 2006

Approved by Governor:

August 24, 2006

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2007, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The emergency rules are necessary to minimize the shortage of funeral service professionals. The burden of complying with the continuing education requirements has resulted in senior citizens and individuals who are licensed but no longer active in the profession no longer renewing their licenses.

ANALYSIS:

The proposed rules reduce the burden of complying with the continuing education requirements for individuals age 65 and older as well as individuals who are licensed but not currently engaged in funeral service. This ensures that the number of licensed, qualified individuals is not reduced.

CONTACT PERSON:

Terry McEnany, Executive Director (405)522-1790

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING EMERGENCY RULES ARE**

CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253 (D):

SUBCHAPTER 13. CONTINUING EDUCATION

235:10-13-10. Continuing education requirements

(a) Beginning July 1, 2006, and each year thereafter, each applicant for renewal of a funeral director or embalmer license in Oklahoma, shall submit the renewal fee and documentation as prescribed by the Board of each continuing education course the licensee attended during the year. Every licensed funeral director, and/or licensed embalmer, shall attend a minimum of six (6) ~~professional development units (P.D.U.)~~ contact hours during each calendar year before their annual license renewal. ~~For purposes of implementing the Board's continuing education requirements, one (1) P.D.U. contact hour shall be construed as 50 minutes of learning activity. Individuals licensed as both a funeral director and embalmer shall be required to complete a minimum of six (6) hours of P.D.U. each calendar year.~~

(b) ~~Each continuing education provider and course shall be approved by the Board based on criteria similar to those established by the Academy of Professional Funeral Service Practice (the Academy). In order to assist the Board in its review, the Board may contract with an individual or institution with extensive experience in accrediting continuing education providers and courses. Each continuing education provider and course shall be approved by the: Academy of Professional Funeral Service Practice (the Academy), the funeral licensing boards of Texas, Kansas, Arkansas, New Mexico, and Missouri, or by the Oklahoma Funeral Board based on criteria similar to those established by the Academy. Providers and courses approved by the Academy shall be presumptively approved by the Board. The Board may also approve providers and courses that have been approved by another state's funeral director and embalmer regulatory agency, provided, the state agency's criteria for reviewing continuing education providers and courses are substantially equivalent to the Board's criteria. The Board shall not charge duplicate fees to review provider applications or courses approved by the Academy or another states regulatory agency or the funeral licensing boards of Texas, Kansas, Arkansas, New Mexico, and Missouri.~~

(c) A licensee may not receive credit for repeating the same course during the same calendar year.

(d) Individuals issued original or reciprocal licenses shall complete the continuing education requirements in the first full calendar year following the issuance of an original or reciprocal license.

(e) ~~Every licensee, unless exempt, shall submit satisfactory proof of completion the Board's continuing education requirements with the license renewal application on the form prescribed by the Board.~~

235:10-13-11. Continuing education program approval

(a) The continuing education program provider must possess professional credentials appropriate to the subjects covered in the program, and the program must contain demonstrable educational content related to the practice of funeral directing and/or the practice of embalming as determined by the Board.

(b) ~~The continuing education provider seeking Board approval shall annually pay a \$250 fee with its initial application the completed Uniform Continuing Education Application Process Form and \$50 per course submitted for Board approval. The Board may waive the fees for governmental agencies and non-profit organizations. The provider shall submit its application, required documentation, and payment of fee(s) to and in the time and manner prescribed by the Board. Providers shall submit the completed application and fees courses for Board approval evaluation at least sixty (60) days prior to administering the course.~~

(c) ~~Professional development units (P.D.U.) Contact hours~~ are not allowed for activities such as social occasions, meals, receptions, sporting events, business meetings, sales meetings, or exhibits displayed at such activities. If a provider wishes to offer a continuing education course at such an activity, then the provider shall be required to seek Board approval for that particular course. Continuing education received for renewal of an insurance license shall not qualify as ~~P.D.U. contact hours~~ for purposes of funeral director or embalmer license renewal.

(d) ~~Approved P.D.U.'s contact hours~~ may include programs in various formats such as: lecture, workshops, seminars, conferences, independent home study, and internet based programs. A continuing education program must fall within one or more of the following for categories of funeral service related content areas for approval:

- (1) Public Health and Technical including: embalming, restorative art, etc.
- (2) Business Management including computer applications, marketing, personnel management, accounting, or comparable subjects.
- (3) Social Science including communications skills, both written and oral, sociological factors, counseling, grief psychology or comparable subjects.
- (4) Legal, Ethical, Regulatory including: OSHA, FTC, ethical issues, legal interpretations or comparable subjects.

(e) ~~Each Approved Provider shall provide the Board with a list of programs approved by the Board or the Academy, containing both course number and approved hours, for posting on the Board's website.~~

235:10-13-12. Exemptions

(a) Licensees exempt from payment of renewal fees under 235:10-5-2 shall be exempt from all continuing education requirements for the first full calendar year after which they have completed their period of military service.

(b) A licensee of Oklahoma ~~residing outside the state of Oklahoma~~ and not engaged in the practice of funeral directing or the practice of embalming within the State of Oklahoma shall be exempt from the Board's continuing education requirements. If the licensee becomes engaged in the practice

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of funeral directing or the practice of embalming within the State of Oklahoma, the licensee shall within the first full year of active practice meet the continuing education requirements.

(c) Any licensee with a serious illness or disability shall notify the Board and request an exemption not less than thirty (30) days prior to the expiration of the license. The letter of request with must include documentation from the licensee's physician to verify the illness and or disability. The Board shall have the power to review the request for exemption of all or a portion of the Board's continuing education requirements on a case by case basis.

(d) Licensees who will be 65 years of age or older anytime during the calendar year being renewed for are not required to meet the continuing education requirements. This exemption shall not apply to licensees who are the Funeral Director in Charge of one or more funeral establishments.

235:10-13-13. Verification of Continuing Education

(a) Each licensee shall obtain from the continuing education provider proof of attendance at the approved continuing education program which shall include: name of attendee, provider name and provider number, event number, event date, program title, and contact hours attended. The licensee shall maintain such documentation for a period of not less than two (2) years.

~~(b) The licensee is responsible for ensuring that the continuing education program has been approved, and for providing proof of attendance to the Board, in such form as the Board shall prescribe, concerning the completion of continuing education requirements.~~

~~(e) The Board or its authorized representatives may monitor, inspect, or review any approved continuing education activity, and upon evidence of significant variations in the program presented from the program approved, may disapprove any or all portion of the approved hours granted to the activity.~~

235:10-13-14. Non-compliance and sanctions

The Board shall not renew a licensee's funeral director or embalmer license if the licensee has not complied with the continuing education requirements, ~~unless exempt~~, until the required fees, late fees, and ~~past~~ continuing education requirements are met unless waived by the Board.

[OAR Docket #06-1284; filed 9-5-06]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #06-1277]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Conditions of Eligibility - Need

Part 3. Income

340:10-3-33. [AMENDED]

(Reference APA WF 06-08)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.55, 230.56, 230.60, 230.62, 230.63, 230.64, 230.65, and 230.66 of Title 56 of the Oklahoma Statutes; the Personal Responsibility and Work Opportunity Act of 1996; and the Deficit Reduction Act of 2005.

DATES:

Adoption:

July 25, 2006

Approved by Governor:

August 24, 2006

Effective:

October 1, 2006.

Expiration:

Effective through July 14, 2007, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as the Oklahoma Department of Human Services (OKDHS) finds compelling public interest exists to increase the standard deduction for work related expenses to provide an incentive to TANF applicants and recipients to find and maintain employment a minimum of 30 hours per week. This incentive will help improve employment outcomes for families and help OKDHS improve the TANF work participation rate. Without approval of the proposed rule, OKDHS may face fiscal sanctioning for failing to meet the higher work participation requirements imposed by the Deficit Reduction Act.

ANALYSIS:

OAC 340:10-3-33 language is revised to reflect an increase in the standard deduction for work related expenses for TANF applicants and recipients who are employed 30 or more hours per week.

CONTACT PERSON:

Dena Thayer at (405)521-4326

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), WITH A LATER EFFECTIVE DATE OF OCTOBER 1, 2006:

SUBCHAPTER 3. CONDITIONS OF ELIGIBILITY - NEED

PART 3. INCOME

340:10-3-33. Individual earned income exemptions

Exemptions from each individual's earned income include a monthly standard work related expense and one-half of the remaining earned income. Exemptions are also allowed for child and adult dependent care expenses the individual is responsible for paying if expenses are not paid through other state and federal funds and the dependent care is in a licensed facility or home. Exempt income is income which by law is not considered in determining need for financial assistance in the Temporary Assistance for Needy Families (TANF) category. Income exempt for one individual is not taken into consideration in determining the need of any other individual for assistance in the State Supplemental Payment (SSP) for the aged, blind, and disabled and TANF.

(1) **Work related expenses.** The standard deduction for work related expenses such as income tax payment, Social Security taxes, and transportation to and from work, is ~~\$120 automatically determined~~ monthly for each full-time or part-time employed member of the assistance unit, ~~or.~~

(A) The standard deduction for work related expenses is:

(i) \$240 for a recipient employed a minimum of 30 hours per week;

(ii) \$120 for a recipient employed less than 30 hours per week; and

(iii) \$120 for an individual whose income is considered in determining the amount of the TANF cash assistance.

(B) The \$120 standard deduction for work related expenses is not applied to earnings of participants in the Work Supplementation Program (WSP).

(2) **One-half remainder.** For all countable income earned by each member included in the assistance unit, as well as a stepparent who is not included in the assistance unit, one-half of the remaining earned income is exempted. [OAC 340:10-3-57(f)(1)] The one-half remainder exemption is not applied to earnings received by participants in ~~the~~ WSP. An applicant is only eligible for one-half of the remainder exemption ~~if~~ when:

(A) an individual in the TANF assistance unit was included in a TANF benefit in any of the 50 states in addition to the Virgin Islands, Puerto Rico, and Guam, during one of the four months preceding the application; or

(B) the total income of all members minus work related expenses and dependent care expenses is less than the TANF ~~Need Standard~~ need standard found on Oklahoma Department of Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, for the appropriate number of ~~persons~~ individuals.

(3) **Dependent care expenses.** Dependent care ~~expense is~~ expenses are applied after all other earned income exemptions.

