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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 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION CHAPTER 30. MANUFACTURERS, WHOLESALEERS, BREWERS, NONRESIDENT SELLERS AND CLASS B WHOLESALEERS

[OAR Docket #07-1612]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Brewers, Nonresident Sellers and Class B Wholesalers

45:30-5-1. Brewer discrimination prohibited [AMENDED]

SUMMARY:

Proposed rule 45:30-5-1 was submitted to the ABLE Commission, through a written Petition for Rule Change or Amendment, filed by Eagle Brand Beers, International Beers and Sooner Beer Company, all of which are licensed Class B Wholesalers. The purpose of the rule change would be to eliminate certain language which allows a manufacturer of malt beverages to establish certain standards related to quality control of malt beverages. The standards must be followed by the class B Wholesalers unless they are determined to be unreasonable by the ABLE Commission. The standards relate to rotation of product, both at the Class B wholesalers warehouses and at retail and mixed beverage establishments, refrigeration to certain temperature levels while in the warehouse and temperature controls while in transit, records and reports to implement rotation and refrigeration, and maintenance of lines and tappers provided by Class B Wholesalers when kegs of malt beverages are set in place. The proposed rule would eliminate those requirements.

AUTHORITY:

Alcoholic Beverage Laws Enforcement Commission, 37 O.S., Section 502 et seq.

COMMENT PERIOD:

Any interested party may present their views by submitting them in writing by 4:30 p.m., February 11, 2008, to the ABLE Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma 73105.

PUBLIC HEARING:

A public hearing regarding the proposed rule change will be held before the ABLE Commission at 10:00 a.m., on February 15, 2008, at 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The ABLE Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase or decrease in the level of direct costs such as fees, and indirect costs such as reports, 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. Business entities may submit this information in writing to the Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma 73105, before the close of the comment period at 4:30 p.m., February 11, 2008.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained for review by the public from the ABLE Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma 73105.

RULE IMPACT STATEMENT:

The ABLE Commission will prepare a rule impact statement which will be available on January 15, 2008, from the ABLE Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma 73105.

CONTACT PERSON:

Kurt Morgan, General Counsel
(405) 521-3484

[OAR Docket #07-1612; filed 12-6-07]

TITLE 185. CRIME VICTIMS COMPENSATION BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #07-1589]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

SUMMARY:

The proposed revisions to the APR are mostly nonsubstantive and should have little, if any, impact on the regulatory agencies. The rules affected by the changes relate to Oklahoma Crime Victims Compensation Act 21 O.S. 142.1. The rules will prohibit the discussion of certain information during Board meetings. The rules will give the Board the

Notices of Rulemaking Intent

authority to enter into executive session for confidentiality purposes.

AUTHORITY:

Oklahoma District Attorneys Council, Oklahoma Crime Victims Compensation Act, 21 O.S. 142.1.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by February 2, 2008 by 5:00 P.M. to Tina Harman at the District Attorneys Council, 421 N.W. 13th, Ste. 290, Oklahoma City, OK 73103.

PUBLIC HEARING:

A hearing is not scheduled. Interested parties may demand a hearing by submitting written comments to the Oklahoma Crime Victims Compensation Board by February 2, 2008 by 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be requested or obtained for review at the District Attorneys Council, Victim Services Division, 421 N.W. 13th St., Ste. 290, OKC, OK, 73103, 405-264-5006.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., section 303(D), a rule impact statement will be prepared prior to January 17, 2008, and may be obtained from the District Attorneys Council, Victim Services Division at the above address.

CONTACT PERSON:

Tina Harman, Public Information Officer, 405-264-5006.

[OAR Docket #07-1589; filed 11-29-07]

**TITLE 185. CRIME VICTIMS
COMPENSATION BOARD
CHAPTER 10. CRIME VICTIMS
COMPENSATION PROGRAM**

[OAR Docket #07-1590]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 10. Crime Victims Compensation Program
[AMENDED]

SUMMARY:

The proposed revisions to the APR are mostly nonsubstantive and should have little, if any, impact on the regulatory agencies. The rules affected by the changes relate to Oklahoma Crime Victims Compensation Act 21 O.S. 142.1. The rules will provide a new category of coverage for pedestrians involved in hit and run crimes. It will also affect the appeal procedure for the victims' compensation program. For victims requiring long term counseling, the mental health panel will now consist of three members.

AUTHORITY:

Oklahoma District Attorneys Council, Oklahoma Crime Victims Compensation Act, 21 O.S. 142.1.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by February 2, 2008 by 5:00 P.M. to Tina Harman at the District Attorneys Council, 421 N.W. 13th St., Ste. 290, Oklahoma City, OK 73103.

PUBLIC HEARING:

A hearing is not scheduled. Interested parties may demand a hearing by submitting written comments to the Oklahoma Crime Victims Compensation Board by February 2, 2008 by 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be requested or obtained for review at the District Attorneys Council, Victim Services Division, 421 N.W. 13th, Ste. 290, OKC, OK, 73103, 405-264-5006.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., section 303(D), a rule impact statement will be available January 17, 2008, and may be obtained from the District Attorneys Council, Victim Services Division at the above address.

CONTACT PERSON:

Tina Harman, Public Information Officer, 405-264-5006.

[OAR Docket #07-1590; filed 11-29-07]

**TITLE 185. CRIME VICTIMS
COMPENSATION BOARD
CHAPTER 15. SEXUAL ASSAULT
EXAMINATION FUND**

[OAR Docket #07-1591]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 15. Sexual Assault Examination Fund
[AMENDED]

SUMMARY:

The proposed revisions to the APR are mostly nonsubstantive and should have little, if any, impact on the regulatory agencies. The rules affected by the changes relate to Oklahoma Crime Victims Compensation Act 21 O.S. 142.1. The rules affect the language of the district attorney's section of the sexual assault claim form. The rules will add collateral source information for children of sexual assault.

AUTHORITY:

Oklahoma District Attorneys Council, Oklahoma Crime Victims Compensation Act, 21 O.S. 142.1.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by February 2, 2008 by 5:00 P.M. to Tina Harman at the District Attorneys Council, 421 N.W. 13, Ste. 290, Oklahoma City, OK 73103.

PUBLIC HEARING:

A hearing is not scheduled. Interested parties may demand a hearing by submitting written comments to the Oklahoma Crime Victims Compensation Board by February 2, 2008 by 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be requested or obtained for review at the District Attorneys Council, Victim Services Division, 421 N.W. 13, Ste. 290, OKC, OK, 73103, 405-264-5006.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., section 303(D), a rule impact statement will be available January 17, 2008, and may be obtained from the District Attorneys Council, Victim Services Division at the above address.

CONTACT PERSON:

Tina Harman, Public Information Officer, 405-264-5006.

[OAR Docket #07-1591; filed 11-29-07]

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

[OAR Docket #07-1587]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 240:1-1-2. Definitions [NEW]
- 240:1-1-7. Petitions for declaratory rulings [NEW]

SUMMARY:

These new rules will define the term "third party administrator", for purposes of the Employment Security Act of 1980, and it will set out the procedure for filing a petition for a declaratory ruling with the Oklahoma Employment Security Commission.

AUTHORITY:

40 O.S.§4-302; 75 O.S. §307; and the Oklahoma Employment Security Commission.

COMMENT PERIOD:

Written and oral comments will be accepted through February 2, 2008, 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.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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.

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 #07-1587; filed 11-28-07]

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

[OAR Docket #07-1588]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 240:10-1-2. Definitions [AMENDED]
- Subchapter 3. Benefits
- Part 11. Filing Claims - Notice
- 240:10-3-53. Third party administrators - filing requirements [NEW]
- Subchapter 5. Contributions
- Part 8. Waiver of Penalty and Interest
- 240:10-5-44. Initial determination [AMENDED]
- 240:10-5-45. Appeal of initial determination [AMENDED]
- Subchapter 11. Assessment Board Procedures
- Part 1. General Provisions
- 240:10-11-6. Address of Board [AMENDED]

Notices of Rulemaking Intent

Subchapter 13. Appeal Tribunal Procedures
Part 1. General Provisions
240:10-13-5. Jurisdiction [AMENDED]
240:10-13-8. Address of Appeal Tribunal [AMENDED]

SUMMARY:

The amendments to these rules will provide necessary cleanup, clarification of word usage, and will change wording in the rules to match prior amendments to governing statutes. The amendments will also change the address of the Assessment Board and Appeal Tribunal due to moving those offices. The jurisdiction of the Appeal Tribunal will be amended in order to allow more time for claimants to file claims for exemptions on wage levies. The new rule will set filing requirements for third party administrators that file high volumes of protests to unemployment insurance claims.

AUTHORITY:

40 O.S. §§ 1-210(14), 1-224, 2-615, 2-618, 4-302; and the Oklahoma Employment Security Commission.

COMMENT PERIOD:

Written and oral comments will be accepted through February 2, 2008, 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.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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.

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 #07-1588; filed 11-28-07]

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

[OAR Docket #07-1613]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
240:15-1-7. Attorney fees - approval [REVOKED]
240:15-1-8. Attorney fees - approval [NEW]

SUMMARY:

These amendments will revoke the Board of Review attorney fee rule. The Oklahoma Court of Civil Appeals found in its decision of October 12, 2007, that the Board exceeded its rulemaking authority in promulgating this rule and it impermissibly infringed on the fundamental court-access rights of unemployed workers in Oklahoma. A new rule is being proposed that will eliminate the problems found by the Court of Civil Appeals.

AUTHORITY:

40 O.S. §§2-607; and the Board of Review of 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 February 2, 2008, 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 #07-1613; filed 12-7-07]

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

[OAR Docket #07-1625]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
 - 252:100-5-2.2. Annual operating fees [AMENDED]
- Subchapter 7. Permits for Minor Facilities
 - Part 2. Permit Application Fees
 - 252:100-7-3. Permit application fees [AMENDED]
- Subchapter 8. Permits for Part 70 Sources
 - Part 3. Permit Application Fees
 - 252:100-8-1.7. Permit application fees [AMENDED]
- Subchapter 9. Excess Emission Reporting Requirements
 - 252:100-9-1. Purpose [AMENDED]
 - 252:100-9-2. Definitions [AMENDED]
 - 252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-9]
 - 252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-11]
 - 252:100-9-7. Applicability [NEW]
 - 252:100-9-8. [RESERVED]
 - 252:100-9-9. Excess emission reporting requirements [NEW]
 - 252:100-9-10. [RESERVED]
 - 252:100-9-11. Affirmative defenses [NEW]
- Subchapter 24. Particulate Matter Emissions from Grain, Feed or Seed Operations
 - 252:100-24-3. Applicability, general requirements [AMENDED]
 - 252:100-24-4. Visible emissions (opacity) limit [AMENDED]
- Subchapter 33. Control of Emission of Nitrogen Oxides
 - 252:100-33-1.1. Definitions [AMENDED]
 - 252:100-33-1.2. Applicability [AMENDED]
 - 252:100-33-2. Emission limits [AMENDED]
 - 252:100-33-4. Alternative standard [NEW]
- Subchapter 44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units [NEW]
 - 252:100-44-1. Purpose [NEW]
 - 252:100-44-2. [RESERVED]
 - 252:100-44-3. Reference to 40 CFR [NEW]

SUMMARY:

The Department is considering increases in annual operating fees found in OAC 252:100-5-2.2 (b) for both minor

facilities and Part 70 sources. In addition, the Department is proposing to increase permit and applicability determination application fees in OAC 252:100-7-3 for minor facilities and in OAC 252:100-8-1.7 for Part 70 sources. Additional income resulting from fee increases is needed to cover current and anticipated staffing requirements in administering the Department's air pollution control programs.

The Department is proposing to amend OAC 252:100-9 to modify excess emission reporting requirements.

The Department is proposing to amend OAC 252:100-24-3 to correct the reference to OAC 252:100-41 to OAC 252:100-42, Control of Toxic Air Contaminants. The Department is also proposing to clarify the language in OAC 252:100-24-4.

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for direct-fired fuel burning equipment, turbines and equipment with technological limitations.

The Department is proposing three possible options for a new Subchapter 44, "Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units." The purpose of this subchapter is to limit emissions of Mercury (Hg) from new and existing coal-fired electric steam generating units. The federal Clean Air Mercury Rule (CAMR) issued in May 2005 may be incorporated by reference for the first option. A second option is the adoption of a state rule incorporating the Maximum Achievable Control Technology (MACT) standard first proposed by EPA on January 30, 2004 (69 FR 4652). The third option is adoption of the model rule issued in November 2005 by the State and Territorial Air Pollution Program Administrators and Association of Local Air Pollution Control Officials (STAPPA/ALAPCO - now called the National Association of Clean Air Agencies (NACAA)). This last option requires greater reductions and shorter timelines than the federal version and prohibits trading of mercury credits. The Department seeks public comment as to which of these plans will be most appropriate for Oklahoma.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on February 5, 2008. For comments received at least 5 business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting and provide hard copy written responses to the comments to the Council and the public at that Council meeting. Oral comments may be made at the February 5, 2008, hearing and at the February 29, 2008, Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, February 5, 2008, at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73102.

Notices of Rulemaking Intent

Before the Environmental Quality Board at 9:30 a.m. on Friday, February 29, 2008, at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73102.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 CFR § 51.102 of the EPA regulations and 27A O.S. § 2-5-107(6)(c).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities or any other members of the public affected by these rules provide the Department, 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 rules.

COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing at the Air Quality Division of the Department at http://www.deq.state.ok.us/AQDnew/council_mtg/index.htm, or copies may be obtained from the Department by calling Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained by contacting Cheryl E. Bradley at (405) 702-4100.

CONTACT PERSON:

Please send written comments on the proposed rule changes to Cheryl E. Bradley at cheryl.bradley@deq.state.ok.us. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl Bradley. The Air Quality Division FAX is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1625; filed 12-7-07]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 521. CONTROL AND TREATMENT OF COMMUNICABLE DISEASE

[OAR Docket #07-1626]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

310:521-1-1 [AMENDED]

310:521-1-2 [AMENDED]

Subchapter 3. Tuberculosis

310:521-3-1 through 310:521-3-5 [AMENDED]

Subchapter 7. Isolation or Quarantine [NEW]

310:521-7-1 through 310:521-7-9 [NEW]

SUMMARY:

The proposal updates the sections related to the control and treatment of tuberculosis to bring the language into current public health practice. The proposal creates a new subsection related to the control and treatment of general communicable diseases. Such rules are necessary to fully implement the statutes listed below. These rules are additionally necessary to create a process and to streamline public health actions related to controlling of spread of communicable, contagious, or infectious disease and protecting the public health.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. Section 1-106, 63 O.S. Section 1-502

COMMENT PERIOD:

January 2, 2008 through February 7, 2008. Interested persons may discuss the proposed rules informally with or may submit written comments to Lauri Smithee, M.E.S., M.S., Chief, Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299 before February 7, 2008; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, February 7, 2008, which begins at 11:00 a.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

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 February 7, 2008 to Lauri Smithee, M.E.S., M.S., Chief, Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to LauriS@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Acute Disease Service, Room 605, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Lauri Smithe, M.E.S., M.S., Chief, Acute Disease Service, Oklahoma State Department of Health, (405) 271-4060

[OAR Docket #07-1626; filed 12-7-07]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 526. DENTAL SERVICES

[OAR Docket #07-1627]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Oklahoma Dental Loan Repayment Program 310:526-3-3. Eligibility to participate in the Program [AMENDED]

SUMMARY:

This proposal amends the existing rule providing definitions and requirements of the Oklahoma Dental Loan Repayment Program (Program). It is apparent existing language may become a barrier to participation in the Program. This proposal makes it possible for the 30% minimum Medicaid recipient requirement to be met either by an unduplicated count of the patients treated or a count of patient visits.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. §§ 1-105 and 1-2710 et seq.