(A) Dependent care expenses are not deducted from earnings of participants in ~~the~~ WSP. Dependent care ~~expense~~ expenses may be deducted when:

(i) suitable care for a child or incapacitated adult included in the TANF assistance unit is not available from responsible ~~persons~~ individuals living in the home or through other ~~alternate~~ sources;

(ii) the employed TANF assistance unit member whose income is considered in computing the amount of the benefit must purchase care;

(iii) the gross earned income equals or exceeds the work related and dependent care expenses combined;

(iv) the child or incapacitated adult receives care in a properly licensed facility or from an approved in-home provider as required by Oklahoma law; and

(v) the stepparent of the child(ren) for whom TANF is requested is living in the home and has dependents not included in the assistance unit who are also living in the home. [OAC 340:10-3-57(f)(1)]

(B) Dependent care expenses must be verified, ~~and the~~ The actual amount paid per month is deducted up to a maximum of \$200 for a dependent under the age of two or \$175 for a dependent age two or older or for an incapacitated adult. In considering the dependent care expense, only actual work hours and travel time between work and the care facility is allowed. Payment for dependent care is the individual's responsibility. The individual must immediately report any changes in the plan of care.

(C) Dependent care provided by another ~~person in~~ individual in the household who is not a member of the assistance unit may be considered as long as the caregiver meets applicable state, local, or tribal law.

[OAR Docket #06-1277; filed 8-29-06]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 70. ELEVATOR SAFETY ACT
RULES**

[OAR Docket #06-1278]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Chapter 70. Elevator Safety Act Rules [NEW]

AUTHORITY:
Commissioner of Labor; 59 O.S. Section 3023(B), Elevator Safety Act

DATES:

Adoption:
July 26, 2006

Approved by Governor:
August 24, 2006

Effective:
November 1, 2006

Expiration:
Effective through July 14, 2007, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:

- Incorporating rules:**
380:70-1-2
380:70-3-2
380:70-3-4
380:70-3-10
380:70-3-14
380:70-5-1
380:70-5-2
380:70-5-3
380:70-5-7
380:70-5-8
380:70-7-2
380:70-9-1
380:70-11-8
380:70-11-9
380:70-11-10
380:70-11-12
380:70-11-13
Appendix A

Emergency Adoptions

Incorporated standards:

The rules incorporate by reference the following: The American Society of Mechanical Engineers ("ASME") Safety Code for Elevators and Escalators, ASME A17.1, latest edition and most current addenda; Safety Code for Existing Elevators and Escalators, ASME A17.3, latest edition and most current addenda; Safety Standard for Platform Lifts and Stairway Chairlifts, ASME A18.1, latest edition and most current addenda; Safety Standard for Belt Manlifts, ASME A90.1, latest edition and most current addenda; Safety Requirements for Personnel Hoists and Employee Elevators, ASSE A10.4, latest edition; the National Electrical Code, NFPA 70, latest edition and current addenda; the American Welding Society ("AWS") AWS D1.1, current Code Edition and addenda; the National Electric Code ("NEC") current code and addenda; the Americans with Disabilities Act ("ADA") regarding accessibility, current code and addenda; the National Elevator Industry Education Program; the ASME QEI-1 Standards for the Qualification of Elevator Inspectors; the Oklahoma Administrative Procedures Act.

Availability:

Oklahoma Department of Labor, 4001 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105; Hours: 8 a.m. through 5 p.m., Mondays through Fridays, excluding holidays.

FINDING OF EMERGENCY:

Pursuant to the promulgation of 59 O.S. 3020 et seq., and the creation of the Elevator Safety Act, an imminent threat to the preservation of the public welfare and a compelling public interest exist to have these rules available and set in place to properly advise how to execute the responsibilities of this Act. These rules need to be in place when the Elevator Safety Act becomes effective November 1, 2006.

ANALYSIS:

The purpose of these proposed rules is to establish initial administrative rules as required by newly enacted legislation, the Elevator Safety Act, O.S. Title 59, §§ 3020 et seq. The rules address the licensing requirements applicable to the qualification and licensing of Elevator Contractors, Elevator Mechanics, and Elevator Inspectors; identify adopted national standards applicable to elevators and conveyances; provide definitions; establish program administrative procedures; establish procedures for variances, appeals and hearings; establish continuing education requirements; establish acceptance criteria for existing installations; establish criteria for the permitting of new installation of elevators and conveyances; establish procedures for the repair and/or alteration of elevators and conveyances; establish accident/incident reporting and investigation procedures; establish inspection and reporting procedures; allow for the existence of municipal elevator inspection programs; and identify periodic testing requirements.

CONTACT PERSON:

Elizabeth J. Stefanik, Assistant General Counsel, Oklahoma Department of Labor, 528-1500, ext. 231.

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), WITH A LATER EFFECTIVE DATE OF NOVEMBER 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

380:70-1-1. Purpose

These rules are promulgated as required by Title 59 O.S. Section 3020 et seq. They are specific as to definitions, adopted national standards, rules and regulations for the safe construction, installation, inspection, operation, maintenance, repair, alteration and licensing of elevators and conveyances, as defined herein, and the licensing of elevator contractors, elevator mechanics, and elevator inspectors.

380:70-1-2. Definitions

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

"The Act" means the Oklahoma Elevator Safety Act, Title 59 of the Oklahoma Statutes, Sections 3020 et seq. and the Administrative Rules contained in this Chapter.

"Alteration" means any change, including major repair, made to an existing elevator, escalator, moving walkway or conveyance, its hoistway, enclosure, doors, and controls, other than the repair or replacement of damaged, worn, or broken parts necessary for normal operation. The changing of the speed governor shall be considered an alteration.

"Annually" means a period of twelve (12) calendar months.

"ASME" means the American Society of Mechanical Engineers, 3 Park Avenue, New York, NY, 10016-5990.

"ASSE" means the American Society of Safety Engineers, 1800 E. Oakton St., Des Plaines, IL., 60018.

"AWS" means the American Welding Society, 550 N.W. LeJune Road, Miami, Florida 33126.

"Chief Elevator Inspector" means the Chief Elevator Inspector appointed under the Act.

"Commissioner" means the Commissioner of Labor or his/her authorized representative.

"Certificate of Operation" means a document issued by the Commissioner of Labor, affixed to an elevator or conveyance that indicates it has been inspected, tested and found to be in compliance for operation as required by the Act.

"Conveyance" means any elevator, escalator, moving walkway, wheelchair lift or other such device subject to the provisions of the Act.

"Department" means the Elevator Inspection Bureau of the Safety Standards Division of the Oklahoma Department of Labor, 4001 North Lincoln Blvd. Oklahoma City, Oklahoma, 73105-5212.

"Deputy Inspector" means an inspector appointed by the Chief Elevator Inspector subject to the approval of the Commissioner under the provisions of the Act.

"Elevator" means any device for lifting or moving people, cargo, or freight within, or adjacent and connected to, a structure or excavation, and includes any escalator, power driven stairway, moving walkway or stairway chair lift. It does not mean any of the following:

(A) Amusement ride or device subject to inspection and regulation under the provisions of Section 460 et seq. Of Title 40 of the Oklahoma Statutes;

(B) Mining equipment subject to inspection and regulation by the Department of Mines;

(C) Aircraft, railroad car, boat, barge, ship, truck, or other self-propelled vehicle or component thereof;

(D) Any boiler grate stoker or other similar firing mechanism subject to inspection under the provisions of the Oklahoma Boiler and Pressure Vessel Safety Act; or

(E) A dumbwaiter, conveyor, chain or bucket hoist, construction hoist or similar devices used for the primary purpose of elevating or lowering materials. This list is not exhaustive.

"Elevator Apprentice" means an unlicensed person registered with the Department of Labor who works under the direct supervision of a licensed elevator mechanic, licensed elevator contractor, or licensed elevator inspector.

"Existing Installation" means any elevator, escalator, moving walkway or other conveyance subject to the provisions of this Act in operation on or before the effective date of this Act.

"Freight Elevator" means an elevator used for carrying freight and on which only the operator and the person(s) necessary for loading and unloading are permitted to ride.

"Installation Permit" means a document issued by the Commissioner to a licensed elevator contractor upon receipt of an application to install or construct an elevator or conveyance which indicates Department approval of the proposed installation or construction project.

"Maintenance" means a process of routine examination, lubrication, cleaning, and adjustment of parts, components, and/or subsystems for the purpose of ensuring performance in accordance with the applicable Code requirements.

"May" means that an action or requirement is optional and non-mandatory.

"Mobility Restricted" means a person or persons unable to move freely without the aid of mechanical assistance such as walkers, wheelchairs, crutches or canes, and/or an inability to move freely because of a physical or mental disability, handicap or restriction.

"New Installation/New Construction" means a completely new elevator or conveyance installation or construction occurring on or after the effective date of this Act.

"NFPA" means The National Fire Protection Association, Inc., One Batterymarch Park, Quincy, Massachusetts, 02169-7471.

"Night Time Inspection" means any inspection that does not occur during "reasonable hours."

"Occurrence" means any event involving an elevator, escalator, moving walkway, wheel chair lift or other conveyance subject to the provisions of this Act, that the operation of which has caused personal injury or property damage.

"Private Residence" means a separate dwelling, or a separate apartment in a multiple dwelling/complex, which is occupied by members of a single-family unit.

"Reasonable Hours" means that period of time beginning one hour prior to normal advertised business hours and ending one hour after normal advertised business hours. For facilities normally open twenty-four (24) hours, reasonable hours shall be that period of time beginning at 7:00 a.m. and ending at 6:00 p.m.

"Red Tag" means a document issued by a licensed elevator inspector and attached to an elevator or conveyance declaring that any further operation of the elevator or conveyance shall constitute a violation of the Oklahoma Elevator Safety Act.

"Repair" means reconditioning or renewal of parts, components, and/or subsystems, not constituting an alteration, necessary to keep equipment in compliance with applicable Code requirements and for which a permit is not required.

"Responsible Party" means that person(s) so named and designated on an elevator contractors license required to have met and maintain training credentials and knowledge necessary to satisfy the requirements of the Act.

"Shall" means that an action or requirement as stated in this Chapter is mandatory.

"Special Inspector" means an inspector, licensed by the Department, who is regularly employed by an insurance company providing liability insurance on an elevator, escalator, moving walkway, chairlift or conveyance subject to the provisions of the Act.

"State Special" means the designation applied to an elevator or conveyance subject to the provisions of this Act that is of special or unique construction and cannot be constructed, installed and/or operated in accordance with the applicable ASME Code and the provisions of this Act.

"Temporarily Dormant" means an elevator or conveyance whose power supply has been disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the "OFF" position.

"Temporary Certificate of Operation" means a document issued by a licensed elevator inspector granting the temporary continued operation of a non-compliant elevator or conveyance for a period not to exceed thirty (30) days so that repairs can be performed; or to a licensed elevator contractor for the temporary continued operation of an elevator or personnel hoist for a specified period of time not to exceed the length of the applicable construction project.

"Triennially" Means a period of thirty-six (36) calendar months.

SUBCHAPTER 3. ADMINISTRATION

380:70-3-1. Responsibilities

Responsibility for the installation, alteration, operation, maintenance, inspection and reporting of accidents, incidents and/or occurrences for elevators, escalators, moving walkways, wheelchair lifts and conveyances shall be as follows:

(1) The equipment manufacturer shall be responsible for designing and manufacturing equipment in compliance with the applicable code.