COMMENT PERIOD:

January 2, 2008 through February 7, 2008. Interested persons may informally discuss the proposed rules with Susan L. Potter, Dental Health Service; or before February 7, 2008 may submit written comments to Susan L. Potter, Dental Health Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before February 7, 2008, may send electronic mail to susanp@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, February 7, 2008 which begins at 11:00 a.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 February 7, 2008, to Susan L. Potter, Dental Health Service, Oklahoma State Department of Health, 1000 NE

10th Street, Oklahoma City, OK 73117-1299, or by email to susanp@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from Susan L. Potter, Dental Health Service, Room 712, 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 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Susan L. Potter, Dental Health Service, Oklahoma State Department of Health, (405) 271-5502

[OAR Docket #07-1627; filed 12-7-07]

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

[OAR Docket #07-1628]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking intent

RULES:

- Subchapter 1. General Provisions
- 310: 550-1-1 [AMENDED]
- 310:550-1-2 [AMENDED]
- Subchapter 3. Testing of Newborns
- 310:550-3-1 [AMENDED]
- Subchapter 5. Specimen Collection
- 310:550-5-1 [AMENDED]
- Subchapter 7. Hospital Recording
- 310:550-7-1 [AMENDED]
- Subchapter 13. Parent and Health Care Provider Education
- 310:550-13-1 [AMENDED]
- Subchapter 17. Follow-Up for Physicians
- 310:550-17-1 [AMENDED]
- Subchapter 19. Reporting
- 310:550-19-1 [AMENDED]
- Subchapter 21. Information
- 310:550-21-1 [AMENDED]
- Appendix B. Report Form [REVOKED]
- Appendix B. Report Form [NEW]
- Appendix C. Refusal of the Newborn Screening Blood Test - Religious Tenets and Practices Refusal [REVOKED]
- Appendix C. Refusal Form [NEW]

SUMMARY:

This proposal amends the existing rule. This action will establish a more encompassing and expanded newborn screening panel commensurate with the uniform panel recommended by the American College of Medical Genetics (ACMG) and the Oklahoma Genetics Advisory Council

Notices of Rulemaking Intent

(OGAC). These amendments require all newborns be screened for additional genetic disorders of biotinidase deficiency, amino acid disorders, fatty acid oxidation disorders, and organic acid disorders detectable via the Department's laboratory technology utilized in newborn screening and approved by the Commissioner of Health and clarifies definitions, testing of newborns, specimen collection requirements, physician follow-up and reporting and program information.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. 2002, Sections 1-533 et. seq.

COMMENT PERIOD:

January 2, 2008 through February 7, 2008. Interested persons may discuss informally the proposed rules with John Corpolongo, MS Chief, Screening, Special Services and SoonerStart; or may before February 7, 2008, submit written comment to John Corpolongo, MS, Screening, Special Services and SoonerStart, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, February 7, 2008, which begins at 11:00 a.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

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 February 7, 2008 to John Corpolongo, MS, Chief, Screening, Special Services and SoonerStart, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to john@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of Screening, Special Services and SoonerStart, Family Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

John Corpolongo, MS, Chief, Screening, Special Services and SoonerStart, (405) 271-6617

[OAR Docket #07-1628; filed 12-7-07]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION **CHAPTER 20. TEMPORARY LICENSE PLATES**

[OAR Docket #07-1614]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULE:

Subchapter 1. General Provisions

465:20-1-1. [NEW]

Subchapter 3. Design and Placement

465:20-3-1. [NEW]

465:20-3-2. [NEW]

465:20-3-3. [NEW]

SUMMARY:

Title 47, Section 1137.3 requires that new motor vehicle dealers begin using a new weatherproof temporary license plate approved by the Oklahoma Motor Vehicle Commission, November 1, 2007. The Commission adopted emergency rules, effective October 2, 2007, relating to the design and content of these temporary plates. These Rules develop requirements and parameters to discourage or prevent illegal use of the temporary license plates and duplication.

AUTHORITY:

Oklahoma Motor Vehicle Commission, 47 O.S. Sections 563(F), 564, 564.1, and 565.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 4:30 p.m. on Monday, February 4, 2008, at the Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing has not been scheduled, however, "persons may demand a hearing" pursuant to and in accordance with 75 O.S., Section 303 (B)(8). Please make your request in writing by February 4, 2008, to the Oklahoma Motor Vehicle Commission at the location listed above.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in 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 in writing by Monday, February 4, 2008, to the Oklahoma Motor Vehicle Commission at the location listed above.

COPIES OF PROPOSED RULE:

Copies of the proposed rules may be obtained by fax or email (email@omvc.state.ok.us) for free; in person or by written request from the Oklahoma Motor Vehicle Commission located at the above named address at the cost of .25 cents per page. Each new motor vehicle dealer has been provided a

copy of the proposed Rules in our quarterly newsletter via U.S. postal services.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared no later than January 11, 2008, and may be obtained from the Oklahoma Motor Vehicle Commission at the above address, or by email: email@omvc.state.ok.us.

CONTACT PERSON:

Marilyn Maxwell, Deputy Director, 405-607-8227, ext 101

[OAR Docket #07-1614; filed 12-7-07]

**TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 20. MANUFACTURERS, PACKAGERS, AND WHOLESALERS**

[OAR Docket #07-1611]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Wholesalers and Pedigree Rules

535:20-7-1. Purpose [AMENDED]

535:20-7-2. Definitions [AMENDED]

535:20-7-3. Wholesale drug distributor licensing requirement [AMENDED]

535:20-7-4. Minimum required information for licensure [AMENDED]

535:20-7-5. Minimum qualifications [AMENDED]

535:20-7-6. Personnel [AMENDED]

535:20-7-7. Minimum requirements for the storage, and handling, transport, and shipment of prescription drugs and/or devices and ~~for the establishment and maintenance of prescription drug distribution records~~ [AMENDED]

535:20-7-7.1. Minimum requirements for the storage, and handling, transport, and shipment of prescription drugs and/or devices and ~~for the establishment and maintenance of prescription drug distribution records~~ [AMENDED]

535:20-7-7.2. Multiple Licensing [AMENDED]

535:20-7-7.3. Security and anti-counterfeiting [AMENDED]

535:20-7-7.4. Storage [AMENDED]

535:20-7-7.5. Examination of materials [AMENDED]

535:20-7-7.6. Drug returns, and returned, Returned, damaged, and outdated ~~prescription drugs~~ [AMENDED]

535:20-7-7.7. Recordkeeping [AMENDED]

535:20-7-7.8. Written policies and procedures [AMENDED]

535:20-7-7.9. Responsible persons [REVOKED]

535:20-7-7.10. Compliance with federal, state and local laws [AMENDED]

535:20-7-7.11. Salvaging and reprocessing [REVOKED]

535:20-7-9.1. Prohibited Conduct [NEW]

SUMMARY:

The revision in 535:20-7 adds pedigree to the title. The revision in the purpose statement, 535:20-7-1, adds rulemaking responsibility in 353.18 (D) for pedigree rules. The definitions in 535:20-7-2, bring Oklahoma wholesale definitions up to date with the federal rules.

The revisions in 535:20-7-3 clarify licensing requirements for wholesale distributors. The revisions in 535:20-7-4 and 535:20-7-5 clarify the minimum required information and minimum qualifications for licensure. The revisions in 535:20-7-6 further describe personnel requirements.

The changes in 535:20-7-7 clarify requirements for storage, handling, transport and shipment of drugs or devices and establishment and maintenance of records.

The changes in 535:20-7-7.1, 535:20-7-7.2, 535:20-7-7.3 and 535:20-7-7.4, 535:20-7-7.5 and 535:20-7-7.6 clarify facility requirements, multiple licensing, security and anti-counterfeiting, and storage, examination of materials, drug returns and returned damaged and outdated drugs.

The changes in 535:20-7-7.7 include the Oklahoma pedigree changes that will take effect January 1, 2009. The changes in 535:20-7-7.8 include changes in written policies and procedures. They include the revocation of 535:20-7-7.9 which was modified and moved to 535:20-7-7-6 Personnel. They include the revocation of 535:20-7-7.11 which was modified and added to 535:20-7-7.6.

The changes in 535:20-7-7.10 clarify compliance with federal, state and local laws. These rules add prohibited conduct for wholesalers in 535:20-7-9.1.

These rules also include updates for changes in federal wholesaler rules.

These rule changes make the emergency wholesaler rules that were passed in 2007 permanent with the exception of the following changes:

1.) 535:20-7-2. Definitions. "Authenticate" change to "that all transactions as listed on the pedigree has occurred.

2.) 535:20-7-2. Definitions. "Wholesale distribution and wholesale distributions" add (k) and (l) which regard drug supplier sales and returns.

3.) 535:20-7-7.5. Examination of materials. Removes (e) which required wholesalers use sound judgement to maintain a safe a secure drug supply.

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.13, 353.13A, 353.16A, 353.17, 353.18, 353.20, 353.22, 353.24 - 353.26, 353.29 and 354.

COMMENT PERIOD:

The comment period will run from January 2, 2008 through February 15, 2008, at 1:00 p.m. Written comments may be sent to the offices of the Board, 4545 N Lincoln Boulevard, Suite 112, Oklahoma City, OK 73105-3488.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on February 20, 2008, at 1:00 p.m. in our office at 4545 Lincoln Boulevard, Suite 112,

Notices of Rulemaking Intent

Oklahoma City, OK 73105-3488. Written notice of intent to make oral comment must be received by this office no later than February 15, 2008, at 1:00 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Board, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees and indirect costs such as record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with the proposed rule(s).

COPIES OF PROPOSED RULES:

Proposed rules are available for review in our office at 4545 N Lincoln Blvd, Suite 112, Oklahoma City, OK 73105-3488. Copies may be provided at a cost of 25 cents per page.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available on and after January 17, 2008, at the location listed above for copies of the proposed rules. It may be reviewed in our office or copies may be obtained for 25 cents per page.

CONTACT PERSON:

Mr. Bryan H. Potter, Executive Director, Oklahoma State Board of Pharmacy located at 4545 Lincoln Boulevard, Suite 112, Oklahoma City, OK 73105-3488. Phone number 405) 521-3815 and FAX number (405) 521-3758.

[OAR Docket #07-1611; filed 12-6-07]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 10. VOCATIONAL REHABILITATION AND VISUAL SERVICES

[OAR Docket #07-1592]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1, General Provisions
- 612:10-1-2. Definitions [AMENDED]
- Subchapter 7, Vocational Rehabilitation and Visual Services
- Part 1. Scope of Vocational Rehabilitation and Visual Services
- 612:10-7-1. Overview of Vocational Rehabilitation and Visual Services [AMENDED]
- 612:10-7-4. Basic eligibility requirements for vocational rehabilitation services [AMENDED]
- 612:10-7-8. Order of selection [AMENDED]
- 612:10-7-11. Counseling and guidance [AMENDED]
- Part 3. Case Processing Requirements
- 612:10-7-33. Supervisory caseload reviews [AMENDED]
- 612:10-7-33.1 Quality Assurance caseload reviews [NEW]
- Part 5. Case Status and Classification System
- 612:10-7-52. Provision of services [AMENDED]
- 612:10-7-58. Closed rehabilitated [AMENDED]

- 612:10-7-62. Post-employment services [AMENDED]
- Part 13. Supportive Services
- 612:10-7-131. Transportation [AMENDED]
- Part 15. Training
- 612:10-7-166. Tutorial training [AMENDED]
- Part 17. Supported Employment Services
- 612:10-7-181. Integrated settings [AMENDED]
- 612:10-7-184. Extended services [AMENDED]
- 612:10-7-185. Provision of supported employment services [AMENDED]
- Part 18. Employment and Retention Services
- 612:10-7-186. Overview of Employment and Retention Services [AMENDED]
- 612:10-7-187. Eligibility for Employment and Retention Services [AMENDED]
- Part 19. Special Services for Individuals Who Are Blind, Deaf, or Have Other ~~Severe~~ Significant Disabilities
- Part 21. Purchase of Equipment, Occupational Licenses and Certificates
- 612:10-7-220. Purchase of special equipment for motor vehicles [AMENDED]
- Part 23. Self-employment Programs and Other Services
- 612:10-7-230.3. Self-Employment/Business Plans [AMENDED]
- 612:10-7-230.5. DRS Monitoring [AMENDED]
- Subchapter 9. Rehabilitation Teaching Services
- Part 3. Case Processing and Recording
- 612:10-9-25. Post-Employment Services Status [AMENDED]
- Subchapter 11. Independent Living Rehabilitation Services
- Part 3. Case Processing
- 612:10-11-28. Post OB Service Status [REVOKED]

SUMMARY:

The proposed change to Chapter 10 concern clients that apply for services numerous times with no intention of going to work, travel rate for clients, changing the word "severe" to "significant", creating Quality Assurance policy, and changing implementation of Order of Selection by the eligibility date instead of application date for the AWARE system.

AUTHORITY:

Commission for Rehabilitation Services; 74 O.S. § 166.2

COMMENT PERIOD:

Written and oral comments will be accepted January 02, 2008 through February 6, 2008 during regular business hours by contacting Larry Bishop, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3408 VOICE/TDD.

PUBLIC HEARING:

Monday, February 4, 2008,
4:00 P.M. - 6:00 P.M.,
Department of Rehabilitation Services
2nd Floor Conference Room,
3535 N.W. 58th
Oklahoma City, Oklahoma
Tuesday, February 5, 2008,
1:00 P.M. - 3:00 P.M.,

Great Plains Technical Center
4500 S.W. Lee Blvd., Bldg 600, Room 655
Lawton, Oklahoma
Wednesday, February 6, 2008,
1:00 P.M. - 3:00 P.M.,
Total Source for Hearing loss and Access
8740 E. 11th, Conference Room
Tulsa, Oklahoma

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Policy Development Unit, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 02, 2008, at the Department of Rehabilitation Services office at the above address.

CONTACT PERSON:

Larry Bishop, Rulemaking Liaison, (405) 951-3408

[OAR Docket #07-1592; filed 12-3-07]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #07-1598]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- Subchapter 3. Public Policy
- Part 11. Public Records
- 710:1-3-70 [AMENDED]
- Subchapter 5. Practice and Procedure
- Part 5. Administrative Proceedings Related to Tax Protests
- 710:1-5-27 [AMENDED]
- 710:1-5-40 [AMENDED]

SUMMARY:

Section 710:1-3-70 has been amended to reflect recent internal changes within the Tax Commission. The duties and responsibilities of the Audit Division have been transferred to the Compliance Division.

Section 710:1-5-27 has been amended to clarify policy regarding the representation of taxpayers in administrative proceedings by enrolled agents.

Section 710:1-5-40, dealing with hearings en banc, has been amended for clarification consistent with the Commission's policy allowing an opposing party fifteen (15) days to reply to a motion for a hearing en banc.

AUTHORITY:

68 O.S. §203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 4, 2008, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 5, 2008, 9:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 522-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and

Notices of Rulemaking Intent

Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-522-5519; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #07-1598; filed 12-6-07]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 20. ALCOHOL, MIXED BEVERAGES, AND LOW-POINT BEER

[OAR Docket #07-1599]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. General Provisions

710:20-1-3 [AMENDED]

Subchapter 2. Low-Point Beer

Part 1. General Provisions

710:20-2-20 [AMENDED]

Part 3. Low-Point Beer Distribution

710:20-2-52 [AMENDED]

710:20-2-53 [AMENDED]

710:20-2-55 [AMENDED]

710:20-2-56 [AMENDED]

Subchapter 5. Mixed Beverages

710:20-5-4 [AMENDED]

SUMMARY:

Sections 710:20-1-3 and 710:20-5-4 have been amended to correct a scrivener's error.