(2) The person or firm installing or altering elevators, escalators, moving walkways, wheelchair lifts and conveyances shall be responsible for obtaining all permits and approvals. He/she shall be responsible for the safe operation of equipment during the installation until a Certificate of Operation has been issued and for conducting all tests required by these rules.

(3) The owner, his duly appointed agent, or the leasee shall be responsible for the safe operation and proper maintenance of elevators, escalators, moving walkways, wheelchair lifts and conveyances after the installation has been approved and a Certificate of Operation has

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been issued. The owner his duly appointed agent, or the leasee shall be responsible for conducting all periodic maintenance and/or testing as required by these rules.

(4) The owner his duly appointed agent, or the leasee shall also be responsible for having conveyances subject to the provisions of this Act inspected as required by the Act. Any conveyance not so inspected shall be considered as being removed from service and a Red Tag attached.

(5) The owner his duly appointed agent, or the leasee shall be responsible for reporting occurrences to the department as required in these rules and regulations.

(6) The inspector shall be responsible for the performance and reporting of inspections as required by this Act. Such inspections shall be performed in a professional manner so as to factually document the "as found" condition of the conveyance at the time of the inspection without consideration of cost or inconvenience that may be incurred or caused as a result of the inspection.

380:70-3-2. Minimum construction standards for elevators, escalators, moving walkways, chairlifts or other conveyances; special construction

(a) **Construction.** All new elevators, escalators, moving walkways, chairlifts, and conveyances unless otherwise exempt, to be operated in this jurisdiction shall be designed, constructed, installed, inspected, repaired, altered, maintained and operated in accordance with the ASME Code, most current edition and the latest addenda thereto in effect, and these rules and regulations.

(b) **Special construction.** The provisions of this Chapter are not intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, code effectiveness, durability, and safety to those required by the ASME Code, provided that there is technical documentation to demonstrate the equivalency of the system, method, or device to the standards and provisions of this Act. If a device subject to the provisions of this Act is of special construction and cannot be constructed, installed and/or operated in accordance with the ASME Code and the provisions of this Act, details in the English language and United States customary units of the proposed construction and material specifications and calculations shall be submitted to the Chief Elevator Inspector for approval as a "State Special" before construction is started.

(c) **Miscellaneous.** The requirements of the Americans With Disabilities Act dealing with accessibility guidelines, as applicable, shall apply to all elevators and conveyances subject to the provisions of the Act.

380:70-3-3. Variances

(a) Any owner or user who believes that under his or her particular circumstances the rules and regulations promulgated by the Commissioner are unnecessary or impose an undue burden may request a variance from the applicable rule or regulation. The variance request shall be in writing and shall specify how safety equivalence is to be maintained in accordance with the

provisions of this Chapter. The Commissioner may grant the variance, provided that the safety of employees or general public is not adversely affected. Any variance request on a new elevator installation must be submitted by the elevator contractor performing the installation. At the department's discretion, the elevator owner may be requested to state, in writing, his concurrence with the requested variance.

(b) When there is reason to believe, or upon receipt of a complaint, that a variance does not provide the safety equivalence to the provisions of this Act, the Commissioner, after notice to the owner or user and complainant, may continue, suspend, revoke, or modify the conditions specified in any variance.

(c) No statement, act, or omission of the Commissioner of Labor, the Chief Elevator Inspector, Deputy Inspector or Special Inspector, other than a written variance described above, shall exempt any owner or user from full compliance with the terms of any law of the State of Oklahoma or rule of the Elevator Safety Act.

380:70-3-4. National standards, adoption and availability

(a) The following American National Standards are hereby adopted:

(1) Safety Code for Elevators and Escalators, ASME A17.1, latest edition and most current addenda.

(2) Safety Code for Existing Elevators and Escalators, ASME A17.3, latest edition and most current addenda.

(3) Safety Standard for Platform Lifts and Stairway Chairlifts, ASME A18.1, latest edition and most current addenda.

(4) Safety Standard for Belt Manlifts, ASME A90.1, latest edition and most current addenda.

(5) Safety Requirements for Personnel Hoists and Employee Elevators, ASSE A10.4, latest edition.

(6) The National Electrical Code, NFPA 70, latest edition.

(b) Standards referenced in this chapter are available for public viewing in the office of the Chief Elevator Inspector and may be purchased from the American Society of Mechanical Engineers and the National Fire Protection Association.

(c) Compliance with the provisions of the Elevator Safety Act does not relieve an owner, operator, or licensed Elevator Contractor from the requirement to comply with Codes and Standards as may be adopted and enforced by the Construction Industries Board and the Office of the State Fire Marshal, or other such state or jurisdictional agency as may be required.

380:70-3-5. Inspection frequencies; variations

(a) Elevators, escalators, moving walkways, chairlifts and conveyances subject to the provisions of this Act shall be inspected for the purpose of issuing a Certificate of Operation in accordance with the following frequencies:

(1) 2 - 4 floor elevator units shall be inspected not less than once every 2 years;

(2) Any wire rope elevator, regardless of floors, shall be inspected annually;

- (3) Escalators and moving walkways shall be inspected annually;
- (4) Wheelchair lifts shall be inspected triennially;
- (5) Temporary elevators shall be inspected at each installation/erection; and
- (6) Any elevator or other such conveyance subject to the provisions of this Act located in a structure whose occupants are mobility restricted, such as hospitals, nursing homes and residential care facilities, shall be inspected annually.

(b) Based upon documentation of such actual service conditions by the owner or user of the operating equipment, the Commissioner may, at his/her discretion, permit variations in the inspection frequency as provided in the Act.

(c) The inspections herein required shall be made by the Commissioner, Chief Elevator Inspector, Deputy Inspector or a Special Inspector as provided for in the Act. Inspectors shall have free access during reasonable hours, to any premises in the state where an elevator, escalator, moving walkway, wheelchair lift, conveyance or other device covered by this Act, is being installed, constructed, repaired, altered, or operated, for the purpose of ascertaining whether such device is being constructed, installed, repaired, altered and/or operated in accordance with the provisions of the Act. Inspections may be conducted without prior notice.

380:70-3-6. Requests for night time inspections

(a) **Night time Inspections.** The Commissioner may allow for the night time inspection of elevators or conveyances subject to the provisions of the Act if such inspection is in the best interest of business and safety.

(b) **New installation/New construction.** Requests for night time inspections of new elevator or conveyance installation/construction shall be made on forms provided by the Department and shall be received by the Department not less than five (5) working days prior to the requested inspection date.

(c) **Existing installations.** Requests for night time inspections of existing elevator or conveyance installations shall be made as far in advance of the requested date as is reasonably possible, but in no case less than thirty (30) working days prior to the requested date of inspection.

380:70-3-7. Assignment and application of state identification numbers

(a) Upon completion of the installation of an elevator or conveyance, or at the time of the initial certificate inspection of an existing installation, each elevator or conveyance shall be identified by a unique six digit state identification number. The six digit state identification numbers shall begin with the capital letter "E" and shall be followed by a five digit numeric identification number.

(b) The state identification number shall appear on all Certificates of Operation issued pursuant to the provisions of this Act.

(c) State identification numbers, once issued shall not be reissued.

(d) State identification numbers shall be permanently affixed to, or stamped or etched onto the elevator or conveyance by the installing contractor for new installations and by the owner/user or their designated agent for existing installations.

380:70-3-8. Certificates of operation

(a) Any conveyance inspected in accordance with the provisions of this Act and found to be, in the opinion of the inspector, safe for continued operation and in compliance with the requirements of this Act, and upon payment of the required fee to the Department, shall be issued a Certificate of Operation by the Department.

(b) All Certificates of Operation issued by the Department shall be maintained in a suitable frame under transparent cover.

(c) All Certificates of Operation issued by the Department shall contain at a minimum the name and complete mailing address of the structure where the conveyance is installed or erected, the state identification number assigned to the conveyance, the date of the most recent inspection and the expiration date of the Certificate of Operation.

(d) The required Certificates of Operation shall be posted conspicuously as follows:

- (1) inside elevator cars, or
- (2) inside escalator and moving walkway machinery rooms, or
- (3) in some other location acceptable to the Department.

(e) When an elevator or conveyance with a valid Certificate of Operation undergoes an alteration or is remodeled, the Certificate of Operation becomes invalid. To release the altered or remodeled elevator for use by the general public, the elevator must pass an inspection conducted by the Department.

380:70-3-9. Temporary Certificates of Operation

(a) Temporary Certificates of Operation may be issued for established elevators or conveyances after the required inspection to renew a Certificate of Operation subject to the following conditions:

(1) When a routine inspection is performed and the inspector finds that the elevator or conveyance does not comply with the provisions of the Act, the inspector will explain what the violations are, what repairs are required, and shall also document them on a inspection report and/or checkoff list. Upon agreement of a reinspection date between the inspector and the owner or lessee of not more than 60 days, the inspector may issue a Temporary Certificate of Operation for the elevator or conveyance.

(2) Elevators or conveyances granted a Temporary Certificate of Operation shall be re-inspected prior to the expiration date of the Temporary Certificate of Operation. If any of the conditions that caused the issuance of a Temporary Certificate of Operation are found to have not been corrected, no further Certificates shall be issued and the Chief Elevator Inspector shall be consulted about future operations of the unit including but not limited to extensions of time, restricted operations or up to being Red Tagged.

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(3) In addition to any other fee provided for in the Act, a fee for the issuance of a Temporary Certificate of Operation shall be assessed.

(4) The issuance of a Temporary Certificate of Operation shall be reported to the department by the inspector within 24 hours or the first working day after its issuance.

(b) Temporary Certificates of Operation may be issued for new elevators or conveyances at the request of a licensed elevator contractor for elevators or conveyances and personnel hoists in accordance with the following requirements:

(1) **Issuance for Elevators.** The Chief Elevator Inspector may allow the temporary use of any elevator for passenger or freight service during its new installation or alteration under the authority of a Temporary Certificate of Operation, issued for each class of service. Such limited certificates shall not be issued for elevators until the elevator has been tested with a rated load, and the car safety, hoistway door interlocks, car door switch, and terminal stopping devices have been tested to determine the safety of the equipment for the specified construction purposes.

(2) **Issuance for Personnel Hoists.** The Chief Elevator Inspector may allow the temporary use of any personnel hoist under the authority of a Temporary Certificate of Operation. Such limited certificate shall not be issued until the personnel hoist has been tested with a rated load, and the car safety, hoistway door interlocks, car door switch, and terminal stopping devices have been tested to determine the safety of the equipment.

(3) **Expiration.** Temporary Certificates of Operation issued in accordance with Subsections (b)(1) and (b)(2) shall expire pursuant to the following:

(A) Temporary Certificates of Operation for new elevators or conveyances may be issued for a period not to exceed ninety (90) days.

(B) Temporary Certificates of Operation for personnel hoists may be issued for a period of time not to exceed the length of the applicable construction project.

(C) Such certificates may be renewed at the discretion of the Chief Elevator Inspector upon receiving a written request showing justifiable cause for renewal.

380:70-3-10. Noncomplying conveyances

(a) Whenever the Commissioner or his/her duly appointed representative determines that an elevator or conveyance is subject to the provisions of this Act and that the operation of such conveyance is exposing the public to an unsafe condition likely to result in serious personal injury or property damage, he/she may immediately order in writing that the use of the elevator or conveyance be stopped until such time as it is determined that the conveyance has been made safe for use by the public. Any such written order shall constitute an immediate suspension of any valid Certificate of Operation granted under the provisions of this Act.

(b) Whenever the Commissioner or his/her duly appointed representative determines that the provisions of this Act and

these rules and regulations have not been complied with, he/she may refuse to issue or renew, or may revoke or suspend a Certificate of Operation.

(c) Written notification as required in subsection (a) of this section may be in the form of a "Red Tag" affixed to the elevator or conveyance at the time of inspection by the elevator inspector stating that any further operation of the conveyance is in violation of the provisions of the Elevator Safety Act.

(d) Any elevator or conveyance "Red Tagged" shall be rendered disabled by the owner/user or their authorized agent or contractor in the presence of the elevator inspector issuing the "Red Tag" and such elevator or conveyance shall remain inoperative until further operation is authorized by the Commissioner after reinspection and found to be in compliance with the provisions of this Act.

380:70-3-11. Appeals and/or Hearings

Any denial of an issuance of a Certificate of Operation, Temporary Certificate of Operation, or any order issued by the Commissioner, or any Red Tag notification may appeal the denial and be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedures Act, if written request is received by the Department within fifteen days (15) of the denial letter or notification.

380:70-3-12. Operation of unsafe conveyance

(a) No person shall operate, permit to be operated or use any elevator or conveyance subject to the provisions of this Act if such person knows, or reasonably should know that such operation or use could expose the public to an unsafe condition which is likely to result in personal injury or property damage.

(b) Any licensed elevator contractor, licensed elevator mechanic or licensed elevator inspector that fails to immediately report an unsafe conveyance to the Chief Elevator Inspector shall be guilty of a misdemeanor and subject to such fine and/or imprisonment as provided for in the Act.

380:70-3-13. Operation without Certificate; operation not in accordance with Act or Rules; operation after refusal to issue or after revocation of Certificate.

(a) No person shall operate, use or permit to be operated any elevator or conveyance subject to the provisions of this Act, without a valid Certificate of Operation unless the absence of a valid certificate is the result of the Commissioner's failure to inspect such elevator or conveyance.

(b) No person shall operate, use or permit to be operated any elevator or conveyance subject to the provisions of this Act, other than in accordance with this Act and the rules and regulations promulgated hereunder.

(c) No person shall operate, use or permit to be operated any elevator or conveyance subject to the provisions of this Act, after the Commissioner has refused to issue or has revoked the Certificate of Operation for such elevator or conveyance.

380:70-3-14. Interfering with inspector

No person, firm or corporation shall interfere with, obstruct or hinder by force or otherwise, the Commissioner of Labor or his/her authorized representatives while in the performance of their duties, or refuse to properly answer questions asked by such officers pertaining to the law over which he/she has supervision under the provisions of this Act, or refuse them admittance to any place where an elevator or conveyance is located which is affected by this Act.

380:70-3-15. Penalties

(a) Any person violating the provisions of the Act and this Chapter shall be guilty of a misdemeanor and, upon conviction, subject to a fine of not more than Five Hundred Dollars (\$500.00) for the first offense and up to One Thousand Dollars (\$1,000.00) for each additional offense, or imprisonment in the county jail for not more than ten (10) days, or both such fine and imprisonment. Each day's violation shall constitute a separate offense. Conviction as provided herein shall not preclude any filing of a civil action.

(b) The Commissioner shall have subpoena powers and shall have the right to seek injunctive relief to prevent the operation of elevators and/or conveyances lacking a Certificate of Operation after November 1, 2006, or failing inspection. For any violation of the Elevator Safety Act, the Commissioner may assess an administrative fine of not more than Five Hundred Dollars (\$500.00), which fine may be assessed in addition to any other penalty provided pursuant to this Act.

SUBCHAPTER 5. LICENSES

380:70-5-1. Elevator Contractor's License: Issuance, denial and renewal

(a) Upon the effective date of this Chapter, no elevator or conveyance subject to the provisions of this Act shall be installed in this state by any sole proprietor, firm or corporation not having first been issued at the time of the construction or installation a valid elevator contractor's license, issued by the Department of Labor. There shall be a six (6) month grace period from the date of enactment of this Chapter to allow new and existing elevator contractors an opportunity to comply with the provisions of this section.

(b) Any sole proprietor, firm or corporation wishing to engage in the business of installation, alteration, service, repair, replacement or maintenance of elevators, escalators, moving walkways, wheelchair lifts, or other such conveyances within the state of Oklahoma shall make application for an elevator contractor's license to the Oklahoma Department of Labor.

(c) No license shall be granted to any sole proprietor, firm or corporation that has not demonstrated the requisite qualifications and abilities. Duly authorized applicants for an elevator contractor's license must have in their employ licensed elevator mechanic(s) who perform the work described herein.

(d) Application for elevator contractor's license shall be on forms provided by the Department and shall contain, as a minimum, the following information:

(1) If a person or sole proprietor, the name, residence and business address of the applicant;

(2) If a partnership, the name, residence and business address of each partner;

(3) If a domestic corporation, the name and business address of the corporation and the name and residence address of the principal officer of said corporation;

(4) If a corporation other than a domestic corporation, the name and address of the local agent located in the State of Oklahoma who shall be authorized to accept service of process and/or official notices;

(5) The approximate number of licensed elevator mechanics expected to be employed by the elevator contractor applicant, and if applicable, satisfactory evidence that the employees are or will be covered by workers' compensation insurance;

(6) Verification of liability insurance as required by the Chapter;

(7) Such other information as the Chief Elevator Inspector may require;

(8) Designation of at least one but not more than two responsible parties to be named on the license. Such responsible parties shall have and maintain the training credentials required for a valid contractor's license. Documentation of satisfactory completion of the required training and all subsequent refresher training shall accompany the application;

(A) In the absence of such responsible party in the employ of the contractor, the contractor shall not be allowed to perform elevator or conveyance installation, service, repair, alteration, testing or maintenance work in the State of Oklahoma.

(B) Responsible party(ies) may be changed or added to the license at any time by providing written notice to the Department of such change.

(9) Written notice of change shall be provided to the department when any item on the application changes.

(e) Upon approval of an application and receipt of fees as provided for by the Act, the Commissioner may issue the elevator contractor's license.

(f) Upon receipt of fees as established in the Act, and such additional documentation as may be required by the Commissioner, a license may be issued to a sole proprietor, firm or corporation holding a valid license from a state or jurisdiction having standards substantially equal to those contained in this Act.

(g) The Department may deny approval or renewal of an elevator contractor's license for cause. The Department shall mail written notice to the applicant of the denial, the reason for the denial, and a statement that the applicant may appeal to the Commissioner provided their written request is received by the Department within fifteen (15) days of the date of the denial notice.

(h) The Department shall notify holders of valid elevator contractor's licenses not more than sixty (60) days prior to the expiration date of the license that it must be renewed prior to the last day of the month in which it was initially issued. Elevator Contractor's licenses not renewed on or before the expiration date shall become invalid.

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(i) Elevator Contractor's licenses not renewed prior to the expiration date shall be subject to late fee and renewal fees as provided for in the Act.

(j) Elevator contractors may have in their employ elevator inspectors licensed in accordance with the provisions of this Chapter for the purpose of witnessing and certifying conveyance tests as required by the Act, this Chapter and the applicable ASME Code(s).

380:70-5-2. Elevator Mechanic's License: Issuance, denial, and renewal

(a) Upon the effective date of this Chapter, no person shall work as an elevator mechanic to install, service, repair, alter, remodel or maintain any elevator or conveyance subject to the provisions of this Act and this Chapter without having first been issued a valid elevator mechanic's license by the Department. There shall be a six (6) month grace period after the effective date of this Chapter to allow new and existing elevator mechanics to comply with the requirements of this Section.

(b) No license shall be granted to any person who has not sufficiently demonstrated their qualifications and abilities. Applicants for an elevator mechanic's license must demonstrate the following qualifications:

(1) An acceptable combination of documented experience and education credits: Not less than three (3) years work experience in the elevator industry, in construction, maintenance and service/repair, as verified by current and previous employers licensed to do business in this state or other such jurisdiction having an elevator program substantially equal to this Act; Satisfactory completion of a written examination administered by the Chief Elevator Inspector on the most recent referenced codes, standards, and this Act;

(2) Any person who furnishes the Commissioner with acceptable and verified proof that they have worked as an elevator constructor, maintenance, or repair person may, upon making application for an elevator mechanic's license and paying the license fee, be entitled to receive a license without an examination. They shall have worked without direct or immediate supervision for an elevator contractor licensed to do business in this state or other jurisdiction having a program substantially equal to this Act. This employment shall not be less than three (3) years immediately prior to the effective date of this Act;

(3) Provide certificates of completion demonstrating successful passage of a mechanic's examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Education Program or its equivalent; or

(4) Provide certificates of completion of an apprenticeship program for elevator mechanic's registered with the Bureau of Apprenticeship and Training, of the U.S. Department of Labor or a state apprenticeship council;

(5) A license may be issued to an individual holding a valid elevator mechanic's license from a state having standards substantially equal to those of this Act, upon application and payment of such fees as provided for in this Act, without examination.

(c) Applications for an elevator mechanic's license shall be on forms provided by the Department.

(d) Elevator mechanic's licenses shall be valid for a period of one (1) year and expire on the last day of the month of initial issuance. The Department shall notify holders of valid elevator mechanic's licenses not less than sixty (60) days prior to the expiration date of the license that it must be renewed within the next sixty (60) days. Elevator mechanic's licenses not renewed prior to or before the expiration date shall become invalid.

(e) Elevator mechanic's licenses not renewed prior to or before the expiration date shall be subject to late fee and renewal fees as provided for in the Act.

(f) Elevator mechanic's licenses once issued become the property of the licensee and must be carried on his/her person at all times when working on elevators or conveyances and made available upon request by the Commissioner, Chief or Deputy Elevator Inspector, or any Special Inspector.