Sections 710:20-2-20, 710:20-2-52, 710:20-2-53, 710:20-2-55 and 710:20-2-56 were amended to reflect recent internal changes within the Tax Commission. The duties and responsibilities of the Audit Division have been transferred to the Compliance Division.

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203; 37 O.S. § 586

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 4, 2008, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 5, 2008, 10:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 522-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-522-5519; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #07-1599; filed 12-6-07]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 22. BOATS AND MOTORS**

[OAR Docket #07-1600]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 7. Titles

710:22-7-5 [AMENDED]

SUMMARY:

Section 710:22-7-5 has been amended to clarify policy and procedure for utilizing the manufacture year as the model year when no model year is designated by the manufacturer.

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203; 63 O.S. § 4004

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 13, 2008, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 14, 2008, 9:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 522-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-522-5519; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #07-1600; filed 12-6-07]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 35. ESTATES**

[OAR Docket #07-1601]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 3. Returns; Remittance; Releases

Part 1. Filing and Payment

710:35-3-9 [NEW]

Part 3. Releases

710:35-3-20 [AMENDED]

SUMMARY:

New Section 710:35-3-9 has been added to clarify the effect of the repeal of the Oklahoma estate tax on the ten (10) year Oklahoma estate tax lien.

Section 710:35-3-20 has been amended to reflect internal changes within the Tax Commission. Because there is no longer an Income Tax Division, the duties and responsibilities set out in this rule are now under the direction of the Estate Tax Section.

AUTHORITY:

68 O.S. § 203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 6, 2008, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

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PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 7, 2008, 9:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 522-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-522-5519; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #07-1601; filed 12-6-07]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 40. FRANCHISE TAX

[OAR Docket #07-1602]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

710:40-1-17 [AMENDED]

SUMMARY:

The 2006-2007 Legislative Session enacted a statutory change which requires amendment to the existing rule:

Section 710:40-1-17 has been amended to clarify the filing requirements of corporations that owe \$250.00 or less in franchise tax pursuant to the changes to 68 O.S. § 1205 made by Section 1 of Senate Bill 861 which will become effective January 1, 2008.

In addition, other rule changes may be made to clarify policy, improve readability, correct scrivener's errors, update statutory citation, and insure accurate internal cross-references.

AUTHORITY:

68 O.S. §§ 203 and 1210; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 6, 2008, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Patricia McDonald at (405) 522-5755.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing is as follows: February 7, 2008, at 10:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Patricia McDonald at (405) 522-5755 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity affected by these rules provide the OTC, within the comment period,

in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #07-1602; filed 12-6-07]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES**

[OAR Docket #07-1603]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 60. Motor Vehicles [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing rules have been made to clarify policy, improve readability, correct scrivener's errors, update statutory citation, insure accurate internal cross-reference and comply with statutory changes. All legislative references are to the First Regular Session of the 51st Legislature (2007).

Section 710:60-3-10 has been amended to clarify policy regarding the information required for registration of a vehicle.

New Section 710:60-3-24 has been added to clarify policy regarding the assessment of waste tire fees to motor vehicle registrants by the Tax Commission and motor license agents.

Sections 710:60-3-55 and 710:60-3-56 have been amended to reflect the provisions of HB 1868 which addressed the design, issuance and placement of new and used vehicle dealer temporary license plates.

Section 710:60-3-111 has been amended to reflect current federal guidelines regarding the laden weight of farm vehicles

New Section 710:60-3-134 has been added to conform to current statutory authority regarding the reinstatement of a cancelled manufactured home title.

Section 710:60-3-140 has been amended to reflect the provisions of HB 1606 which changed the definition of an all-terrain vehicle.

Sections 710:60-3-141 and 710:60-3-142 have been amended to reflect the provisions of HB 1016 which extends the mandatory titling requirement of all-terrain vehicles and off-road motorcycles to include owners that possess a valid agricultural exemption permit and clarifies the priority of liens in an all-terrain vehicle or off-road motorcycle perfected before July 1, 2005.

Sections 710:60-3-150 and 710:60-3-168 have been amended to clarify policy regarding applications for a license plate considered offensive and the renewal of Oklahoma Indian Tribal license plates by a motor license agent.

Section 710:60-3-160 has been amended to reflect the provisions of HB 2051 providing for the registration of an antique or classic vehicle for a ten-year period.

Section 710:60-3-171 has been amended to update a reference to a federal agency and clarify policy for obtaining an in-transit license plate.

Section 710:60-5-130 has been amended to clarify policy and procedure in applying for a title to a foreign vehicle.

Section 710:60-7-1 has been amended to clarify the procedure for determining the taxable value of a vehicle.

Section 710:60-9-11 has been amended to clarify policy regarding the extension of credit by a motor license agent.

Section 710:60-9-90 has been amended to reflect the provisions of SB 748 which authorizes a motor license agent to subtract from daily collections an amount necessary to match the statutorily authorized fee retention for that particular day's business.

Section 710:60-9-92 has been amended to conform to current statutory authority to include debit card payments on a motor license agent's semimonthly report.

Section 710:60-9-95 has been amended to clarify the procedure for issuing a refund when the taxpayer and the remitter of the payment are not the same person.

Section 710:60-9-97 has been amended to clarify policy regarding non toll-free telephone calls made to the Tax Commission or Department of Public Safety by a motor license agent at the request of a taxpayer.

AUTHORITY:

68 O.S. §§ 203 and 47 O.S. § 1149; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 13, 2008, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

Notices of Rulemaking Intent

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 14, 2008, 10:00 a.m. in the office of the Oklahoma Tax Commission, 2501 Lincoln Blvd., 4th Floor, Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 522-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although it has been determined that the promulgation of these rules is not expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with 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 Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa Haws, Tax Policy Analyst, Phone: 405-521-3133, FAX 405-522-0063, Email: LHaws@oktax.state.ok.us

[OAR Docket #07-1603; filed 12-6-07]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 90. WITHHOLDING

[OAR Docket #07-1604]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 3. Returns and Payments

710:90-3-11 [AMENDED]

SUMMARY:

Section 710:90-3-11 has been amended to reflect recent internal changes within the Tax Commission. The duties and responsibilities of the Audit Division have been transferred to the Compliance Division.

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 11, 2008, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 12, 2008, 10:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 522-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional

services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-522-5519; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #07-1604; filed 12-6-07]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY**

[OAR Docket #07-1605]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- Subchapter 5. Waste Tire Recycling
- 710:95-5-3 [AMENDED]
- 710:95-5-11 [AMENDED]
- 710:95-5-13 [REVOKED]
- 710:95-5-14 [REVOKED]
- 710:95-5-15 [REVOKED]
- 710:95-5-16 [REVOKED]
- 710:95-5-17 [REVOKED]
- 710:95-5-18 [REVOKED]
- 710:95-5-19 [NEW]
- 710:95-5-20 [REVOKED]
- 710:95-5-21 [REVOKED]
- 710:95-5-22 [REVOKED]

SUMMARY:

Sections 710:95-5-13 through 710:95-5-18 and 710:95-5-20 through 710:95-5-22 pertaining to administration of the Waste Tire Recycling Indemnity Fund (which has been transferred from the Tax Commission to the DEQ pursuant to Senate Bill 747 [51st Legislature, 1st Regular Session]), are being revoked. Section 710:95-5-3 is amended to reduce the fee on a tire rim greater than 17½" but less than or equal to 19½" and Section 710:95-5-11 changes the due date for filing and remitting fees from the 15th of every month to the

20th. New Section 710:95-5-19 pertains to compliance and collection of waste tire fees.

AUTHORITY:

Oklahoma Tax Commission; 27A O.S. § 2-11-401.6, 68 O.S. §? 203

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 11, 2008, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 12, 2008, 9:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 522-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from

Notices of Rulemaking Intent

the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-522-5519;
FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #07-1605; filed 12-6-07]

**TITLE 730. DEPARTMENT OF
TRANSPORTATION
CHAPTER 25. HIGHWAY CONTRACTORS**

[OAR Docket #07-1597]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Contractor Prequalification and Proposals
730:25-3-1 [AMENDED]
730:25-3-4 [AMENDED]
730:25-3-4.1 [NEW]
730:25-3-5 [AMENDED]

SUMMARY:

The purpose of the proposed permanent rulemaking action is to significantly revise prequalification standards and procedures, clarify the intent of certain code provisions, integrate new statutory requirements, and to recover increased costs for document publication. The revised prequalification standards place additional emphasis on an applicant's integrity, experience, and proven performance.

Applications for prequalification will be limited to one per twelve month period and are required to be submitted not less than twenty one days prior to the bid opening date. Prequalification will expire five years from the date of the application unless it is terminated earlier due to the lack of participation in Department projects. Contractors will need to reapply and prequalify for participation in Department work before a new Certification of Prequalification will be issued.

The Department will be allowed to deny the issuance of proposals to contractors if the contractor has Department projects in liquidated damages due to failure to complete contract work within contract time, has failed to cooperate with auditors or has defaulted on a Department project within the preceding last five years. Language has been added to implement the requirement of 2007 O.S.L. 112 (HB 1804) which relates to illegal immigration.

Language designed to clarify grounds for debarment and suspension has been added, as have conditions under which family members may acquire business assets for the purposes of continuing work as a Department contractor.

The application fee has not been adjusted since 1991, and the fee will be increased from \$25.00 to more closely reflect current expenses.

AUTHORITY:

Transportation Commission; 69 O.S., §§ 101, 301, 303, 622, 4006, 61 O.S. §§ 1, 2, 118; 75 O.S. §§ 302, 309, et seq.; 2007 O.S.L. § 112

COMMENT PERIOD:

Persons may submit written or oral comments to Mike Patterson, Oklahoma Department of Transportation, 200 N.E. 21st Street, Oklahoma City, Oklahoma 73105, or (405) 521-2491, during the period from January 2, 2008 to February 5, 2008.

PUBLIC HEARING:

A public hearing will be scheduled according to 75 O.S. §303(B)(9) on February 6, 2008 at the Oklahoma Department of Transportation Commission Room, 200 N.E. 21st Street, Oklahoma City, Oklahoma at 3:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Comments from business entities may be sent to: Oklahoma Department of Transportation, 200 N.E. 21st Street, Room 1B7, Oklahoma City, OK 73105 or sent electronically by sending a request to: mbrewington@odot.org

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the Oklahoma Department of Transportation, 200 N.E. 21st Street, Room 1B7, Oklahoma City, OK 73105 or sent electronically by sending a request to: mbrewington@odot.org

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared prior to January 17, 2008 and may be obtained at the same location listed above for obtaining copies.

CONTACT PERSON:

Mary C. Brewington (405) 522-6002

[OAR Docket #07-1597; filed 12-5-07]

**TITLE 765. OKLAHOMA USED MOTOR
VEHICLE AND PARTS COMMISSION
CHAPTER 11. USED MOTOR VEHICLE
REBUILDERS**

[OAR Docket #07-1606]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Licensing Qualifications, Procedures and Fees [AMENDED]
765:11-1-2 [AMENDED]
Subchapter 3. Authority
765:11-3-1 [AMENDED]
765:11-3-2 [AMENDED]
765:11-3-4 [REVOKED]
Subchapter 5. Assessment of Fine or Denial, Suspension, or Revocation of License
765:11-5-1 [AMENDED]
765:11-5-2 [AMENDED]

SUMMARY:

These permanent rules are being submitted to make permanent the emergency rules previously enacted on the same subject matter. These rules amend and delete previous rules which have been impacted by statutory changes. The rules reflect the expansion of authority granted to rebuilders relating to vehicles the rebuilder may buy and eliminates some of the restrictions relating to disposition of the vehicles.

AUTHORITY:

The Used Motor Vehicle and Parts Commission
Title 47 O.S. Supp 2006 Section 582(E)(1);
Title 75 O.S. Supp 2006 Section

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma 73107, prior to the public hearing.

PUBLIC HEARING:

The public hearing will be held on Tuesday, February 12, 2008, at 11:00AM, at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Used Motor Vehicle and Parts Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts if possible, 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 in writing to John W. Maile, at the above address, before the close of the comment period on February 12, 2008.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after January 17, 2008, at the office of the Used Motor Vehicle and Parts Commission.

CONTACT PERSON:

John W. Maile, Director, Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma 73107 (405)949-2626.

[OAR Docket #07-1606; filed 12-6-07]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 12. SALVAGE POOLS AND SALVAGE DISPOSAL SALES**

[OAR Docket #07-1607]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Licensing Qualifications, Procedures and Fees [NEW]
 - 765:12-1-1 [NEW]
 - 765:12-1-2 [NEW]
 - 765:12-1-3 [NEW]
 - 765:12-1-4 [NEW]
- Subchapter 5. Permitted Buyers [NEW]
 - 765:12-5-1 [NEW]
 - 765:12-5-2 [NEW]
- Subchapter 7. Reports [NEW]
 - 765:12-7-1 [NEW]
 - 765:12-7-2 [NEW]
 - 765:12-7-3 [NEW]
- Subchapter 9. Payments to the Commission [NEW]
 - 765:12-9-1 [NEW]

SUMMARY:

These permanent rules are being submitted to make permanent the emergency rules previously enacted on the same subject matter. These rules establish criteria for licensing salvage disposal sales, who may purchase at those sales, sale reporting requirements, information to be made available relating to the sales, and procedure for reporting and payment of fees from the sales to the Commission.

AUTHORITY:

Used Motor Vehicle and Parts Commission
Title 47 O.S. Section 582(E)(1);

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma 73107, prior to the public hearing.

PUBLIC HEARING:

The public hearing will be held on Tuesday, February 12, 2008, at 11:00AM, at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Used Motor Vehicle and Parts Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts if possible, 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 in writing to John W.

Notices of Rulemaking Intent

Maile, at the above address, before the close of the comment period on February 12, 2008.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after January 17, 2008, at the office of the Used Motor Vehicle and Parts Commission.

CONTACT PERSON:

John W. Maile, Director, Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma 73107 (405)949-2626.

[OAR Docket #07-1607; filed 12-6-07]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 13. TEMPORARY LICENSE PLATES

[OAR Docket #07-1608]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Application [NEW]
765:13-1-1 [NEW]
Subchapter 3. Design [NEW]
765:13-3-1 [NEW]
765:13-3-2 [NEW]
765:13-3-3 [NEW]
765:13-3-4 [NEW]

SUMMARY:

These permanent rules are being submitted to make permanent the emergency rules previously enacted on the same subject matter. These rules establish specifications for temporary license plates, the information required on the plates, standards for their appropriate use and record keeping requirements.

AUTHORITY:

Used Motor Vehicle and Parts Commission
Title 47 O.S. Supp 2006 Section 582(E)(1);
Title 47 O.S. Supp 2007 Section 1137.1

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma 73107, prior to the public hearing.

PUBLIC HEARING:

The public hearing will be held on Tuesday, February 12, 2008, at 11:00AM, at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Used Motor Vehicle and Parts Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts if possible, 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 in writing to John W. Maile, at the above address, before the close of the comment period on February 12, 2008.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after January 17, 2008, at the office of the Used Motor Vehicle and Parts Commission.

CONTACT PERSON:

John W. Maile, Director, Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma 73107 (405)949-2626.

[OAR Docket #07-1608; filed 12-6-07]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 30. BUYER'S IDENTIFICATION CARDS

[OAR Docket #07-1609]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Licensing Qualifications, Procedures and Fees [REVOKED]
765:30-1-1 [REVOKED]
765:30-1-2 [REVOKED]
765:30-1-3 [REVOKED]
765:30-1-4 [REVOKED]
765:30-1-5 [REVOKED]
765:30-1-6 [REVOKED]
765:30-1-7 [REVOKED]
Subchapter 3. Assessment of Fine or Denial, Suspension, or Revocation of Bid Card [REVOKED]
765:30-3-1 [REVOKED]
765:30-3-3 [REVOKED]
Subchapter 5. Reciprocity [REVOKED]
765:30-5-1 [REVOKED]
Subchapter 7. Salvage Pools and Salvage Disposal Sales [REVOKED]
765:30-7-1 [REVOKED]
765:30-7-2 [REVOKED]
765:30-7-3 [REVOKED]

SUMMARY:

The rules in this chapter are being permanently revoked, as they were temporarily revoked by previous emergency rules. Statutory changes have eliminated buyer=s identification cards.

AUTHORITY:

Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma 73107, prior to the public hearing.

PUBLIC HEARING:

The public hearing will be held on Tuesday, February 12, 2008, at 11:00AM, at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Used Motor Vehicle and Parts Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts if possible, 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 in writing to John W. Maile, at the above address, before the close of the comment period on February 12, 2008.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after January 17, 2008, at the office of the Used Motor Vehicle and Parts Commission.

CONTACT PERSON:

John W. Maile, Director, Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma 73107 (405)949-2626.

[OAR Docket #07-1609; filed 12-6-07]

**TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 10. LICENSURE OF VETERINARIANS, VETERINARY TECHNICIANS AND ANIMAL EUTHANASIA TECHNICIANS**

[OAR Docket #07-1594]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Licensure of Veterinarians [AMENDED]
Subchapter 7. Certification of Veterinary Technicians [AMENDED]

SUMMARY:

The proposed revisions to chapter 10, includes modification to continuing education requirements for veterinarians and veterinary technicians. Also, expansion of duties for registered veterinary technicians if directed by the veterinarian.

AUTHORITY:

59 O.S. Supp.2006, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners

COMMENT PERIOD:

Written comments will be accepted January 16, 2008, through February 15, 2008 at: Oklahoma Board of Veterinary Medical Examiners, 201 N.E. 38th Terr, Suite 1, Oklahoma City, Oklahoma 73105, Attn: Cathy Kirkpatrick.

PUBLIC HEARING:

Public Hearing is scheduled on March 7, 2008, 4:00p.m.at the Office of the Board of Veterinary Medical Examiners, 201 N.E. 38th Terr, Suite 1, Oklahoma City, Oklahoma 73105. Telephone 405-524-9006

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 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 in writing to Cathy Kirkpatrick at the above address during the period from January 16, 2008, through February 15, 2008.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Board of Veterinary Medical Examiners, 201 N.E. 38th Terr., Suite 1, Oklahoma City, Oklahoma 73105. Telephone 405-524-9006.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Oklahoma Board of Veterinary Medical Examiners, 201 N.E. 38th Terr., Suite 1, Oklahoma City, Oklahoma 73105. Telephone 405-524-9006.

CONTACT PERSON:

Cathy Kirkpatrick (405) 524-9006

[OAR Docket #07-1594; filed 12-5-07]

**TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 25. RECORDKEEPING AND SUPERVISION REQUIREMENTS**

[OAR Docket #07-1595]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

Notices of Rulemaking Intent

PROPOSED RULES:

775:25-1-2. Patient records. [AMENDED]

775:25-1-4. Supervision Requirements [AMENDED]

SUMMARY:

The proposed revisions to Subchapter 1 Patient records, A health certificate issued in connection with the sale of an animal, for the purposes of verifying that an animal listed on a health certificate is the same animal examined by an attending veterinarian, any animal, except farm animals, shall be identified through the use of an identification microchip inserted under the skin of the animal or by an identifying number permanently tattooed on the skin. Revisions for Subchapter 1 Supervision requirements, deletion of vaccinations from duties of an employed assistant while the veterinarian is not on the premises.

AUTHORITY:

59 O.S. Supp.2007, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners

COMMENT PERIOD:

Written comments will be accepted January 16, 2008, through February 15, 2008 at: Oklahoma Board of Veterinary Medical Examiners, 201 N.E. 38th Terr, Suite 1, Oklahoma City, Oklahoma 73105, Attn: Cathy Kirkpatrick.

PUBLIC HEARING:

Public Hearing is scheduled on March 7, 2008, 4:00p.m.at the Office of the Board of Veterinary Medical Examiners, 201 N.E. 38th Terr, Suite 1, Oklahoma City, Oklahoma 73105. Telephone 405-524-9006

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 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 in writing to Cathy Kirkpatrick at the above address during the period from January 16, 2008, through February 15, 2008.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Board of Veterinary Medical Examiners, 201 N.E. 38th Terr., Suite 1, Oklahoma City, Oklahoma 73105. Telephone 405-524-9006.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Oklahoma Board of Veterinary Medical Examiners, 201 N.E. 38th Terr., Suite 1, Oklahoma City, Oklahoma 73105. Telephone 405-524-9006.

CONTACT PERSON:

Cathy Kirkpatrick (405) 524-9006

[OAR Docket #07-1595; filed 12-5-07]

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 26. WHOLESALE/DISTRIBUTOR OF VETERINARY PRESCRIPTION DRUGS

[OAR Docket #07-1596]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 26. Wholesaler/Distributor of Veterinary Prescription Drugs [AMENDED]

SUMMARY:

The proposed to Chapter 26 would require a wholesaler or distributor selling, supplying or dispensing veterinary prescription drugs for use in the State of Oklahoma shall annually notify the Board of the name, address and business telephone number of each sales representative and/or veterinarian doing business in Oklahoma that is employed by or under contract with the wholesaler or distributor.

AUTHORITY:

59 O.S. Supp.2007, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners

COMMENT PERIOD:

Written comments will be accepted January 16, 2008, through February 15, 2008 at: Oklahoma Board of Veterinary Medical Examiners, 201 N.E. 38th Terr, Suite 1, Oklahoma City, Oklahoma 73105, Attn: Cathy Kirkpatrick.

PUBLIC HEARING:

Public Hearing is scheduled on March 7, 2008, 4:00p.m.at the Office of the Board of Veterinary Medical Examiners, 201 N.E. 38th Terr, Suite 1, Oklahoma City, Oklahoma 73105. Telephone 405-524-9006

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 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 in writing to Cathy Kirkpatrick at the above address during the period from January 16, 2008, through February 15, 2008.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Board of Veterinary Medical Examiners, 201 N.E. 38th Terr., Suite 1, Oklahoma City, Oklahoma 73105. Telephone 405-524-9006.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Oklahoma Board of Veterinary Medical Examiners, 201 N.E. 38th Terr., Suite 1, Oklahoma City, Oklahoma 73105. Telephone 405-524-9006.

CONTACT PERSON:

Cathy Kirkpatrick (405) 524-9006

[OAR Docket #07-1596; filed 12-5-07]

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 #07-1574]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 7. Environmental Permit Process
- Part 7. Water Quality Division Tiers and Timelines
- 252:4-7-73. Water quality applications - Tier I [AMENDED]
- 252:4-7-74. Water quality applications - Tier II [AMENDED]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1574; filed 11-26-07]

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

[OAR Docket #07-1575]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 7. Permits for Minor Facilities
- Part 1. General Provisions
- 252:100-7-2. [AMENDED]
- Part 3. Construction Permits
- 252:100-7-15. [AMENDED]
- Part 4. Operating Permits
- 252:100-7-18. [AMENDED]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1575; filed 11-26-07]

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

[OAR Docket #07-1576]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- 252:100-1-3. Definitions [AMENDED]
- Subchapter 8. Permits for Part 70 Sources
- Part 1. General Provisions
- 252:100-8-1.1. Definitions [AMENDED]
- Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)
- Part 1. General Provisions
- 252:100-37-2. Definitions [AMENDED]
- Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas
- Part 1. General Provisions
- 252:100-39-2. Definitions [AMENDED]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1576; filed 11-26-07]

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

[OAR Docket #07-1577]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)
- Part 7. Control of Specific Processes
- 252:100-37-38. Pumps and compressors [REVOKED]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

Submissions for Review

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1577; filed 11-26-07]

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

[OAR Docket #07-1578]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix E. Primary Ambient Air Quality Standards
[REVOKED]

Appendix E. Primary Ambient Air Quality Standards
[NEW]

Appendix F. Secondary Ambient Air Quality Standards
[REVOKED]

Appendix F. Secondary Ambient Air Quality Standards
[NEW]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1578; filed 11-26-07]

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

[OAR Docket #07-1579]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix Q. Incorporations by Reference [REVOKED]

Appendix Q. Incorporations by Reference [NEW]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1579; filed 11-26-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 205. HAZARDOUS WASTE MANAGEMENT**

[OAR Docket #07-1580]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Incorporation by Reference
252:205-3-1. [AMENDED]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1580; filed 11-26-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 515. MANAGEMENT OF SOLID WASTE**

[OAR Docket #07-1581]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 19. Operational Requirements

Part 13. Wheel Washes

252:515-19-132. Eligibility deadlines [AMENDED]

252:515-19-133. Definitions [AMENDED]

252:515-19-134. Approved costs [AMENDED]

252:515-19-135. Disapproved costs [AMENDED]

252:515-19-136. ~~Recoupment~~—Reimbursement process
[AMENDED]

252:515-19-137. State fiscal limitation on funds
[AMENDED]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1581; filed 11-26-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 515. MANAGEMENT OF SOLID WASTE**

[OAR Docket #07-1582]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix C. List of Hazardous Inorganic and Organic Constituents [REVOKED]

Appendix C. List of Hazardous Inorganic and Organic Constituents [NEW]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1582; filed 11-26-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 633. DRINKING WATER STATE REVOLVING FUND**

[OAR Docket #07-1583]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

252:633-1-1. Purpose [AMENDED]

252:633-1-4. Authority [AMENDED]

252:633-1-5. Definitions [AMENDED]

Subchapter 3. General Program Requirements

252:633-3-3. Revenue program [AMENDED]

252:633-3-4. DWSRF Project Priority System [AMENDED]

252:633-3-8. Types of assistance [AMENDED]

252:633-3-9. Pre-application for funding [AMENDED]

252:633-3-13. ~~Submittals Plans and specifications~~ [AMENDED]

252:633-3-14. Application for financial assistance [AMENDED]

252:633-3-16. Loan closing [AMENDED]

252:633-3-17. Refinancing construction loans [AMENDED]

252:633-3-19. Construction phase [AMENDED]

252:633-3-20. Project changes [AMENDED]

252:633-3-21. Building phase submittal [AMENDED]

252:633-3-22. Progress payments. [AMENDED]

252:633-3-25. Accounting [AMENDED]

Subchapter 5. Miscellaneous Provisions

252:633-5-5. Project or water project completion, inspection and audit [AMENDED]

Subchapter 7. Environmental Review Process

252:633-7-1. Requirement of environmental review [AMENDED]

Appendix A. Funding Priority Formula [REVOKED]

Appendix A. Funding Priority Formula [NEW]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1583; filed 11-26-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 710. WATERWORKS AND WASTEWATER WORKS OPERATOR CERTIFICATION**

[OAR Docket #07-1584]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix A. Classification of Community and Nontransient Noncommunity Water Systems, Wastewater Systems and Laboratories [REVOKED]

Appendix A. Classification of Community and Non-transient, Non-community Water Systems, Wastewater Systems and Laboratories (OAC 252:710-3-33) [NEW]

SUBMITTED TO GOVERNOR:

November 26, 2007

SUBMITTED TO HOUSE:

November 26, 2007

SUBMITTED TO SENATE:

November 26, 2007

[OAR Docket #07-1584; filed 11-26-07]

Gubernatorial Approvals

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

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

**TITLE 40. BOARD OF TESTS FOR
ALCOHOL AND DRUG INFLUENCE
CHAPTER 30. ANALYSIS OF ALCOHOL IN
BREATH**

[OAR Docket #07-1610]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

40:30-1-3. [AMENDED]

GUBERNATORIAL APPROVAL:

November 20, 2007

[OAR Docket #07-1610; filed 12-6-07]

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

[OAR Docket #07-1622]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 16. Maternal and Infant Health Licensed Clinical Social Workers
[NEW]

317:30-5-204. through 317:30-5-209. [NEW]

(Reference APA WF # 07-40)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.250(p)

DATES:

Adoption:

September 13, 2007

Approved by Governor:

October 2, 2007

Effective:

Immediately upon Governor's approval or November 1, 2007, whichever is later

Expiration:

Effective through July 14, 2008, 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 imminent peril exists to the preservation of the public health, safety, or welfare which necessitates promulgation of emergency rules and requests emergency approval of rule revisions that add Maternal and Infant Health Licensed Clinical Social Workers (MIHLCSWs) to individual providers and specialties who provide health care to SoonerCare members. Services provided by MIHLCSWs consist of supportive counseling, education, and case management toward the goal of reducing poor perinatal outcomes. The addition of MIHLCSWs will increase access to counseling services for pregnant/postpartum SoonerCare members who may be at risk due to drug/alcohol use, domestic violence, and/or problems in the post partum environment that interfere with infant health and bonding. If revisions are not made, SoonerCare members will not have the benefit of these services which are vital to improving perinatal outcomes and optimizing early maternal infant health.

ANALYSIS:

Rules are revised to add Maternal and Infant Health Licensed Clinical Social Workers (MIHLCSWs) to individual providers and specialties who provide health care to SoonerCare members. Services provided by MIHLCSWs consist of supportive counseling, education, and case management toward the goal of reducing poor perinatal outcomes and

optimizing early maternal infant health, attachment and bonding. The emphasis is on providing support, motivation, education and assistance in accessing appropriate care. The addition of MIHLCSWs will increase access to counseling services for pregnant/postpartum SoonerCare members who may be at risk due to drug/alcohol use, domestic violence, and/or problems in the post partum environment that interfere with infant health and bonding. Proposed rule revisions are a result of the Oklahoma State Department of Health and the Oklahoma Health Care Authority Perinatal Task Force. The focus of this task force is to study issues concerning pregnant women covered by SoonerCare and other public funding sources and to develop programs and plans to target those areas for positive outcomes. This revision will allow MIHLCSWs to contract directly with the OHCA and expand the number of providers allowed to provide services to SoonerCare members.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR NOVEMBER 1, 2007, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 16. MATERNAL AND INFANT HEALTH LICENSED CLINICAL SOCIAL WORKERS

317:30-5-204. General Information

The emphasis of maternal and infant health licensed clinical social work services is on providing psychosocial support, health and behavior assessment and intervention focused on biopsychosocial factors related to the member's perinatal health status. These services are intended for women who are at risk due to drug/alcohol use, domestic violence, lack of stable food/shelter, have high risk medical conditions, problems in the post partum environment that interfere with the infant health and bonding and/or other psychosocial concerns.

317:30-5-205. Eligible Providers

Eligible providers are Licensed Clinical Social Workers (LCSWs) with a minimum of six hours of continuing education or technical assistance in the area of Maternal and Infant

Emergency Adoptions

Health. LCSWs must have a current contract on file with the Oklahoma Health Care Authority and be licensed in the state in which the service is being provided. Services may also be provided through the Department of Health or other county health departments. Services provided through the health departments must be provided by a LCSW. In the event of a post-payment audit, LCSWs providing Maternal and Infant Health Clinical Social Work services must be able to demonstrate that they have completed at least six hours of continuing education or technical assistance for each calendar year of providing care to SoonerCare members. The continuing education or technical assistance must be in the area of Maternal and Infant Health relevant to the provision of Social Work Services.

317:30-5-206. Coverage

Maternal and infant health social work services are covered for pregnant and postpartum women for whom a psychosocial condition exists that may negatively impact the pregnancy and/or well being of the newborn infant. SoonerCare members may self-refer or be referred by any provider. Identification of the condition may be based on a CH-16 or the Licensed Clinical Social Worker's initial assessment. Psychosocial assessment/counseling is appropriate in order to develop a social work care plan based upon the health risks due to psychosocial factors.