(g) The Department may deny approval or renewal of an elevator mechanic's license for cause. The Department shall mail written notice to the applicant of the denial, the reason for the denial, and a statement that the applicant may be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedures Act, provided their written request is received by the Department within fifteen (15) days of the date of the denial notice

(h) Whenever an emergency exists in this state due to disaster, act of God or work stoppage and the number of persons in the state holding licenses granted by the Commissioner is insufficient to cope with the emergency, temporary elevator mechanic's licenses may be issued. A licensed elevator contractor shall notify the Chief Elevator Inspector when there are no licensed personnel available to perform elevator or conveyance work. The licensed elevator contractor may request that the Chief Elevator Inspector issue temporary elevator mechanic's licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct or immediate supervision. Any person certified by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct or immediate supervision shall immediately seek a temporary elevator mechanic's license from the Chief Elevator Inspector and shall pay such fees as provided for in this Act. Each such license shall recite that it is only valid for a period of thirty (30) days from the date of issuance and while employed by a licensed elevator contractor that certified the individual as qualified. It shall be renewable as long as the shortage of license holders shall continue, as determined by the Chief Elevator Inspector.

380:70-5-3. Elevator Inspector's License: Issuance, denial, and renewal

(a) No elevator inspector's license shall be granted to any person unless he or she demonstrates to the satisfaction of the Commissioner or Chief Elevator Inspector that he/she meets the current ASME QEI-1 Standards for the Qualification of Elevator Inspectors and/or state standards as described in this Chapter.

(b) Applicants for a license to inspect elevators or conveyances for the purpose of recommending the issuance of Certificates of Operation as required by this Act shall be required to meet the following qualifications:

(1) Have at least one (1) year experience in designing, installing, maintaining or inspecting elevators, escalators and other such conveyances;

(2) Have successfully passed the written examination for elevator inspectors administered by an organization accredited by the ASME to certify elevator inspectors in accordance with the ASME, QEI-1 Standard.

(3) Have no financial interest in any business or operation which manufactures, installs, repairs, modifies or services elevators, escalators, or other such conveyances. This qualification does not prohibit employees of insurance companies insuring elevators and conveyances from obtaining a license as an elevator inspector.

(c) The Commissioner may appoint a Chief and Deputy Elevator Inspector who at the time of appointment are not in possession of a valid ASME QEI Certification, but are in a trainee status, provided they successfully complete the required examination within eighteen (18) months of appointment.

(d) Applications for an elevator inspector's license shall be on forms provided by the Department.

(e) Elevator inspector licenses shall be valid for a period of one (1) year and shall expire each year on the last day of the month of initial issuance. Elevator inspector's licenses not renewed on or before the expiration date shall become invalid.

(f) Elevator inspector's licenses for special inspectors may be issued and renewed upon receipt of payment of such fees as provided for in the Act and receipt of documentation on company letterhead from the inspectors employer that the licensee is a full time employee of the company.

(g) Elevator inspector's licenses not renewed prior to the expiration date shall be subject to late fees and renewal fees as provided for in this Act.

(h) The Department may deny approval or renewal of an elevator inspector's license for cause. The Department shall mail written notice to the applicant of the denial, the reason for the denial, and a statement that the applicant may be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedures Act, provided their written request is received by the Department within fifteen (15) days of the date of the denial notice

380:70-5-4. Elevator apprentice registration

(a) Upon the effective date of this Act, no person shall function in the capacity of a elevator apprentice without first having been registered as an elevator apprentice with the Department. There shall be a six (6) month grace period from the date of enactment of this Chapter to allow new and existing elevator apprentices an opportunity to comply with the provisions of this Section.

(b) Application for elevator apprentice registration shall be on forms provided by the Department and shall document enrollment in an elevator apprentice program recognized by the United States Department of Labor.

(c) Upon approval of an application and receipt of fees as provided for by this Act, the Commissioner may register an elevator apprentice.

(d) Elevator apprentice registration shall be valid for a period of one (1) year and expire on the last day of the month of initial issuance. The Department shall notify holders of valid elevator apprentice registrations not less than sixty (60) days prior to the expiration date of the registration that it must be renewed within the next sixty (60) days. Elevator apprentice registrations not renewed prior to the expiration date shall become invalid.

(e) Elevator apprentice registration not renewed prior to the expiration date shall be subject to late fees and renewal fees as provide for in this Act.

(f) The Department may deny approval or renewal of an elevator apprentice registration for cause. The Department shall mail written notice to the applicant of the denial, the reason for the denial, and a statement that the applicant may be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedures Act, provided their written request is received by the Department within fifteen (15) days of the date of the denial notice

380:70-5-5. License not required

A licensed elevator contractor is not required for removing or dismantling elevators or conveyances which are destroyed as a result of a complete demolition of a secured building or structure, or where the hoistway or wellway is demolished back to the basic support structure whereby no access is permitted therein to endanger the safety and welfare of a person.

380:70-5-6. Conflicts of interest

An elevator inspector shall not engage in the sale of any service, article or device relating to elevators or conveyances or their appurtenances covered by this Act.

380:70-5-7. Continuing education

(a) The renewal of all licenses granted under the provisions of this Section shall be conditioned upon the submission of evidence of successful completion of course(s) designed to ensure the continuing education of the holder of a license on new and existing provisions of this Act and the Codes and Standards referenced herein. Such course(s) shall consist of not less than eight (8) hours of instruction that shall be attended and successfully completed within the year immediately preceding the renewal. Eight (8) hours of training need not be continuous but may be an accumulation of shorter periods of instruction that equal at least eight (8) hours.

(b) The course(s) shall be taught by instructors through continuing education providers that may include, but shall not be limited to, association seminars, labor training programs, career technology centers, and the Department. The Chief Elevator Inspector shall approve the continuing education providers.

(c) A holder of a license who is unable to complete the continuing education course required under this Section prior to the expiration of their license due to a temporary disability may apply for a waiver from the department.

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380:70-5-8. Suspension/Revocation of license, registration, or certification

(a) Any license or registration issued in accordance with the provisions of this Act may be suspended or revoked by the Commissioner of Labor after due investigation for the incompetence or untrustworthiness of the licensee or registrant, or for the willful falsification of any matter or statement contained in his/her application, or in a report of any inspection made by him/her. Written notice of any such suspension shall be transmitted by the Commissioner of Labor to the licensee and his employer, not more than ten (10) days following the suspension or revocation. Any person whose license, certificate or registration has been suspended or revoked shall be entitled to a hearing as provided by the Oklahoma Administrative Procedures Act, if written request for such hearing is received by the Department within fifteen (15) days of the date of suspension/revocation letter.

(b) Licenses, certificates and registrations may be suspended indefinitely or for some other shorter period of time as determined by the Commissioner.

(c) Any person whose license, certificate or registration has been suspended or revoked pursuant to the provisions of this Section may petition the Commissioner for reinstatement of the suspended or revoked document. Such petition shall be in writing and shall include such documentation as may be requested by the Commissioner to verify that any deficiency(ies) or condition(s) have been corrected.

(d) The Commissioner may communicate with employers and educational institutions as may be needed to verify that the deficiency(ies) and/or conditions have been corrected.

(e) Reinstatement of any license, certificate or registration shall be subject to a reinstatement fee as provided in this Act.

380:70-5-9. Replacement licenses, certificates, registrations

The Department may issue replacements for lost or destroyed licenses, certificates and registrations upon payment of a replacement fee as provided for in this Act.

SUBCHAPTER 7. EXISTING INSTALLATIONS

380:70-7-1. Existing installation, definition

Existing installation shall mean any elevator, escalator, moving walkway or other conveyance subject to the provisions of this Act in operation on or before the effective date of this Act shall be considered to be an "existing installation" subject to the provisions of this chapter.

380:70-7-2. Minimum standards for existing installations

(a) **Maintenance.** Existing installations subject to the provisions of this Act shall be maintained in accordance with the original manufacturer's installation, operation and maintenance requirements. For those installations where the original manufacturer's requirements are not available, they shall be operated, repaired and maintained in accordance

with the Safety Code for Existing Elevators and Escalators, ASME A17.3, good engineering practices, current acceptable industry standards and this Act.

(b) **Existing installation requirements.** Existing installations in operation on or before the enactment date of this Act shall be subject to the following requirements contained in the Safety Code for Existing Elevators and Escalators, ASME A17.3:

(1) Electrically-powered elevator driving machines shall be equipped with a friction brake applied by a spring or springs or by gravity and released electrically;

(2) The car of every elevator suspended by wire ropes shall be provided with one or more safety devices. These safeties shall be attached to the car frame and one safety shall be located within or below the lowest members of the car frame (safety plank);

(3) Operating devices for electrically-powered or electrically-controlled elevators shall be of the enclosed electric type;

(4) Rope or rod operating devices activated directly by hand, or rope operating devices activated by wheels, levers or cranks shall not be used;

(5) Elevator hoistways shall be enclosed throughout their height and all hoistway landing openings shall be protected with doors or gates. Hoistway enclosures shall be constructed to have a fire resistive rating of not less than one (1) hour;

(6) Each elevator car shall be permanently enclosed on all sides and the top, except the sides for entrance and exit. Car side enclosures shall be of such strength and so designed and installed that when subjected to a pressure of 75 pounds applied horizontally at any point on the walls of the enclosure, the deflection will not exceed one inch;

(7) Car top enclosures shall be so designed and installed as to be capable of sustaining a load of not less than 100 pounds at any one (1) point;

(8) An emergency exit with cover shall be provided in the top of all elevator cars. The exit opening shall have an area of not less than 400 square inches and shall not measure less than 16 inches on any side. The exit shall be so located as to provide a clear unobstructed passage through it. The exit cover shall open outward and be hinged or otherwise attached to the car top and arranged to be opened from the top of the car only;

(9) A door or gate shall be provided at each entrance to the car;

(10) Doors shall be of horizontally or vertically sliding type. Gates shall be of the vertically sliding or horizontally sliding collapsible type located not more than 1-3/4 inches from the car sill. Gates shall extend from a point not less than one inch above the car floor to not less than six (6) feet above the car floor;

(11) Vertically sliding gates when in the fully opened position shall provide an entrance of not less than six (6) feet in height. Such gates shall be provided with pull straps to facilitate closing of the gate;

(12) Each car door shall be equipped with a car door or gate electric contact so located as to be inaccessible from

inside the car door and shall stop the car when the gate is opened a maximum of two (2) inches.

(c) **Exceptions.** Existing installations in warehouses of not more than two (2) floors that are not accessible to the general public are exempt from Sub-Section (b)(4) through (b)(12) of this Section provided that all of the following conditions are met:

- (1) The warehouse shall be used solely for the purpose of storing materials and products;
- (2) Hoistways that are not fully enclosed shall be protected by guards to prevent access to the hoistways by other than elevator personnel;
- (3) All capabilities of operating the elevator from the car or platform shall be removed;
- (4) Riders shall not be permitted to ride the car or platform; and
- (5) A sign stating "Absolutely No Riders Permitted" in letters not less than one (1) inch high on a contrasting background shall be posted at each entrance to the elevator.