317:30-5-207. Limitations

Coverage limitations for maternal and infant health social work services are as follows:

- (1) Services are only covered when performed in the LCSW's office setting, patient's home or other confidential clinic setting.
- (2) No separate reimbursement will be made to a facility.
- (3) Services billed by a contracted LCSW must be provided face-to-face and in an individual setting.

317:30-5-208. Reimbursement

- (a) Maternal and infant health social work services must be billed using appropriate CPT codes and guidelines.
- (b) SoonerCare does not allow more than 32 units (15 minutes = 1 unit) during the pregnancy which includes 60 days postpartum.
- (c) LCSWs that are employed by or remunerated by another provider may not bill the SoonerCare program directly for services if that billing would result in duplicate payment for the same service.
- (d) Only the LCSW directly performing the care or a county health department may bill the SoonerCare Program.
- (e) The time indicated on the claim form must be the time actually spent with the member.

317:30-5-209. Documentation

All services must be reflected by documentation in the patient records. All assessment and treatment services must include the following:

- (1) date;
- (2) start and stop time for each timed treatment session;
- (3) signature of the service provider;
- (4) credentials of service provider;
- (5) documentation of the referral source;
- (6) problems(s), goals and/or objectives identified on the treatment plan;
- (7) methods used to address the problem(s), goals and objectives;
- (8) progress made toward goals and objectives;
- (9) patient response to the session or intervention; and
- (10) any new problem(s), goals and/or objectives identified during the session.

[OAR Docket #07-1622; filed 12-7-07]

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

[OAR Docket #07-1620]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 17. Medical Suppliers

317:30-5-210. [AMENDED]

(Reference APA WF # 07-48)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 424.57(c)

DATES:

Adoption:

September 13, 2007

Approved by Governor:

October 2, 2007

Effective:

Immediately upon Governor's approval or November 1, 2007, whichever is later

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

Superseded Rules:

Subchapter 5. Individual Providers and Specialties

Part 17. Medical Suppliers

317:30-5-210. [AMENDED]

(Reference APA WF # 07-22)

Gubernatorial approval:

June 28, 2007

Register publication:

24 Ok Reg 2890

Docket number:

07-1340

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to allow SoonerCare contracted providers of durable medical equipment, prosthetics, orthotics and supplies an obtainable deadline for attaining accreditation by a Medicare deemed accreditation organization. The deadline of January 1, 2008, previously set by the agency will not be met by many current SoonerCare providers due to the inability of the accreditation

organizations to complete the lengthy, cumbersome process by the end of the year deadline for the number of providers who currently have requested accreditation. If the accreditation requirement is not postponed, SoonerCare members may experience difficulty in obtaining needed services.

ANALYSIS:

Agency rules are revised to delay the SoonerCare requirement of accreditation by a Medicare deemed accreditation organization for quality standards for providers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS). In May, 2007, the agency revised rules effective July 1, 2007, to require this accreditation by January 1, 2008; however, it has now been determined that the accreditation organizations will be unable to complete the accreditation process for current SoonerCare contracted providers for two more years. Therefore, the deadline for DMEPOS providers to obtain this accreditation in order to receive reimbursement from SoonerCare is being delayed until January 1, 2011.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR NOVEMBER 1, 2007, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 17. MEDICAL SUPPLIERS

317:30-5-210. Eligible providers

All eligible medical suppliers must have a current contract with the Oklahoma Health Care Authority. The supplier must comply with all applicable State and Federal laws. Effective January 1, 2011, all suppliers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) must be accredited by a Medicare deemed accreditation organization for quality standards for DMEPOS suppliers in order to bill the SoonerCare program. OHCA may make exceptions to this standard if it is determined that a supplier may provide acceptable service to an under served location.

[OAR Docket #07-1620; filed 12-7-07]

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

[OAR Docket #07-1616]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties
Part 17. Medical Suppliers
317:30-5-211.13. [NEW]
(Reference APA WF # 07-47)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR Section 440.120

DATES:

Adoption:
October 11, 2007

Approved by Governor:

October 12, 2007

Effective:

Immediately upon Governor's approval or December 1, 2007, whichever is later

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 5. Individual Providers and Specialties
Part 17. Medical Suppliers
317:30-5-211.13. [NEW]

Gubernatorial approval:

June 28, 2007

Register publication:

24 Ok Reg 2890

Docket number:

07-1340

(Reference APA WF # 07-22)

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to allow an exception for coverage of external breast prosthesis in certain instances. Most women with breast cancer receive reconstructive surgery following a mastectomy. Sometimes the breast implant fails or ruptures and circumstances are such that an implant replacement is not recommended by the surgeon and/or desired by the member. Currently, OHCA rules state that external breast prostheses are not covered once breast reconstruction is performed. Without this revision, affected women would either require additional breast reconstruction that they are not a candidate for or do not desire in order to regain anatomical balance.

ANALYSIS:

Rules are revised to allow an exception for coverage of external breast prosthesis in instances where a woman with breast cancer receives reconstruction following a mastectomy, but the breast implant fails or ruptures and circumstances are such that an implant replacement is not recommended by the surgeon and/or desired by the member. Currently, OHCA rules state that external breast prostheses are not covered once breast reconstruction is performed. Studies have shown that about 20% of modern implants rupture within 10 years of cosmetic augmentation. This rule revision will give SoonerCare members who have had a failed implant or other complications the option to receive an external breast prosthesis in lieu of further more costly reconstructive surgery as well as allow members, who are not candidates for further reconstructive surgery, to obtain external breast prostheses for comfort and balance.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2007, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

Emergency Adoptions

PART 17. MEDICAL SUPPLIERS

317:30-5-211.13. Prosthetic devices

Prosthetic devices prescribed by an appropriate medical provider as conditioned in this section are covered items.

- (1) **Certificate of medical necessity.** The medical supplier must have a fully completed CMN on file for prosthetic items including Transcutaneous Electric Nerve Stimulators (TENS).
- (2) **Prior authorization.** Prosthetic devices, except for cataract lenses, require prior authorization.
- (3) **Home dialysis.** Equipment and supplies are covered items for members receiving home dialysis treatments only.
- (4) **Nerve stimulators.** Payment is made for rental equipment which must not exceed the purchase price, for transcutaneous nerve stimulators, implanted peripheral nerve stimulators, and neuromuscular stimulators. After continuous rental for 13 months, the equipment becomes the property of the OHCA to be used by the member until no longer medically necessary.
- (5) **Breast prosthesis, bras, and prosthetic garments.**
 - (A) Payment is limited to:
 - (i) one prosthetic garment with mastectomy form every 12 months for use in the postoperative period prior to a permanent breast prosthesis or as an alternative to a mastectomy bra and breast prosthesis;
 - (ii) two mastectomy bras per year; and
 - (iii) one silicone or equal breast prosthetic per side every 24 months; or
 - (iv) one foam prosthetic per side every six months.
 - (B) Payment will not be made for both a silicone and a foam prosthetic in the same 12 month period.
 - (C) Breast prostheses, bras, and prosthetic garments must be purchased from a Board Certified Mastectomy Fitter.
 - (D) A breast prosthesis can be replaced if:
 - (i) lost;
 - (ii) irreparably damaged (other than ordinary wear and tear); or
 - (iii) the member's medical condition necessitates a different type of item and the physician provides a new prescription explaining the need for a different type of prosthesis.
 - (E) External breast prostheses are not covered after breast reconstruction is performed except in instances where a woman with breast cancer receives reconstructive surgery following a mastectomy, but the breast implant fails or ruptures and circumstances are such that an implant replacement is not recommended by the surgeon and/or desired by the member.
- (6) **Prosthetic devices inserted during surgery.** Separate payment is made for prosthetic devices inserted during the course of surgery when the prosthetic devices are

not integral to the procedure and are not included in the reimbursement for the procedure itself.

[OAR Docket #07-1616; filed 12-7-07]

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

[OAR Docket #07-1623]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-22. [AMENDED]

317:30-5-22.1. [NEW]

(Reference APA WF # 07-38)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.250(p)

DATES:

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Approved by Governor:

October 2, 2007

Effective:

Immediately upon Governor's approval or November 1, 2007, whichever is later

Expiration:

Effective through July 14, 2008, 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 imminent peril exists to the preservation of the public health, safety, or welfare which necessitates promulgation of emergency rules and requests emergency approval of rule revisions that add enhanced services for medically high risk pregnancies and allow additional reimbursement to an obstetrical care provider treating a member who is confirmed to be medically/obstetrically "high risk". Enhanced services will be available for pregnant women eligible for SoonerCare and will be in addition to services for uncomplicated maternity cases. The additional reimbursement and services will increase access to Maternal and Fetal Medicine Specialists and ensure high risk pregnant SoonerCare members receive appropriate prenatal care and services. If revisions are not made, SoonerCare members will not have the necessary access to these specialists and services.

ANALYSIS:

Rules are revised to add enhanced services for medically high risk pregnancies and allow additional reimbursement to an obstetrical care provider treating a member who is confirmed to be medically/obstetrically "high risk". Enhanced services are available for pregnant women eligible for SoonerCare and are in addition to services for uncomplicated maternity cases. Women deemed high risk based on criteria established by the OHCA may receive prior authorization for medically necessary enhanced benefits which include prenatal at risk ante partum management, non stress test(s), and additional ultrasounds not covered under routine obstetrical care. Proposed rule revisions are a result of the Oklahoma State Department of Health and the Oklahoma Health Care Authority Perinatal Task Force. The focus of this task force is to study issues concerning pregnant women covered by SoonerCare and other public funding sources and to develop programs and plans to target those areas for positive outcomes. These rule revisions will ensure high risk pregnant SoonerCare members receive appropriate prenatal care in an effort to significantly reduce the possibility of poor birth outcomes.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR NOVEMBER 1, 2007, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 1. PHYSICIANS

317:30-5-22. Obstetrical care

(a) Obstetrical (OB) care is billed using the appropriate CPT codes for Maternity Care and Delivery. The date of delivery is used as the date of service for charges for total obstetrical care. Inclusive dates of care should be indicated on the claim form as part of the description. Payment for total obstetrical care includes all routine care, and any ultrasounds performed by the attending physician provided during the maternity cycle unless otherwise specified in this Section. For payment of total OB care, a physician must have provided care for more than one trimester. To bill for prenatal care only, the claim is filed after the member leaves the provider's care. Payment for routine or minor medical problems will not be made separately to the OB physician outside of the ante partum visits. The ante partum care during the prenatal care period includes all care by the OB attending physician except major illness distinctly unrelated to the pregnancy.

(b) Procedures paid separately from total obstetrical care are listed in (1) - (6) of this subsection.

(1) The completion of an American College of Obstetricians and Gynecologist (ACOG) assessment form and the most recent version of the Oklahoma Health Care Authority (OHCA), Authority's Prenatal Psychosocial Assessment are reimbursable when both documents are included in the prenatal record. SoonerCare allows one assessment per provider and no more than two per pregnancy.

(2) Medically necessary real time ante partum diagnostic ultrasounds will be paid for in addition to ante partum care, delivery and post partum obstetrical care under defined circumstances. To be eligible for payment, ultrasound reports must meet the guideline standards published by the American Institute of Ultrasound Medicine (AIUM).

(A) One abdominal or vaginal ultrasound will be covered in the first trimester of pregnancy. The ultrasound must be performed by a board certified Obstetrician-Gynecologist (OB-GYN), Radiologist, or a Maternal-Fetal Medicine specialist. In addition,

this ultrasound may be performed by a Nurse Midwife, Family Practice Physician or Advance Practice Nurse Practitioner in Obstetrics with a certification in Obstetrical ultrasonography.

(B) One ultrasound after the first trimester will be covered. This ultrasound must be performed by a board certified Obstetrician-Gynecologist (OB-GYN), Radiologist, or a Maternal-Fetal Medicine specialist. In addition, this ultrasound may be performed by a Nurse Midwife, Family Practice Physician or Advance Practice Nurse Practitioner in Obstetrics with certification in Obstetrical ultrasonography.

(C) Additional ultrasounds, including detailed ultrasounds and re-evaluations of previously identified or suspected fetal or maternal anomalies, must be performed by an active candidate or Board Certified diplomat in Maternal-Fetal Medicine.

(3) Standby attendance at Cesarean Section (C-Section), for the purpose of attending the baby, is compensable when billed by a physician not participating in the delivery.

(4) Spinal anesthesia administered by the attending physician is a compensable service and is billed separately from the delivery.

(5) Amniocentesis is not included in routine obstetrical care and is billed separately.

(6) Additional payment is not made for the delivery of twins. If one twin is delivered vaginally and one is delivered by C-section by the same physician, the higher level procedure is paid. If one twin is delivered vaginally and one twin is delivered by C-Section, by different physicians, each should bill the appropriate procedure codes without a modifier. Payment is not made to the same physician for both standby and assistant at C-Section.

(c) Assistant surgeons are paid for C-Sections which include only in-hospital post-operative care. Family practitioners who provide prenatal care and assist at C-Section should bill separately for the prenatal and the six weeks postpartum office visit.

(d) Procedures listed in (1) - (5) of this subsection are not paid or not covered separately from total obstetrical care.

~~(1) An additional allowance is not be made for induction of labor, double set up examinations, fetal stress and non stress tests, or pudendal anesthetic. Do not bill separately for these procedures. Non-stress tests.~~

(2) Standby at C-Section is not compensable when billed by a physician participating in delivery.

(3) Payment is not made for assistant surgery for obstetrical procedures which include prenatal or post partum care.

~~(4) Pitocin induction of labor is considered part of the delivery and separate payment is not made. An additional allowance is not made for induction of labor, double set up examinations, fetal stress tests, or pudendal anesthetic. Providers must not bill separately for these procedures.~~

(5) Fetal scalp blood sampling is considered part of the total OB care.

Emergency Adoptions

(e) Obstetrical coverage for children is the same as for adults with additional procedures being covered due to EPSDT provisions if determined to be medically necessary.

(1) Services, deemed medically necessary and allowable under federal Medicaid regulations, are covered by the EPSDT/OHCA Child Health program even though those services may not be part of the Oklahoma Health Care Authority SoonerCare program. Such services must be prior authorized.

(2) Federal Medicaid regulations also require the State to make the determination as to whether the service is medically necessary and do not require the provision of any items or services that the State determines are not safe and effective or which are considered experimental.

317:30-5-22.1. Enhanced Services for Medically High Risk Pregnancies

(a) Enhanced Services. Enhanced services are available for pregnant women eligible for SoonerCare and are in addition to services for uncomplicated maternity cases. Women deemed high risk based on criteria established by the OHCA may receive prior authorization for medically necessary enhanced benefits which include:

- (1) prenatal at risk ante partum management;
- (2) a combined maximum of 12 fetal non stress test(s) and biophysical profiles; and
- (3) a maximum of 6 repeat ultrasounds not covered under OAC 317:30-5-22(b)(2).

(b) Prior Authorization. In order to receive enhanced services, the following documentation must be received by the OHCA Medical Authorizations Unit for review/approval:

- (1) ACOG or other comparable comprehensive assessment;
- (2) chart note identifying and detailing the qualifying high risk condition; and
- (3) a treatment plan signed by the primary provider of obstetric care, a Maternal Fetal Medicine specialist who has agreed to provide collaborative care, and the SoonerCare member. The treatment plan must contain the following:

- (A) a description of care to be provided by the Maternal Fetal Medicine specialist;
- (B) a description of care to be provided by the primary provider of obstetrical care;
- (C) anticipated number of non stress test(s) and biochemical profiles needed (if applicable); and
- (D) anticipated number of follow-up ultrasounds needed.

(c) Reimbursement. Enhanced benefits will be reimbursed as follows:

- (1) ante partum management for high risk will be reimbursed to the primary provider of obstetrical care.
- (2) reimbursement for enhanced at risk ante partum management will not be available to physicians who already qualify for enhanced reimbursement as state employed physicians.

(3) reimbursement for enhanced at risk ante partum management will not be made during an in-patient hospital stay.

[OAR Docket #07-1623; filed 12-7-07]

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

[OAR Docket #07-1621]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 18. Genetic Counselors [NEW]

317:30-5-219. through 317:30-5-223. [NEW]

(Reference APA WF # 07-41)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.250(p)

DATES:

Adoption:

September 13, 2007

Approved by Governor:

October 2, 2007

Effective:

Immediately upon Governor's approval or November 1, 2007, whichever is later

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions that add Licensed Genetic Counselors (LGCs) to individual providers and specialties who provide health care to SoonerCare members. The field of genetics has developed tests and procedures that have significant impact on perinatal care. Genetic counselors interpret complex test results, analyze inheritance patterns and reoccurrence risk, as well as provide supportive counseling. The addition of LGCs will increase access to genetic counseling services for pregnant/postpartum SoonerCare members and allow women/couples, who have been told their pregnancy is at an increased risk for a birth defect or genetic condition, to choose a course of action appropriate for them in view of their risk, their family goals, and their ethical and religious standards. If revisions are not made, SoonerCare members will not have the benefit of these services which are vital to the understanding of congenital birth defects.

ANALYSIS:

Rules are revised to add Licensed Genetic Counselors (LGCs) to individual providers and specialties who provide health care to SoonerCare members. The field of genetics has developed tests and procedures that have significant impact on perinatal care. Genetic counseling is a process by which critical family history, patient history, and other factors are gathered, analyzed and shared with the member in order to help them understand and adapt to the medical psychosocial and familial contributions to potential or realized birth defects. Proposed rule revisions are a result of the Oklahoma State Department of Health and Oklahoma Health Care Authority Perinatal Task Force. The focus of this task force is to study issues concerning pregnant women covered by SoonerCare and other public funding sources and to develop programs and plans to target those areas for positive outcomes. This revision to rules will allow Genetic Counselors to contract directly with the OHCA and expand the number of providers allowed to provide services to SoonerCare members.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR NOVEMBER 1, 2007, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 18. GENETIC COUNSELORS

317:30-5-219. General Information

Genetic counseling gathers critical family history, patient history, and other factors to be analyzed and shared with the member to help them understand and adapt to the medical, psychosocial and familial contributions to potential or realized birth defects.

317:30-5-220. Eligible Providers

Eligible providers must be Licensed Genetic Counselors. Genetic Counselors must have a current contract on file with the Oklahoma Health Care Authority and be licensed in the state in which the service is being provided.

317:30-5-221. Coverage

(a) Services for pregnant/postpartum SoonerCare members must be referred by a provider involved in the provision of obstetric or pediatric care. Members are eligible for genetic counseling during pregnancy which includes 60 days postpartum. Reasons for genetic counseling include but are not limited to the following:

- (1) advanced maternal age;
(2) abnormal maternal serum first or second screening;
(3) previous child or current fetus/infant with an abnormality;
(4) consanguinity/incest;
(5) parent is a known carrier or has a family history of a genetic condition;
(6) parent was exposed to a known or suspected reproductive hazard;
(7) previous fetal demise, stillbirth, or neonatal death involving known/suspected abnormalities;
(8) history of recurrent pregnancy loss; or
(9) parent(s) are in an ethnic or racial group associated with an increased risk for specific genetic conditions.

(b) These services may be provided in an office or outpatient setting.

317:30-5-222. Reimbursement

(a) Counseling services must be billed using appropriate CPT codes and guidelines and must be medically necessary. SoonerCare does not allow more than six units (30 minutes = 1 unit) per pregnancy including 60 days postpartum care.

(b) Genetic Counselors who are employed by or remunerated by another provider may not bill the SoonerCare program directly for services if that billing would result in duplicate payment for the same service.

317:30-5-223. Documentation

All services must be documented in the member's medical record. All prenatal and postpartum genetic counseling sessions must at a minimum include the following:

- (1) date of service;
(2) start and stop time for each treatment session;
(3) practitioner's signature;
(4) pedigree, and/or review and interpretation of family history; and
(5) recommendation and plan of care.

[OAR Docket #07-1621; filed 12-7-07]

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

[OAR Docket #07-1619]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties
Part 20. Lactation Consultants [NEW]
317:30-5-230. through 317:30-5-235. [NEW]
(Reference APA WF # 07-42)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.250(p).

DATES:

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September 13, 2007

Approved by Governor:

October 2, 2007

Effective:

Immediately upon Governor's approval or December 1, 2007, whichever is later

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that imminent peril exists to the preservation of the public health, safety, or welfare which necessitates promulgation of emergency rules and requests emergency approval of rule revisions that add Registered Lactation Consultants (RLCs) and International Board Certified Lactation Consultants (IBCLCs) to individual providers and specialties who provide health care to SoonerCare members. Research has confirmed the importance of breastfeeding and breast milk for the optimal health of infants, children and mothers. The addition of RLCs and IBCLCs will increase access to lactation

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services for pregnant/postpartum SoonerCare members and increase the number of SoonerCare members who breastfeed. Without these revisions, the SoonerCare program will be unable to impact the number of SoonerCare members who elect to breastfeed.

ANALYSIS:

Rules are revised to add Registered Lactation Consultants (RLCs) and International Board Certified Lactation Consultants (IBCLCs) to individual providers and specialties who provide health care to SoonerCare members. Research has confirmed the importance of breastfeeding and breast milk for the optimal health of infants, children and mothers. Professional lactation services provide counseling or behavioral interventions to improve breastfeeding outcomes. Currently, access to lactation education and counseling is limited for SoonerCare members. Proposed rule revisions are a result of the Oklahoma State Department of Health and the Oklahoma Health Care Authority Perinatal Task Force. The focus of this task force is to study issues concerning pregnant women covered by SoonerCare and other public funding sources and to develop programs and plans to target those areas for positive outcomes. This revision to rules will allow Lactation Consultants to contract directly with the OHCA and will increase access to lactation services for pregnant/postpartum SoonerCare members.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2007, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 20. LACTATION CONSULTANTS

317:30-5-230. General Information

The primary focus of this service is member-specific support and education regarding breastfeeding, addressing particular issues, and/or managing lactation crisis.

317:30-5-231. Eligible Providers

Eligible providers are International Board Certified Lactation Consultants (IBCLCs) or Registered Lactation Consultants (RLCs). IBCLCs and RLCs must have a current contract on file with the Oklahoma Health Care Authority.

317:30-5-232. Coverage

Lactation Consultant services are covered for pregnant women and women up to 60 days postpartum. SoonerCare members may self-refer or be referred by any provider. Reasons for lactation services include but are not limited to the following:

- (1) prenatal education/training for first time mothers;
- (2) women who have not previously breastfed, have a history of breastfeeding difficulty, have identified risk factors for breastfeeding difficulty or lactation insufficiency (e.g., history of breast surgery, infertility, hormonal imbalance, diabetes, obesity);

(3) women expecting an infant with risk factors for ineffective breastfeeding (e.g., preterm, multiples, congenital birth defects);

(4) latch-on difficulties;

(5) low milk supply;

(6) breastfeeding a premature baby (36 weeks or less gestation);

(7) breastfeeding multiples; and

(8) a baby with special needs (e.g., Down Syndrome, cleft lip/or palate).

317:30-5-233. Limitations

(a) Services billed by a contracted IBCLC/RLC are only covered when performed in the IBCLC's/RLC's office setting, patient's home, or other confidential outpatient setting. Payment for inpatient services provided by a Lactation Consultant is included in the hospital's per diem rate.

(b) No separate reimbursement will be made to a facility.

(c) Services are not to duplicate any basic breastfeeding education/training a member may have received through another program such as WIC or the Children's First Program and services must be problem focused.

(d) Services provided by a contracted IBCLC/RLC must be provided face-to-face and in an individual setting.

(e) Reimbursement is limited to not more than 6 sessions per pregnancy and must be objectively documented as medically necessary.

317:30-5-234. Reimbursement

IBCLCs/RLCs who are employed by or remunerated by another provider may not bill the SoonerCare program directly for services if that billing would result in duplicate payment for the same service.

317:30-5-235. Documentation

All services must be documented in the member's medical record. All prenatal and postpartum lactation sessions must, at a minimum, include the following:

- (1) date of service;
- (2) start and stop time for each session;
- (3) documentation of services provided;
- (4) practitioner's signature; and
- (5) recommendation and plan of care.

[OAR Docket #07-1619; filed 12-7-07]

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

[OAR Docket #07-1615]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Eligibility and Countable Income

Part 1. Determination of Qualifying Categorical Relationships
 317:35-5-2. [AMENDED]
 317:35-5-6.1. [NEW]
 Part 3. Non-Medical Eligibility Requirements
 317:35-5-25. [AMENDED]
 Subchapter 22. Pregnancy Related Benefits Covered under Title XXI
 [NEW]
 317:35-22-1. through OAC 317:35-22-11. [NEW]
(Reference APA WF # 07-58)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR Part 457

DATES:

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Approved by Governor:

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that imminent peril exists to the preservation of the public health, safety, or welfare which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to add pregnancy related benefits to improve health outcomes for children who are Oklahoma residents and U. S. citizens upon their birth. Current rules prohibit prenatal benefits to pregnant women with certain alien status. Studies have shown prenatal care reduces low birth weights and the probability of birth defects. In addition, expenditures for these children after birth, who have citizenship and meet Medicaid eligibility standards, are more costly than those for children whose mothers have had prenatal care. Rule revisions will lower expenditures for neo-natal ICU expenses, extended hospital stays after birth and ongoing chronic medical expenses for infants born with birth complications resulting from little or no prenatal care.

ANALYSIS:

Rules are revised to add pregnancy related benefits to improve health outcomes for children who are Oklahoma residents and U. S. citizens upon their birth. Current agency rules prohibit prenatal benefits to pregnant women with certain alien status. As a result of the prohibition, the child goes without prenatal care. The lack of care can result in low birth weight and an increased probability of birth defects. Expenditures for these children after birth, who have citizenship, Oklahoma residency, and meet SoonerCare eligibility standards, are more costly than prenatal care. Title XIX gives states the opportunity to cover pregnancy related expenses for the mother of a child that will qualify for SoonerCare at birth. Rule revisions will lower expenditures for neonatal ICU expenses, extended hospital stays after birth and ongoing chronic medical expenses for the child.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR JANUARY 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 1. DETERMINATION OF QUALIFYING CATEGORICAL RELATIONSHIPS

317:35-5-2. Categorically related programs

(a) Categorical relationship is established using the same definitions of age, disability and blindness as used by the Social Security Administration (SSA) in determining eligibility for Supplemental Security Income (SSI) or SSA benefits. If the individual is a SSA/SSI recipient in current payment status (including presumptive eligibility), a TANF recipient, or is low-income under age 19, categorical relationship is automatically established. Categorical relationship to pregnancy-related services is established when the determination is made by medical evidence that the individual is or has been pregnant. Pregnancy-related services include all medical services provided within the scope of the program during the prenatal, delivery and ~~post-partum~~ postpartum periods. For an individual age 19 or over to be related to AFDC, the individual must have a minor dependent child. Categorical relationship to Refugee services is established in accordance with OAC 317:35-5-25. Categorical relationship for the Breast and Cervical Cancer Treatment program is established in accordance with OAC 317:35-21. Categorical relationship for the Family Planning Waiver Program is established in accordance with OAC 317:35-5-8. Categorical relationship for pregnancy related benefits covered under Title XXI is established in accordance with OAC 317:35-22. Benefits for pregnancies covered under Title XXI medical services are provided within the scope of the program during the prenatal, delivery and postpartum care when included in the global delivery payment. To be eligible for ~~Medicaid~~ SoonerCare benefits, an individual must be related to one of the following:

- (1) Aged
- (2) Disabled
- (3) Blind
- (4) Pregnancy
- (5) Aid to Families with Dependent Children
- (6) Refugee
- (7) Breast and Cervical Cancer Treatment program
- (8) Family Planning Waiver Program
- (9) Benefits for pregnancies covered under Title XXI.

(b) The Authority may provide ~~Medicaid~~ SoonerCare to reasonable categories of individuals under age 21 who are not receiving cash assistance under any program but who meet the income requirement of the State's approved AFDC plan.

- (1) Individuals eligible for ~~Medicaid~~ SoonerCare benefits include individuals between the ages of 19 and 21:
 - (A) for whom a public agency is assuming full or partial financial responsibility who are in custody as reported by the Oklahoma Department of Human Services (OKDHS) and in foster homes, private institutions or public facilities; or
 - (B) in adoptions subsidized in full or in part by a public agency; or
 - (C) individuals under age 21 receiving active treatment as inpatients in public psychiatric facilities or programs if inpatient psychiatric services for individuals under age 21 are provided under the State Plan

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and the individuals are supported in full or in part by a public agency; or

- (2) Individuals eligible for Medicaid SoonerCare benefits include individuals between the ages of 18 and 21 if they are in custody as reported by OKDHS on their 18th birthday and living in an out of home placement.

317:35-5-6.1. Determining categorical relationship for pregnancy related services covered under Title XXI

Categorical relationship for pregnancy related benefits covered under Title XXI are determined in accordance with OAC 35-22-1 and through medical evidence that the individual is currently or has recently been pregnant and may qualify for pregnancy related services. Form MS-MA-5, Notification of Needed Medical Services, is not required but will be accepted as medical verification. Pregnancy may also be verified by submission of a copy of a laboratory report indicating the individual is or has been pregnant. The applicant must be residing in the State of Oklahoma with the intent to remain at the time the medical service is received. The expected date of delivery must be established either by information from the applicant's physician or other qualified practitioner.

PART 3. NON-MEDICAL ELIGIBILITY REQUIREMENTS

317:35-5-25. Citizenship/alien status and identity verification requirements

(a) **Citizenship/alien status and identity verification requirements.** Verification of citizenship/alien status and identity are required for all adults and children approved for Medicaid.

- (1) The types of acceptable evidence that verify identity and citizenship include:
- (A) United States (U.S.) Passport;
 - (B) Certificate of Naturalization issued by U.S. Citizenship & Immigration Services (USCIS) (Form N-550 or N-570);
 - (C) Certificate of Citizenship issued by USCIS (Form N-560 or N-561); or
 - (D) Copy of the Medicare card or printout of a BENDEX or SDX screen showing receipt of Medicare benefits, Supplemental Security Income or disability benefits from the Social Security Administration.
- (2) The types of acceptable evidence that verify citizenship but require additional steps to obtain satisfactory evidence of identity are listed in subparagraphs (A) and (B). Subparagraph (A) lists the most reliable forms of verification and is to be used before using items listed in (B). Subparagraph (B) lists those verifications that are less reliable forms of verification and are used only when the items in (A) are not attainable.
- (A) Most reliable forms of citizenship verification are:

- (i) A U.S. public Birth Certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (on or after 1/13/1941), Guam (on or after 4/10/1899), the U.S. Virgin Islands (on or after 1/17/1917), American Samoa, Swain's Island, or the Northern Mariana Islands after 11/4/1986;
- (ii) A Report of Birth Abroad of a U.S. citizen issued by the Department of Homeland Security or a Certification of birth issued by the State Department (Form FS-240, FS-545 or DS-1350);
- (iii) A U.S. Citizen ID Card (Form I-179 or I-197);
- (iv) A Northern Mariana Identification Card (Form I-873) (Issued by the INS to a collectively naturalized citizen of the U.S. who was born in the Northern Mariana Islands before 11/3/1986);
- (v) An American Indian Card issued by the Department of Homeland Security with the classification code "KIC" (Form I-872);
- (vi) A Final Adoption Decree showing the child's name and U. S. place of birth;
- (vii) Evidence of U.S. Civil Service employment before 6/1/1976; or
- (viii) An Official U.S. Military Record of Service showing a U.S. place of birth (for example a DD-214).