(d) **Time extension for compliance.** Upon the recommendation of a licensed elevator inspector, an existing installation may be granted a period of up to twelve (12) months from the effective date of the Act to come into compliance with the provisions contained herein. All such extension requests shall be in writing and contain a list of non-compliant conditions and indicate the required date of compliance. All such extension requests shall be subject to approval of the Chief Elevator Inspector.

(e) **Conflicts.** If a conflict exists between the requirements of the original manufacturer's instructions and recommendations and the ASME Code, the Chief Elevator Inspector shall make a determination as to which requirement is to take precedence.

380:70-7-3. Conditions not covered

All conditions not covered in these rules and regulations shall be referred to the Chief Elevator Inspector for consideration on a case by case basis.

SUBCHAPTER 9. NEW INSTALLATIONS

380:70-9-1. New installation requirements; conflicts

(a) The design, construction, installation, inspection and operation of all new installations of elevators, escalators, moving walkways and other conveyances subject to the provisions of this Act shall conform to the rules of this Section and the Safety Code for Elevators and Escalators, ASME A17.1, most current edition and addenda thereto and/or the Safety Standard for Platform Lifts and Stairway Chairlifts, ASME A18.1, most current edition and addenda thereto, and/or the Safety Standard for Belt Manlifts, ASME A90.1, most current edition and addenda thereto, and the National Electric Code, NFPA 70, as applicable.

(b) If there exists a conflict between the requirements of this Act, its rules and regulations, and any of the codes or standards referenced herein, the most stringent requirement as determined by the Chief Elevator Inspector shall be applied.

380:70-9-2. Installation permits

(a) No elevator, escalator, moving walkway or other such conveyance subject to the provisions of this Act shall be installed in this State without first being issued an installation permit by the Department to a licensed elevator contractor to perform the installation.

(b) Application for an installation permit shall be made on forms furnished by the Department and shall be submitted by the installing licensed elevator contractor. Each application for a permit shall be accompanied by copies of specifications and accurately scaled, full dimensioned plans showing the location of the installation in relation to the plans and elevation of the building; the location of the machinery room and the equipment to be installed therein, relocated or altered; and all structural supporting members thereof, including foundations, and shall specify all materials to be employed and all loads to be supported or conveyed. Such plans and specifications shall be sufficiently complete to illustrate all details of construction and design.

(c) Applications for installation permits shall be submitted to the Department sufficiently in advance of the requested start date to allow for a complete and thorough review of the plans and specifications.

(d) Upon receipt of an application for installation and payment of all prescribed fees, the Department shall review the application for compliance with the provisions of this Act and these rules and regulations. The Department may issue an installation permit or shall notify the applicant in writing of the reasons the installation permit was denied.

(e) Any applicant who has been denied an installation permit by the Department may be afforded the opportunity for hearing in accordance with the Administrative Procedures Act, provided a written request is received by the Department within fifteen (15) days of the date denial notice.

(f) Installation permits shall be conspicuously posted at the place of installation or construction and shall remain so posted until an acceptance inspection has been performed and a Certificate of Operation has been issued.

(g) Permits issued in accordance with this Section may be revoked for the following reasons:

- (1) Where any false statements or misrepresentations as to the material facts in the application, plans or specifications on which the permit was based;
- (2) Where the permit was issued in error and should not have been issued in accordance with this Act, and the rules, regulations and codes cited herein;
- (3) Where the work detailed under the permit is not being performed in accordance with the provisions of the application, plans or specifications or with this Act, the rules, regulations and codes cited herein or conditions of the permit; or

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(4) Where the elevator contractor to whom the permit was issued fails or refuses to comply with any order of the Commissioner, Chief or Deputy Elevator Inspector.

(h) Permits issued under the provisions of this Act shall expire:

(1) If the work authorized by such permit is not commenced within six (6) months after the date of issuance, or within a shorter period of time as the Chief Elevator Inspector in his discretion may specify at the time the permit is issued; or

(2) If the work is suspended or abandoned for a period of sixty (60) days, or such shorter period of time as the Chief Elevator Inspector in his/her discretion may specify at the time the permit is issued, after the work has been started. For good cause, the Chief Elevator Inspector may allow extension of the forgoing period at his/her discretion.

380:70-9-3. Pre-Inspection checklist for new elevator installations

The installing licensed elevator contractor shall cause to be completed and delivered to the Deputy Inspector upon his arrival to conduct the initial certificate inspection of an elevator or conveyance, a pre-inspection checklist for new elevator installations.

380:70-9-4. Conditions not covered

All conditions not covered by this Act, the rules and regulations and interpretations of codes cited herein and standard requirements shall be referred to the Chief Elevator Inspector for consideration on a case by case basis.

SUBCHAPTER 11. GENERAL REQUIREMENTS

380:70-11-1. Reports of inspection

(a) A report of inspection shall be completed and submitted to the Department for every inspection conducted as required by the provisions of the Act and this Chapter. Reports of inspection shall be on forms acceptable to the Department.

(b) Special Inspectors shall submit reports of inspection to the Department within thirty (30) days of the completion of the inspection.

(c) Reports of inspection shall be provided to the owner/operator, contractor or his/her authorized agent at the time of the inspection or soon thereafter, but in no instance more than thirty (30) days following the completion of the inspection.

380:70-11-2. Reports of occurrences

(a) The owner of any conveyance regulated under the provisions of this Act, or his authorized agent, shall within 24 hours notify the Commissioner of each and every occurrence involving such elevator or conveyance subject to the provisions of this Act when:

(1) The occurrence results in death or injury requiring medical treatment by a physician, other than first aid.

First aid means the one time treatment or observation of scratches, cuts not requiring stitches, minor burns, splinters or contusions or a diagnostic procedure, including examination and x-rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed personnel; or

(2) The occurrence results in damage to the device indicating a substantial defect in design, mechanics, structure or equipment, affecting the future safe operation of the device. No reporting is required in the case of normal wear and tear.

(b) The Commissioner, without delay, after notification and determination that an occurrence involving injury or property damage has occurred, shall make a complete a thorough investigation of the occurrence.

(c) No person, following an occurrence as specified in subsection (a), shall operate, attempt to operate, use or move or attempt to move such elevator or conveyance, or part thereof, without the approval of the Commissioner, unless so as to prevent injury to any person or persons.

(d) No person, following an occurrence as specified in subsection (a), shall remove or attempt to remove from the premises any damaged or undamaged part of such elevator or conveyance, or repair or attempt to repair any damaged part necessary to a complete a thorough investigation.

(e) The Department must initiate its investigation within 24 hours of being notified.

380:70-11-3. Preparation for inspection

(a) The owner or user shall prepare each elevator or conveyance for inspection. For new/remodeled installations this preparation is completed by the licensed elevator contractor. Proper preparation for inspection includes verification that all control and safety devices of the conveyance are connected and functioning.

(b) If necessary, the inspector may require the owner or licensed elevator contractor to isolate hazardous energy sources. The inspector may add his/her personal lock to the hazardous energy isolation to assure his personal safety.

380:70-11-4. Temporarily dormant elevator/conveyance

(a) An elevator or conveyance may be classified as temporarily dormant when it is to be taken out of service for a prolonged period of time. Any elevator or conveyance classified as temporarily dormant shall:

(1) Have its power supply disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the "OFF" position;

(2) Have the elevator cars shall be parked and the hoistway doors shall be in the closed position and latched;

(3) Have all elevator hoistway and floor access doors and gates be clearly labeled indicating that the elevator is out of service;

(4) Have a suitable seal installed on the mainline disconnect switch by a licensed elevator inspector; and

(5) Be in temporarily dormant status renewable on an annual basis that shall not exceed a five-year period.

(b) A temporarily dormant elevator or conveyances shall not be used again until it has been put in safe running order and is deemed safe for use as determined by a licensed elevator inspector.

380:70-11-5. Insurance requirements

Licensed elevator contractors shall submit to the Chief Elevator Inspector, an insurance policy or certified copy thereof, issued by an insurance company authorized to do business in this State, to provide general liability coverage of at least one million dollars for injury or death of any number of persons in any one occurrence, and with coverage of at least five hundred thousand dollars for property damage in any one occurrence and the statutory workers compensation insurance coverage.

380:70-11-6. Cities and municipalities: Concurrent inspection and licensing programs

(a) Notwithstanding any other provision, cities and municipalities may engage in the safety inspection of existing elevators and related conveyances, the permitting and inspection of new or modernized elevators and conveyances, and the licensing of city/municipal elevator inspectors, provided that such programs meet the following requirements:

(1) The inspection and safety requirements of the program shall be at least equal to or exceed the requirements of this Act.

(2) The city/municipal inspectors licensing requirements shall be at least equal to or exceed the elevator inspector licensing requirements contained in this Act.

(b) The following exemptions shall be applicable to cities and municipalities that have established elevator safety programs meeting the requirements of subsection (a) of this section:

(1) Elevators, escalators and conveyances routinely inspected by city/municipal inspectors shall be exempt from inspection and any associated fees as provided for in this Act.

(2) City and municipal inspectors licensed in accordance with the provisions of a recognized city or municipal elevator safety program shall be exempt from the licensing requirements and any associated fees as provided for in this Act.

(c) Immediately upon the disestablishment or termination of any city or municipal elevator safety program all exemptions allowed in subsection (b) of this section shall be voided and the applicable provisions of this Act shall become immediately effective.

380:70-11-7. Inspection of exempted conveyances

The Commissioner may provide for the inspection of elevators or conveyances that are exempt from the provisions of this Act upon receiving a written request from the owner or his/her authorized agent. These inspections will be performed and a fee charged as provided for in this Act. Upon completion of the inspection, the inspector will notify the owner or

his/her authorized agent of any safety code violations. Correction of the code violations in exempt elevators or conveyances is solely at the discretion of the owner.

380:70-11-8. Major repairs and alterations: Permit

(a) Prior to the alteration or major repair of any elevator or conveyance subject to the provisions of this Act, an alteration permit shall be obtained from the Department. Applications for alteration permits shall be on forms provided by the Department and shall be submitted by the installing licensed elevator contractor. The application shall require the submission of detailed plans and specifications bearing the seal of a registered professional engineer familiar with elevators and conveyances.

(b) All alterations and major repairs to elevators and conveyances shall be made in conformity with the requirements of the applicable ASME Code(s) and this Chapter.

(c) Upon receipt of an application for an alteration permit to perform an alteration or major repair, and the required plan and specifications, the Department shall review the application for compliance with the Act and this Chapter. The Department may issue an alteration permit or shall notify the applicant in writing of the reason(s) the alteration permit was denied.

(d) Any applicant who has been denied a permit or alteration of major repair by the Department may appeal that denial to the Commissioner, provided written request to appeal is received by the Department within fifteen (15) days of the date of the applicant's notice of denial.