(B) Other less reliable forms of citizenship verification are:

- (i) An extract of a hospital record on hospital letterhead established at the time of the person's birth that was created five years before the initial application date and that indicates a U.S. place of birth. For children under 16 the evidence must have been created near the time of birth or five years before the date of application;
- (ii) Life, health, or other insurance record showing a U.S. place of birth that was created at least five years before the initial application date and that indicates a U.S. place of birth;
- (iii) Federal or State census record showing U.S. citizenship or a U.S. place of birth (generally for persons born 1900 through 1950). The census record must also show the applicant's/member's age; or
- (iv) One of the following items that show a U.S. place of birth and was created at least five years before the application for Medicaid. This evidence must be one of the following and show a U.S. place of birth:
 - (I) Seneca Indian tribal census record;
 - (II) Bureau of Indian Affairs tribal census records of the Navajo Indians;
 - (III) U.S. State Vital Statistics official notification of birth registration;
 - (IV) An amended U.S. public birth record that is amended more than five years after the person's birth; or

(V) Statement signed by the physician or midwife who was in attendance at the time of birth.

(3) Acceptable evidence of identity that must accompany citizenship evidence listed in (A) and (B) of paragraph (2) of this subsection includes:

- (A) A driver's license issued by a U.S. state or territory with either a photograph of the individual or other identifying information such as name, age, sex, race, height, weight, or eye color;
- (B) A school identification card with a photograph of the individual;
- (C) An identification card issued by Federal, state, or local government with the same information included on driver's licenses;
- (D) A U.S. military card or draft record;
- (E) A U.S. military dependent's identification card;
- (F) A Native American Tribal document including Certificate of Degree of Indian Blood, or other U.S. American Indian/Alaska Native Tribal document with a photograph of the individual or other personal identifying information;
- (G) A U.S. Coast Guard Merchant Mariner card;
- (H) A state court order placing a child in custody as reported by the OKDHS;
- (I) For children under 16, school records may include nursery or daycare records;
- (J) If none of the verification items on the list are available, an affidavit may be used for children under 16. An affidavit is only acceptable if it is signed under penalty of perjury by a parent or guardian stating the date and place of the birth of the child and **cannot be used if an affidavit for citizenship was provided.**

(b) **Centralized Verification Unit.**

(1) When the applicant/member is unable to obtain citizenship verification, a reasonable opportunity is afforded the applicant/member to obtain the evidence as well as assistance in doing so. A reasonable opportunity is afforded the applicant/member before taking action affecting the individual's eligibility for Medicaid. The reasonable opportunity time frame usually consists of 60 days. In rare instances, the CVU may extend the time frame to a period not to exceed an additional 60 days.

(2) Additional methods of verification are available to the CVU. These methods are the least reliable forms of verification and should only be used as a last resort:

- (A) Institutional admission papers from a nursing facility, skilled care facility or other institution. Admission papers generally show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth;
- (B) Medical (clinic, doctor, or hospital) record created at least five years before the initial application date that indicates a U.S. place of birth. For children under 16, the document must have been created near the time of birth. Medical records generally show biographical information for the person including

place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth. An immunization record is not considered a medical record for purposes of establishing U.S. citizenship;

(C) Written affidavit. Affidavits are only used in rare circumstances. If the verification requirements need to be met through affidavits, the following rules apply:

- (i) There must be at least two affidavits by two individuals who have personal knowledge of the event(s) establishing the applicant's/member's claim of citizenship;
- (ii) At least one of the individuals making the affidavit cannot be related to the applicant/member;
- (iii) In order for the affidavit to be acceptable the persons making them must be able to provide proof of their own citizenship and identity;
- (iv) If the individual(s) making the affidavit has information which explains why evidence establishing the applicant's/member's claim or citizenship does not exist or cannot be readily obtained, the affidavit must contain this information as well;
- (v) The State must obtain a separate affidavit from the applicant/member or other knowledgeable individual (guardian or representative) explaining why the evidence does not exist or cannot be obtained; and
- (vi) The affidavits must be signed under penalty of perjury.

(c) **Alienage verification requirements.** Medicaid services are provided as listed to the defined groups as indicated in this subsection if they meet all other factors of eligibility.

(1) **Eligible aliens (qualified aliens).** The groups listed in the following subparagraphs are eligible for the full range of Medicaid services. A qualified alien is:

- (A) an alien who was admitted to the United States and has resided in the United States for a period greater than five years from the date of entry and who was:
 - (i) lawfully admitted for permanent residence under the Immigration and Nationality Act;
 - (ii) paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
 - (iii) granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980; or
 - (iv) a battered spouse, battered child, or parent or child of a battered person with a petition under 204(a)(1)(A) or (B) or 244(a)(3) of the Immigration and Naturalization Act.

(B) an alien who was admitted to the United States and who was:

- (i) granted asylum under Section 208 of such Act regardless of the date asylum is granted;

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- (ii) a refugee admitted to the United States under Section 207 of such Act regardless of the date admitted;
 - (iii) an alien with deportation withheld under Section 243(h) of such Act regardless of the date deportation was withheld;
 - (iv) a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980, regardless of the date of entry;
 - (v) an alien who is a veteran as defined in 38 U.S.C. ' 101, with a discharge characterized as an honorable discharge and not on the grounds of alienage;
 - (vi) an alien who is on active duty, other than active duty for training, in the Armed Forces of the United States;
 - (vii) the spouse or unmarried dependent child of an individual described in (C) of this paragraph.
 - (viii) a victim of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000; or
 - (ix) admitted as an Amerasian immigrant.
- (C) permanent residents who first entered the country under (B) of this paragraph and who later converted to lawful permanent residence status.
- (2) **Other aliens lawfully admitted for permanent residence (non-qualified aliens).** Non-qualified aliens are those individuals who were admitted to the United States and who do not meet any of the definitions in paragraph (1) of this subsection. Non-qualified aliens are ineligible for Medicaid for five years from the date of entry except that non-qualified aliens are eligible for emergency services only when the individual has a medical condition (including emergency labor and delivery) with acute symptoms which may result in placing his/her health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of body organ or part without immediate medical attention. The only exception is when a pregnant woman qualifies under the pregnancy related benefits covered under the Title XXI program because the newborn child will meet the citizenship requirement at birth.
- (3) **Undocumented aliens.** Undocumented aliens who do not meet any of the definitions in (1)-(2) of this subsection are eligible for emergency services only when the individual has a medical condition (including emergency labor and delivery) with acute symptoms which may result in placing his/her health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of body organ or part without immediate medical attention. The only exception is when a pregnant woman qualifies under the pregnancy related benefits covered under the Title XXI program because the newborn child will meet the citizenship requirement at birth.
- (4) **Ineligible aliens.**
- (A) Ineligible aliens who do not fall into the categories in (1) and (2) of this subsection, yet have been lawfully admitted for temporary or specified periods

of time include, but are not limited to: foreign students, visitors, foreign government representatives, crewmen, members of foreign media and temporary workers including agricultural contract workers. This group is ineligible for Medicaid, including emergency services, because of the temporary nature of their admission status. The only exception is when a pregnant woman qualifies under the pregnancy related benefits covered under the Title XXI program because the newborn child will meet the citizenship requirement at birth.

(B) These individuals are generally issued Form I-94, Arrival Departure Record, on which an expiration date is entered. This form is not the same Form I-94 that is issued to persons who have been paroled into the United States. Parolees carry a Form I-94 that is titled "Arrival-Departure Record - Parole Edition". Two other forms that do not give the individual "Immigrant" status are Form I-186, Nonresident Alien Mexican Border Crossing Card, and Form SW-434, Mexican Border Visitors Permit.

(5) **Preauthorization.** Preauthorization is required for payment of emergency medical services rendered to non-qualified and undocumented aliens. Persons determined as having lawful alien status must have the status verified through Systematic Alien Verification for Entitlements (SAVE).

(d) **Alienage.** A decision regarding eligibility cannot be made until the eligibility condition of citizenship and alienage is determined.

(1) **Immigrants.** Aliens lawfully admitted for permanent residence in the United States are classified as immigrants by the BCIS. These are individuals who entered this country with the express intention of residing here permanently.

(2) **Parolees.** Under Section 212(d)(5) of the Immigration and Nationality Act, individuals can be paroled into the United States for an indefinite or temporary period at the discretion of the United States Attorney General. Individuals admitted as Parolees are considered to meet the "citizenship and alienage" requirement.

(3) **Refugees and Western Hemisphere aliens.** Under Section 203(a)(7) of the Immigration and Nationality Act, Refugees and Western Hemisphere aliens may be lawfully admitted to the United States if, because of persecution or fear of prosecution due to race, religion, or political opinion, they have fled from a Communist or Communist-dominated country or from the area of the Middle East; or if they are refugees from natural catastrophes. These entries meet the citizenship and alienage requirement. Western Hemisphere aliens will meet the citizenship requirement for Medicaid if they can provide either of the documents in subparagraphs (A) and (B) of this paragraph as proof of their alien status.

(A) Form I-94 endorsed "Voluntary Departure Granted-Employment Authorized", or

(B) The following court-ordered notice sent by BCIS to each of those individuals permitted to remain

in the United States: "Due to a Court Order in Silva vs. Levi, 76 C4268 entered by District Judge John F. Grady in the District Court for the Northern District of Illinois, we are taking no action on your case. This means that you are permitted to remain in the United States without threat of deportation or expulsion until further notice. Your employment in the United States is authorized".

(4) **Special provisions relating to Kickapoo Indians.** Kickapoo Indians migrating between Mexico and the United States carry Form I-94, Arrival-Departure Record (Parole Edition). If Form I-94 carries the statement that the Kickapoo is "paroled pursuant to Section 212(d)(5) of the Immigration and Nationality Act" or that the "Kickapoo status is pending clarification of status by Congress" regardless of whether such statements are preprinted or handwritten and regardless of a specific mention of the "treaty", they meet the "citizenship and alienage" requirement. All Kickapoo Indians paroled in the United States must renew their paroled status each year at any local Immigration Office. There are other Kickapoos who have entered the United States from Mexico who carry Form I-151 or Form I-551, Alien Registration Receipt Cards. These individuals have the same status as other individuals who have been issued Form I-151 or Form I-551 and therefore, meet the citizenship and alienage requirements. Still other Kickapoos are classified as Mexican Nationals by the BCIS. They carry Form I-94, Arrival-Departure Record, which has been issued as a visiting visa and does not make mention of the treaty. Such form does not meet the "citizenship and alienage" requirements but provides only the non-immigrant status described in (d)(1) of this Section.

(5) **American Indians born in Canada.** An American Indian born in Canada, who has maintained residence in the United States since entry, is considered to be lawfully admitted for permanent residence if he/she is of at least one-half American Indian blood. This does not include the non-citizen whose membership in an Indian tribe or family is created by adoption, unless such person is of at least 50 percent or more Indian blood. The methods of documentation are birth or baptismal certificate issued on a reservation, tribal records, letter from the Canadian Department of Indian Affairs, or school records.

(6) **Marshall Islanders.** Marshall Islanders are classified as permanent non-immigrants by BCIS. They are eligible for emergency services only.

SUBCHAPTER 22. PREGNANCY RELATED BENEFITS COVERED UNDER TITLE XXI

317:35-22-1. Pregnancy related benefits covered under Title XXI

(a) The revision of the definition of child at 42 CFR 457.10, allows states to cover pregnancy related services under Title XXI, individuals who would not otherwise qualify for services

under SoonerCare. This coverage is intended to benefit newborn children who are Oklahoma residents at birth.

(b) To receive pregnancy related services under Title XXI, the pregnant woman must:

(1) be otherwise ineligible for any other categorically SoonerCare eligibility group;

(2) reside in Oklahoma with the intent to remain at the time services are rendered;

(3) have household income at or below 185% FPL; and

(4) not be covered by creditable insurance, the term creditable insurance means coverage under a group health plan or other health insurance as defined in the Health Insurance Portability and Accountability Act (HIPAA).

(c) All services are subject to post payment review by the OHCA or its designated agent.

317:35-22-2. Scope of coverage

(a) Pregnancy related services provided are prenatal, delivery, postnatal care when included in the global delivery fee, and other related services that are medically necessary to optimize pregnancy outcomes within the defined program benefits.

(b) Only two visits per month for other related services to evaluate and/or treat conditions that may adversely impact the pregnancy are covered.

317:35-22-2.1. Non-covered services

(a) Services and benefits provided to evaluate and/or treat maternal conditions that are not related to or impact the pregnancy outcome.

(b) Non-emergency transportation.

(c) Dental.

317:35-22-3. Need for pregnancy related services for the unborn child

The woman must be pregnant and not eligible under OAC 317:35-5-6.

317:35-22-4. Citizenship

Citizenship is not a factor of eligibility for the pregnant individual. However, as this coverage is intended to benefit the newborn child who will be a U.S. citizens at birth, the pregnant individual will not qualify for this coverage if she intends to leave Oklahoma before the child is born.

317:35-22-5. Social Security number

Social Security Number and Alienage is not a factor of eligibility for pregnant individuals who are covered under this program.

317:35-22-6. Income

Income is determined in accordance with OAC 317:35-10 for individuals categorically related to pregnancy related benefits covered under Title XXI.

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317:35-22-7. Resources

There is no resource test for pregnancy related services covered under Title XXI.

317:35-22-8. Period of eligibility

The individual who is covered for pregnancy related benefits under Title XXI retains eligibility for the prenatal period and delivery of the child. Eligibility is terminated at the end of the month of the delivery or upon termination of the pregnancy.

317:35-22-9. Notification of eligibility

When eligibility for the pregnancy benefits covered under Title XXI is established, the OKDHS county office updates the computer form and the appropriate notice is computer generated to the member and provider.

317:35-22-10. Denials

If denied the computer input form is updated and the appropriate notice is computer generated to the client and provider.

317:35-22-11. Closures

Health benefit cases are closed by the OKDHS county of-
fice at any time during the certification period that the case becomes ineligible. A computer-generated notice is sent to the member and the provider.

[OAR Docket #07-1615; filed 12-7-07]

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

[OAR Docket #07-1617]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Eligibility and Countable Income

Part 3. Non-Medical Eligibility Requirements

317:35-5-26. [AMENDED]

(Reference APA WF # 07-50)

AUTHORITY:

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

DATES:

Adoption:

October 11, 2007

Approved by Governor:

October 12, 2007

Effective:

Immediately upon Governor's approval or December 1, 2007, whichever is later

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rules to recognize children who reside in IHS, BIA, or Tribal controlled dormitories as residents of Oklahoma for SoonerCare eligibility purposes. Without such provision, many of these children ranging in age from five to nineteen years old may not receive vital primary care and preventive services.

ANALYSIS:

Agency rules are revised to recognize children who reside in IHS, BIA, or Tribal controlled dormitories as residents of Oklahoma for SoonerCare eligibility purposes. Currently, over one thousand children reside in Oklahoma's five IHS, BIA, or Tribal controlled dormitories. Approximately thirty percent of those children lack comprehensive health care coverage. Many of these children, described as Aat risk@ children, often have had little or no access to even basic health care prior to their arrival at an IHS, BIA, or Tribal controlled dormitory. Making these children eligible for SoonerCare services ensures that the children will receive the primary care and preventive services they need.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2007, WHICHEVER IS LATER:

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 3. NON-MEDICAL ELIGIBILITY REQUIREMENTS

317:35-5-26. Residence requirements; residents of public institutions; homeless persons; and residents of IHS, BIA or Tribal controlled dormitories

(a) **Residence.** To be eligible for Medicaid and SoonerCare services, the applicant must be residing in the State of Oklahoma with intent to remain at the time the medical service is received. A durational residence requirement is not imposed.