(e) When an elevator or conveyance with a valid Certificate of Operation undergoes an alteration or major repair, the Certificate of Operation shall become invalid until such time as the conveyance undergoes an inspection by a licensed elevator inspector. Reports of such alteration or major repair shall be filed with the Department within thirty (30) days of the inspection and shall be on forms acceptable to the Department.

(f) If the Report of Inspection required by this Chapter indicates that there is a failure to comply with the plans and specifications approved by the Department, or provisions this Act, the Certificate of Operation may be denied. The Department shall notify the owner of the conveyance in writing of the reason(s) for the denial.

(g) An owner who has been denied an operating permit by the Department may appeal that denial to the Commissioner, provided a written request to appeal is received by the Commissioner within fifteen (15) days of the date of the owner's notice of denial.

380:70-11-9. Remodeled conveyances

(a) When an elevator or conveyance is remodeled, the remodeled portions must comply with the Safety Code for Existing Elevators and Escalators in effect at the time the remodeling contract is signed. The portions of the elevator or conveyance which are not remodeled must continue to meet the requirements of the current adopted edition of the Safety Code for Existing Elevators and Escalators.

(b) The licensed elevator contractor is responsible for arranging inspections and correcting code violations.

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380:70-11-10. Periodic testing

Periodic testing of elevators covered under ASME, A17.1, 8.11.1.3 shall be as outlined in **Appendix A**. Such tests shall be performed by a licensed elevator mechanic and witnessed and reported by a licensed elevator inspector.

380:70-11-11. Emergency keys

Keys for the emergency operation of elevators and conveyances subject to the provisions of this Act shall be made available to fire departments for any building of three stories or more.

380:70-11-12. Welding

(a) Whenever welding is to be performed on elevators or conveyances subject to the provisions of this Act, or any of their parts, all such weldment, except tack welds later incorporated into final weldment, shall be performed by welders qualified in accordance with the requirements of ANSI/AWS D1.1 or the latest AWS requirements applicable to the specific materials to be welded.

(b) Welder certification testing shall be performed by Weld Test Facilities licensed in accordance with the Oklahoma Welding Law, Title 59 of the Oklahoma Statutes, Section 1624 et seq.

380:70-11-13. Maintenance, repair, and replacement

All elevators and conveyances subject to the provisions of this Act shall have a written Maintenance Control Program in place to maintain the equipment in compliance with ASME A17.1, Section 8.6. Such program shall at a minimum:

(1) Include a listing of examinations, maintenance, and tests of equipment at scheduled intervals in order to ensure that the installation conforms to the requirements of ASME A17.1, Section 8.6;

(2) Contain instructions for locating the Maintenance Control Program that shall be provided in or on the controller along with instructions on how to report any corrective action that might be necessary to the responsible party;

(3) Shall be maintained in a central location and be accessible to the elevator personnel; and

(4) Contain maintenance records that shall document compliance with the requirements of ASME A17.1, Section 8.6 and shall include records on the following activities:

(A) Description and dates of maintenance tasks performed;

(B) Description and dates of examinations, tests, adjustments, repairs, and replacements;

(C) Description and dates of call backs (trouble calls) or reports that are reported to elevator personnel by any means, including corrective action taken; and

(D) Written record of the findings on the firefighter's service operation required by A17.1, sub-section 8.6.10.1.

380:70-11-14. Conditions not covered

All cases not specifically covered by this Act and these rules and regulations shall be referred to the Chief Elevator Inspector for consideration on a case by case basis.

APPENDIX A. PERIODIC TESTING TABLES [NEW]

A17.1 Reference Section	Equipment Type Periodic Tests	Category One		Category Five	
		Requirement	Interval Months	Requirement	Interval Months
8.11.2	Electric Elevators	8.11.2.2	12	8.11.2.3	60
8.11.3	Hydraulic Elevators	8.11.3.2	12	8.11.3.4	60
8.11.4	Escalators and Moving Walks	8.11.4.2	12	N/A	N/A
8.11.5.1	Sidewalk Elevators	8.11.2.2 & 8.11.3.2	12	8.11.2.3 & 8.11.3.4	60
8.11.5.6	Special purpose personnel elevators	8.11.2.2 & 8.11.3.2		8.11.2.3 & 8.11.3.4	60
8.11.5.7	Inclined Elevators	8.11.2.2 & 8.11.3.2		8.11.2.3 & 8.11.3.4	60
8.11.5.9	Screw-column elevators	8.11.2.2 & 8.11.3.2		8.11.2.3 & 8.11.3.4	60
8.11.5.12	Limited-Use/Limited Application Elevators	8.11.2.2 & 8.11.3.2		8.11.2.3 & 8.11.3.4	60
8.11.5.13	Construction Use Elevators	8.11.2.2 & 8.11.3.2		8.11.2.3 & 8.11.3.4	60

	Seismic Tests				
8.4.10	Electric Elevators	8.4.10.1	12	N/A	N/A
8.4.11	Hydraulic Elevators	N/A	N/A	8.4.11.2	60
8.5.4	Escalators	8.5.4	12	N/A	N/A

[OAR Docket #06-1278; filed 8-29-06]

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TITLE 485. OKLAHOMA BOARD OF NURSING CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #06-1285]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse

485:10-7-2. [AMENDED]

Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse

485:10-9-2. [AMENDED]

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §567.5B; 59 O.S. §567.6B

DATES:

Adoption:

July 25, 2006

Approved by Governor:

August 24, 2006

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2007, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

If the rules are not adopted, applicants for nursing licensure educated in foreign countries will only have one option for English language testing. This test is only offered at 12 testing sites in the United States and each testing site accepts a limited number of testers. This may create a backlog of foreign-educated applicants waiting to complete English language testing, resulting in an inability to license otherwise eligible individuals in a timely manner. The Board finds that compelling public interest exists which requires an emergency rule.

ANALYSIS:

These emergency rule changes are related to requirements for English language testing for foreign-educated applicants for nursing licensure by endorsement. Educational Testing Services (ETS) is now offering the Test of English as a Foreign Language (TOEFL) in the United States only as an Internet-based examination. The new TOEFL iBT has been completed revised and now includes the language skills of speaking, listening, reading and writing. Because each of these skills is included in the examination, it is no longer necessary for the applicant to take the Test of Written English (TWE) and Test of Spoken English (TSE) and these examinations are being phased out worldwide. At this time, they are no longer offered in the United States. Because applicants may have previously completed the TOEFL, TSE, and TWE before they were phased out, this option is left intact in the Rules, but a new option for the Internet-based TOEFL has been added.

CONTACT PERSON:

Gayle McNish, Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106 (405) 962-1800.

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 7. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A REGISTERED NURSE

485:10-7-2. Licensure by endorsement

(a) Qualifications.

(1) An applicant for licensure by endorsement as a Registered Nurse must meet the requirements of the Oklahoma Nursing Practice Act. An evaluation of educational requirements may be completed to ensure the applicant meets educational standards.

(2) An applicant licensed in another state since January 1, 1952 must have written the licensing examination adopted by the Board with a passing score as established by the Board. A license to practice nursing in Oklahoma will not be issued until this requirement is met.

(3) An applicant must submit evidence of either:

(A) successful completion of the National Council Licensure Examination for Registered Nurses since July 1, 1982; or

(B) passing the State Board Test Pool Examination for Registered Nurse licensure prior to July 1, 1982.

(4) In addition to meeting other requirements for endorsement established by the Board in these rules, effective January 1, 2005, each applicant for endorsement must demonstrate evidence of continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;

(B) Successfully pass the National Council Licensure Examination for Registered Nurses;

(C) Submission of an official transcript verifying successful completion of at least seven (7) academic semester credit hours of nursing courses which include classroom and clinical instruction; and/or

(D) Present evidence of licensure as a registered nurse in another state with employment in a position that requires nursing licensure with verification of at least 520 work hours during the past two (2) years.

(5) Applicants for endorsement who took the National Council Licensure Examination for Registered Nurses for initial licensure within the last two years must:

(A) Provide evidence of completion of the nursing education program within two years of initial application for licensure by examination; or

(B) Have at least six months work experience in the state of original licensure.

(b) Applications.

(1) Applications must be completed, notarized and accompanied by a photograph signed by the applicant and filed with the Board.

(2) Endorsement may be accepted from the original state of licensure by examination.

(3) If the applicant has written the licensing examination adopted by the Board in a state other than the state of original licensure, an endorsement will be requested from that state, also.

- (4) If the application is not completed within one (1) year after receipt of fee, the application must be refilled.
- (c) **Fee for licensure by endorsement.**
 - (1) The fee shall accompany the application.
 - (2) The fee is not refundable.
 - (3) If the application is not completed within one (1) year, a new application and new fee will be required for licensure.
- (d) **Qualifications for applicants educated in foreign countries.** An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma.
 - (1) The applicant must present evidence of:
 - (A) graduation from a government-approved school of nursing;
 - (B) completion of formal courses including theory and clinical experience in nursing care of the adult, nursing care of children, maternal-infant nursing, psychiatric-mental health nursing as evidenced by:
 - (i) a translated transcript with certified proof of translation from original country of licensure, or
 - (ii) a certified copy of original transcript obtained directly from the Commission of Graduates of Foreign Nursing Schools (CGFNS)
 - (C) licensure in country of graduation as evidenced by official verification received directly from:
 - (i) the Commission of Graduates of Foreign Nursing Schools, or
 - (ii) verification received directly from the licensing body of applicant's initial licensure from a US Territory;
 - (D) competence in oral and written English as evidenced by successful completion of:
 - (i) Test of English as a Foreign Language (TOEFL) and Test of Spoken English (TSE) and Test of Written English (TWE) of the Educational Testing Service, or
 - (ii) Test of English for International Communication (TOEIC) and Test of Spoken English and Test of Written English of the Educational Testing Service, or
 - (iii) International English Language Testing System (IELTS); or
 - (iv) Test of English as a Foreign Language Internet-based test (TOEFL iBT).
 - (E) An evaluation of educational credentials as evidenced by:
 - (i) CGFNS Certificate Status or
 - (ii) CGFNS Healthcare Profession and Science Course-by-Course Report;
 - (iii) Reports received from CGFNS must have been completed within the five (5) years immediately preceding the date of application for licensure by endorsement. The five-year requirement is waived if the applicant holds a license in another state.
 - (F) Evidence of either:
 - (i) successful completion of the National Council Licensure Examination for Registered Nurses since July 1, 1982; or
 - (ii) passing the State Board Test Pool Examination for Registered Nurse licensure prior to July 1, 1981;
 - (2) The requirements for competence in spoken and written English are waived for applicants who are:
 - (A) Graduates of nursing education programs taught in English in Australia, Canada (except Quebec), Ireland New Zealand, the United Kingdom, Trinidad, Tobago, and the United States.
 - (B) Licensured in another US State or Territory, have successfully completed the licensure examination approved by the Board and have at least one year full-time equivalent work experience in a clinical setting as a registered nurse in the state of licensure.
 - (3) Applicants must submit a completed application and the required fee.
- (e) **Temporary license.**
 - (1) A temporary license may be issued to the applicant on proof of
 - (A) Current licensure in another state;
 - (B) Evidence of having written the licensure examination;
 - (C) Evidence of meeting educational qualifications through completion of a state board-approved nursing education program, or an evaluation of educational credentials and licensure in country of origin for the foreign-educated nurse as evidenced by:
 - (i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Healthcare Profession and Science Course-by-Course Report with verification of equivalent educational credentials and unrestricted licensure in country of origin, or
 - (ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status; and
 - (D) Payment of the fee for licensure by endorsement and temporary license.
 - (2) The temporary license may not be issued for a period longer than ninety (90) days.
 - (3) The temporary license may be extended, but such period shall be no longer than one (1) year for any applicant.

SUBCHAPTER 9. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A LICENSED PRACTICAL NURSE

485:10-9-2. Licensure by endorsement

- (a) **Qualifications.**
 - (1) An applicant for licensure by endorsement as a Licensed Practical Nurse shall meet the requirements of the Oklahoma Nursing Practice Act. An evaluation of educational requirements may be completed to ensure the applicant meets educational standards.

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- (2) An applicant licensed in another state since June 30, 1954 must have passed the licensing examination adopted by the Board. A license to practice practical nursing in Oklahoma will not be issued until this requirement is met.
 - (3) In addition to meeting other requirements for endorsement established by the Board in these rules, effective January 1, 2005, each applicant for endorsement must demonstrate evidence of continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the application in the Board office:
 - (A) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;
 - (B) Successfully pass the National Council Licensure Examination for Practical Nurses;
 - (C) Submission of an official transcript verifying successful completion of at least seven (7) academic semester credit hours or 105 contact hours of nursing courses in a state-approved practical or registered nursing education program, which includes classroom and clinical instruction; and/or
 - (D) Present evidence of licensure as a practical nurse in another state with employment in a position that requires practical nursing licensure with verification of at least 520 work hours during the past two (2) years.
 - (4) Applicants for endorsement who took the National Council Licensure Examination for Practical Nurses for initial licensure within the last two years must
 - (A) Provide evidence of completion of the nursing education program within two years of initial application for licensure by examination; or
 - (B) Have at least six months work experience in the state of original licensure.
 - (b) **Applications.**
 - (1) Applications must be completed, certified and accompanied by a photograph signed by the applicant and filed with the Board.
 - (2) Endorsement may be accepted from the original state of licensure by examination.
 - (3) If the applicant has written the licensing examination adopted by the Board in a state other than the state of original licensure, an endorsement will be requested from that state, also.
 - (4) If the application is not completed within one (1) year after receipt of fee, the application must be refiled.
 - (c) **Fee for licensure by endorsement.**
 - (1) The fee shall accompany the application.
 - (2) The fee is not refundable.
 - (3) If the application is not completed within one (1) year, a new application and new fee will be required for licensure.
 - (d) **Qualifications for applicants educated in foreign countries.** An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma.
- (1) The applicant must present evidence of:
 - (A) completion of a high school diploma or high school equivalency certificate (GED), or meet criteria for an Adult High School Diploma;
 - (B) competence in oral and written English as evidenced by successful completion of:
 - (i) Test of English as a Foreign Language (TOEFL), Test of Written English (TWE), and Test of Spoken English (TSE) of the Educational Testing Service; or
 - (ii) Test of English for International Communication (TOEIC) and Test of Spoken English and Test of Written English of the Educational Testing Service; or
 - (iii) International English Language Testing System (IELTS); or
 - (iv) Test of English as a Foreign Language Internet-based test (TOEFL iBT).
 - (C) graduation from a government approved school of practical nursing or equivalent courses in a government approved school of nursing;
 - (D) licensure in country of graduation as evidenced by official verification completed within the last 12 months immediately preceding the date of application for licensure by endorsement received directly from:
 - (i) the Commission of Graduates of Foreign Nursing Schools, or
 - (ii) verification received directly from the licensing body of applicant's initial licensure from a US Territory;
 - (E) completion of formal courses including theory and clinical experience in nursing care of the adult, nursing care of children, and maternal-infant nursing in a government-approved school of nursing as evidenced by:
 - (i) a translated transcript from original country of licensure with certified proof of translation; or
 - (ii) a certified copy of the transcript received directly from the Commission on Graduates of Foreign Nursing Schools (CGFNS).
 - (F) An evaluation of educational credentials as evidenced by:
 - (i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Healthcare Profession and Science Course-by-Course Report or
 - (ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status;
 - (iii) Reports received from CGFNS must have been completed within the five (5) years immediately preceding the date of application for licensure by endorsement. The five-year requirement is waived if the applicant holds a license in another state.
 - (2) The applicant must successfully complete the licensing examination adopted by the Oklahoma Board of Nursing.

- (3) The requirements for competence in spoken and written English are waived for applicants who are:
 - (A) Graduates of nursing education programs taught in English in Australia, Canada (except Quebec), Ireland New Zealand, the United Kingdom, Trinidad, Tobago, and the United States or
 - (B) Licensed in another US State or Territory, have successfully completed the licensure examination approved by the Board and have at least one year full-time equivalent work experience in a clinical setting as a practical nurse in the state of licensure.
- (4) Applicants must submit a completed application with the required application and evaluation fees.
- (e) **Temporary license.**
 - (1) A temporary license may be issued to the applicant on proof of
 - (A) Current licensure in another state;
 - (B) Evidence of having written the licensure examination;
 - (C) Evidence of meeting educational qualifications through completion of a state board-approved nursing education program, or an evaluation of educational credentials and licensure in country of origin for the foreign-educated nurse as evidenced by:
 - (i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Healthcare Profession and Science Course-by-Course Report with verification of equivalent educational credentials and unrestricted licensure in country of origin, or
 - (ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status; and
 - (D) Payment of the fee for licensure by endorsement and temporary license.
 - (2) The temporary license may not be issued for a period longer than ninety (90) days.
 - (3) The temporary license may be extended, but such period shall be no longer than one (1) year.

[OAR Docket #06-1285; filed 9-6-06]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 10. PUBLIC EMPLOYEES
RETIREMENT SYSTEM**

[OAR Docket #06-1279]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 7. Retirement Benefits
590:10-7-5. Selecting an option [AMENDED]

AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. §§901, 909 and 910

DATES:
Public hearing:
July 20, 2006

Adoption:
July 20, 2006

Approved by Governor:

August 24, 2006

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2007, 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 an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule, amendment, revision, or revocation of an existing rule. This emergency rule is necessary as a result of recently enacted legislation in Enrolled House Bill 1179 from the 2nd Extraordinary Session of the 50th Oklahoma Legislature, amending 74 O.S. §918. This statutory amendment, which became effective July 1, 2006, permits OPERS to pay certain remaining Option C monthly benefits, or the present value of the remaining benefits in a lump-sum distribution, to the estate of the deceased member or designated beneficiary. The legislation requires OPERS to adopt rules to implement this provision. Members of OPERS who have elected the Option C benefit will be immediately affected by this statutory amendment.

ANALYSIS:

The amendment to 590:10-7-5 authorizes OPERS to pay to the person responsible for the estate of the member or designated beneficiary of the member the remaining benefits under the Option C ten-year certain period retirement option. The person responsible for the estate may elect to receive the benefits for the remainder of the ten-year certain period, or receive the present value of the remaining benefit payments in a one-time lump-sum distribution. The present value of the remaining benefit payments is determined by the actuarially assumed interest rate adopted by the OPERS Board of Trustees.

CONTACT PERSON:

Joseph A. Fox (405) 858-6737

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 7. RETIREMENT BENEFITS

590:10-7-5. Selecting an option

(a) The member may choose to receive the maximum benefit or receive benefits under any one of the retirement Options provided in 74 O.S., Sec. 918.

(1) The type of retirement benefit selected by the member and/or the member's spouse, if applicable, cannot be changed under any circumstances on or after the effective date of retirement, except as provided in this Section.

(2) In the event of the death of the named joint annuitant after the member's retirement date, the member shall provide the System with a copy of the joint annuitant's death certificate as notice of said death. The member's benefit will "pop-up" to reflect the amount of benefit the member would be entitled to absent the selection of an option. The "pop-up" increase becomes effective the first day of the month following the death of the joint annuitant, provided the member has given notice of said death. If the death of the joint annuitant occurred prior to June 30, 1994, the benefit increase may become effective with the July, 1994 benefit payment, provided the member has

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given notice of said death. Retrospective benefits will not be paid for any month prior to July, 1994, and are limited to a maximum of six (6) months. The "pop-up" increase is limited to members retiring with an Option A or Option B.

(b) A member choosing Option C provided in 74 O.S., Sec. 918 shall be subject to the following provisions:

(1) In the event of the death of the retired member within the ten-year certain period under Option C, and there are no living designated beneficiaries, the person responsible for the estate of the deceased retired member shall be given the option for the estate to receive monthly benefits for the remainder of the ten-year period, or receive the present value of the remaining benefit payments in a one-time, lump-sum distribution.

(2) In the event the retired member predeceases a designated beneficiary within the ten-year certain period, and the designated beneficiary dies after the beneficiary has begun to receive benefits, the person responsible for the estate of the beneficiary shall be given the option for the beneficiary's estate to receive monthly benefits for the remainder of the ten-year period, or receive the present value of the remaining benefit payments in a one-time, lump-sum distribution.

(3) For purposes of this subsection:

(A) "person responsible for the estate" means the personal representative, executor or administrator of

the estate as determined by a court of competent jurisdiction, or in the case of a probate waiver as permitted by 74 O.S., Section 916.1, the appropriate claiming heir; and

(B) "present value of the remaining benefit payments" means the lump-sum distribution shall be discounted using an interest rate equal to the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings for the year in which the election is made pursuant to this subsection.

(4) The following shall be provided by the person responsible for the estate before any benefits will be paid:

(A) taxpayer identification number (TIN) for the estate, if applicable;

(B) legal documents naming the personal representative, executor or administrator of the estate, or in the case of a probate waiver, the appropriate documents as set forth in 74 O.S., Section 916.1;

(C) certified copy of the death certificate for the member or beneficiary; and

(D) statement in writing from the person responsible for the estate selecting either the monthly or lump-sum payout method.

[OAR Docket #06-1279; filed 8-30-06]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2006-18.

EXECUTIVE ORDER 2006-18

I, Brad Henry, Governor of the State of Oklahoma, in recognition of Patriot Day, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Monday, September 11, 2006, to honor the many innocent people who perished on September 11, 2001.

On that day, more than 3,000 people lost their lives in New York City, Washington, D.C. and Pennsylvania. The flying of the flags at half-staff reflects that Oklahomans remember those killed and demonstrates our sympathy for their families.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order

to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 7th day of September, 2006.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #06-1295; filed 9-8-06]