(1) Temporary absence from the State, with subsequent returns to the State, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of Oklahoma residence.

(2) Oklahoma residence does not include transients or visitors passing through the state but does not preclude persons who do not have a fixed address if intent is established.

(3) Intent to remain or return is defined as a clear statement of plans to remain or return in addition to other evidence and/or corroborative statements of others.

(4) When a non-resident makes application for Medicaid and SoonerCare benefits, the local office provides services necessary to make available to the applicant any Medicaid and SoonerCare services for which he/she might be eligible from his/her state of residence. The local office contacts

the state or county of the applicant's residence to explore possible eligibility for medical benefits from the state and to obtain information needed for the determination of medical eligibility for the services received while in Oklahoma.

(b) **Individuals residing in institutions (correctional facilities and institutions for mental disease).** The ~~Medicaid~~ SoonerCare program will only pay for services rendered to adults (21 through 64 years of age) who are inpatients in an institution for mental disease (IMD), juveniles in the custody of the Office of Juvenile Affairs who are inmates in a state-owned and operated facility, or inmates in a correctional facility, when these individuals are admitted as an inpatient to a hospital, nursing facility, juvenile psychiatric facility or an intermediate care facility for the mentally retarded and meet all other eligibility requirements.

(c) **Homeless individuals.** Individuals are not required to have a fixed address in order to be eligible for assistance. Individuals who lack a fixed or regular residence, who have temporary accommodations, i.e., supervised shelters, residence of other individuals, a hallway, bus station, car or other similar places, are considered as "homeless".

(d) **Individuals residing in IHS, BIA or Tribal controlled dormitories.** Individuals that reside in a facility which provides students boarding and lodging on a temporary residential basis for the purpose of attending a Bureau-operated or Indian-controlled contract or public school are considered Oklahoma residents for SoonerCare eligibility purposes.

[OAR Docket #07-1617; filed 12-7-07]

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

[OAR Docket #07-1624]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 6. SoonerCare Health Benefits for Categorically Needy Pregnant Women and Families with Children
Part 3. Application Procedures
317:35-6-15. [AMENDED]
Subchapter 7. Medical Services
Part 3. Application Procedures
317:35-7-15. [AMENDED]
(Reference APA WF # 07-25)

AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 435.907

DATES:
Adoption:
September 13, 2007
Approved by Governor:
October 2, 2007

Effective:
Immediately upon Governor's approval or November 1, 2007, whichever is later

Expiration:

Effective through July 14, 2008, 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 imminent peril exists to the preservation of the public health, safety, or welfare which necessitates promulgation of emergency rules and requests emergency approval of rule revisions that allow the acceptance of facsimile signatures on all SoonerCare applications. Without these revisions, SoonerCare members could experience a delay in accessing needed medical attention.

ANALYSIS:

Application procedure rules for medical assistance are revised to allow the acceptance of facsimile signatures on all SoonerCare applications and would not require an original signature to follow. There is no current rule in policy which speaks to obtaining original signatures on SoonerCare applications; however, current practices require caseworkers to obtain original signatures on applications. Not allowing facsimile signatures may delay the processing of SoonerCare applications, impeding members from accessing needed medical attention.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR NOVEMBER 1, 2007, WHICHEVER IS LATER:

SUBCHAPTER 6. SOONERCARE HEALTH BENEFITS FOR CATEGORICALLY NEEDY PREGNANT WOMEN AND FAMILIES WITH CHILDREN

PART 3. APPLICATION PROCEDURES

317:35-6-15. Application for SoonerCare Health Benefits for Pregnant Women and Families with Children; forms

(a) **Application.** An application for categorically needy pregnant women and families with children consists of the Health Benefits Application. The application form is signed by the individual, parent, spouse, guardian, or someone else acting on the individual's behalf. A categorically needy individual does not have to have received a medical service nor expect to receive one to be certified for Health Benefits for Pregnant Women and Families with Children.

(1) An application may be made in a variety of locations, for example, a physician's office, a hospital or other medical facility, Health Department, or in the county ~~DHS~~ OKDHS office. A face to face interview is not required. Applications may be mailed or faxed to the local county ~~DHS~~ OKDHS office. If faxed, it is not necessary to send the original application. When an individual indicates a need for ~~Health Benefits~~ health benefits, the physician or facility may forward an application to the ~~DHS~~ OKDHS

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county office of the patient's residence for processing. If the applicant is unable to sign the application, someone acting on his/her behalf may sign the application.

(2) Form ~~MS-MA-5 08MA005E~~, Notification of Needed Medical Services, is required only for preauthorization of medical services. Although not required, the form may be submitted by the physician or facility as notification for a need for medical service. The form also may be accepted as medical verification of pregnancy.

(3) Receipt of the Health Benefits Application form or Form ~~MS-MA-5 08MA005E~~ constitutes an application for ~~Medicaid~~ SoonerCare.

(4) If Form ~~MS-MA-5 08MA005E~~ is received and an application cannot be completed, receipt of Form ~~MS-MA-5 08MA005E~~ constitutes an application which must be registered and subsequently denied. The ~~client~~ member and provider are notified by computer-generated notice.

(b) **Date of application.** When application is made in the county office, the date of application is the date the applicant or someone acting on his/her behalf signs the application form. When the application is initiated outside the county office, the date of application is the date the application or Form ~~MS-MA-5 08MA005E~~ is stamped into the county office. When an application is faxed, the application date is the date the fax is received. When a request for Health Benefits is first made by an oral request to the county office, and the application form is signed later, the date of the oral request is entered in "red" on the application form above the date the form is signed. The date of the oral request is the date of application to be shown on the computer form. When Form ~~MS-MA-5 08MA005E~~ is received in the county office prior to the completion of the application form, the date that Form ~~MS-MA-5 08MA005E~~ is received is considered as the date of application and must be registered as an application. Certain providers may take applications and then forward them to the ~~DHS OKDHS~~ county office for Health Benefits eligibility determination. Under this circumstance, the application date is the date the ~~client~~ member signed the application form for the provider.

SUBCHAPTER 7. MEDICAL SERVICES

PART 3. APPLICATION PROCEDURES

317:35-7-15. Application for Medical Services; forms

(a) **Application.** An application for Medical Services consists of the Medical Assistance Application. The application form is signed by the individual, parent, spouse, guardian or someone else acting on the individual's behalf. A categorically needy individual does not have to have received a medical service nor expect to receive one to be certified for ~~Medicaid~~ SoonerCare.

(1) An application may be made in a variety of locations, for example, a physician's office, a hospital or other

medical facility or in the county ~~DHS OKDHS~~ office. A face to face interview is not required. Applications may be mailed or faxed to the local county OKDHS office. If faxed, it is not necessary to send the original application. When an individual indicates a need for ~~Medicaid~~ health benefits, the physician or facility may forward an application or ~~MS-MA-5 08MA005E~~ to the ~~DHS OKDHS~~ county office of the patient's residence for processing. If the applicant is unable to sign the application, someone acting on his/her behalf may sign the application.

(2) Form ~~MS-MA-5 08MA005E~~, Notification of Needed Medical Services, is required only for preauthorization of medical services. Although not required, the form may be submitted by the physician or facility as notification for a need for medical service. The form also may be accepted as medical verification of pregnancy.

(3) Receipt of the Medical Assistance Application form or Form ~~MS-MA-5 08MA005E~~ constitutes an application for ~~Medicaid~~ SoonerCare.

(4) If Form ~~MS-MA-5 08MA005E~~ is received and an application cannot be completed, receipt of Form ~~MS-MA-5 08MA005E~~ constitutes an application which must be registered and subsequently denied. The ~~client~~ member and provider are notified by computer-generated notice.

(5) If the applicant also wishes to apply for a State Supplemental Payment, either the applicant or his/her guardian must sign the Medical Assistance Application form.

(b) **Date of application.** When application is made in the county office, the date of application is the date the applicant or someone acting on his/her behalf signs the application form. When the application is initiated outside the county office, the date of application is the date the application or Form ~~MS-MA-5 08MA005E~~ is stamped into the county office. When an application is faxed, the application date is the date the fax is received. When a request for ~~Medicaid~~ SoonerCare is first made by an oral request to the county office, and the application form is signed later, the date of the oral request is entered in "red" on the application form above the date the form is signed. The date of the oral request is the date of application to be shown on the computer form. When Form ~~MS-MA-5 08MA005E~~ is received in the county office prior to the completion of the application form, the date that Form ~~MS-MA-5 08MA005E~~ is received is considered as the date of application and must be registered as an application. Certain providers may take applications and then forward them to the ~~DHS OKDHS~~ county office for ~~Medicaid~~ SoonerCare eligibility determination. Under this circumstance, the application date is the date the ~~client~~ member signed the application form for the provider.

[OAR Docket #07-1624; filed 12-7-07]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 45. OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE

[OAR Docket #07-1618]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 11. O-EPIC IP
Part 3. O-EPIC IP Member Health Care Benefits
317:45-11-11. [AMENDED]
(Reference APA WF # 07-53)

AUTHORITY:

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

DATES:

Adoption:

October 11, 2007

Approved by Governor:

October 12, 2007

Effective:

Immediately upon Governor's approval or December 1, 2007, whichever is later

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to exclude certain pregnancy related services from the Oklahoma Employer and Employee Partnership for Insurance Coverage Individual Plan (O-EPIC IP) benefit package services of the International Board Certified Lactation Consultant (IBCLC), Maternal and Infant Health Licensed Clinical Social Worker (MIHLCSW), and enhanced services for medically high risk pregnancies. SoonerCare rules were approved at the September 13, 2007, Board meeting to allow OHCA to contract directly with International Board Certified Lactation Consultants and Maternal and Infant Health Licensed Clinical Social Workers and to expand services for medically high risk pregnant members. Since O-EPIC IP is a limited benefit program, certain health care services covered in SoonerCare are not part of the O-EPIC IP benefit package. Current policy states that all O-EPIC IP benefits are subject to the same rules as the SoonerCare program which would include the expanded benefits for pregnant/post partum members. Therefore, O-EPIC IP rules must be revised in order to specifically exclude these services.

ANALYSIS:

Rules are revised to exclude as covered benefits in the Oklahoma Employer and Employee Partnership for Insurance Coverage Individual Plan (O-EPIC IP), services of an International Board Certified Lactation Consultant (IBCLC), Maternal and Infant Health Licensed Clinical Social Worker (MIHLCSW), and enhanced services for medically high risk pregnancies as found in OAC 317:30-5-22.1. Last month, the OHCA Board approved rules to allow OHCA to contract directly with IBCLCs and MIHLCSWs as well as expand services for medically high risk pregnant members. The O-EPIC IP program establishes access to affordable health coverage for low-income working adults and their spouses. O-EPIC IP is a limited benefit program so certain health care services included in SoonerCare are not covered in the O-EPIC IP benefit package. Existing policy states that all O-EPIC IP benefits are subject to the same rules as the SoonerCare program which would include the expanded benefits for high-risk members. Therefore, O-EPIC IP rules are revised in order to exclude these three services for pregnant and post partum women.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2007, WHICHEVER IS LATER:

SUBCHAPTER 11. O-EPIC IP

PART 3. O-EPIC IP MEMBER HEALTH CARE BENEFITS

317:45-11-11. O-EPIC IP non-covered services

Certain health care services are not covered in the O-EPIC IP benefit package listed in OAC 317:45-11-10. These services include, but are not limited to:

- (1) services that the member's PCP or O-EPIC does not consider medically necessary;
(2) any medical service when the member refuses to authorize release of information needed to make a medical decision;
(3) organ and tissue transplant services;
(4) treatment of obesity;
(5) procedures, services and supplies related to sex transformation;
(6) supportive devices for the feet (orthotics) except for the diagnosis of diabetes;
(7) cosmetic surgery, except as medically necessary and as covered in OAC 317:30-3-59(19);
(8) over-the-counter drugs, medicines and supplies except contraceptive devices and products, and diabetic supplies;
(9) experimental procedures, drugs or treatments;
(10) dental services (preventive, basic, major, orthodontia, extractions or services related to dental accident) except for pregnant women and as covered in OAC 317:30-5-696;
(11) vision care and services (including glasses), except services treating diseases or injuries to the eye;
(12) physical medicine including speech, physical, occupational, chiropractic, acupuncture and osteopathic manipulation therapy;
(13) hearing services;
(14) transportation [emergent or non-emergent (air or ground)];
(15) rehabilitation (inpatient);
(16) cardiac rehabilitation;
(17) allergy testing and treatment;
(18) home health care with the exception of medications, intravenous (IV) therapy, supplies;
(19) hospice regardless of location;
(20) Temporomandibular Joint Dysfunction (TMD) (TMJ);
(21) genetic counseling;
(22) fertility evaluation/treatment/and services;

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- (23) sterilization reversal;
- (24) Christian Science Nurse;
- (25) Christian Science Practitioner;
- (26) skilled nursing facility;
- (27) longterm care;
- (28) stand by services;
- (29) thermograms; ~~and~~
- (30) abortions (for exceptions, refer to OAC 317:30-5-6);
- (31) services of a Lactation Consultant;
- (32) services of a Maternal and Infant Health Licensed Clinical Social Worker and;
- (33) enhanced services for medically high risk pregnancies as found in OAC 317:30-5-22.1.

[OAR Docket #07-1618; filed 12-7-07]

TITLE 605. OKLAHOMA REAL ESTATE COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #07-1585]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions

605:1-1-4 Operational Procedures [AMENDED]

AUTHORITY:

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

DATES:

Adoption:

October 10, 2007

Approved by Governor:

November 5, 2007

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January 1, 2008

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Effective through July 14, 2008, unless superseded by another rule or disapproved by the legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Oklahoma Real Estate Commission has found that an imminent peril exists to the preservation of the public health, safety or welfare, requiring emergency rules and amendments to be effective January 1, 2008 to implement the requirements of SB 1006 that were passed this last legislative session:

605:1-1-4. Operational procedures - amended language to authorize the Contract Forms Committee to draft and revise all forms of real estate contracts.

ANALYSIS:

Currently the contract forms committee is only required to draft and revise residential real estate purchase contracts. The amendments to OAC 605:1-1-4(g) will authorize them to draft and revise all forms of real estate contracts.

CONTACT PERSON:

Anne M. Woody (405) 521-3387

**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 JANUARY 1, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

605:1-1-4. Operational procedures

(a) **Organization.** The organization of the Commission is declared to be that as enumerated in Sections 858-201 through 858-204 of the heretofore described Code.

(b) **Operational procedures.** The general course and method of operation shall be as hereinafter specified in overall provisions of the rules of this Title.

(c) **Open Records Act.** In conformance with Title 51, Section 24 A.1., et seq, Oklahoma Statutes, 1985, titled "Oklahoma Open Records Act" all open records of the Real Estate Commission may be inspected and copied in accordance with procedures, policies, and fee as required by the Commission. The Commission shall charge the following:

- (1) A fee of \$.25 for each xerographic copy or micrographic image.
- (2) A fee of \$1.00 for each copy to be certified.
- (3) A fee of \$10.00 per hour for a record or file search.
- (4) A fee of Forty Dollars (\$40.00) per extract for License Data extract.
- (5) A fee of Fifty Dollars (\$50.00) every three (3) months for an Examinee Data extract.
- (6) A fee of no more than Seven Dollars and Fifty Cents (\$7.50) for a convenience fee for any electronic/on-line transaction.

(d) **Directory of Licensees.** One copy of the Directory of Licensees shall be provided each licensee if Commission funds permit. Additional copies shall be available to licensees and the public from the Commission upon payment of a charge based on actual cost of production and printing. Copies of the Directory may be furnished to governmental agencies without charge as inventory permits.

(e) **Petition for promulgation, amendment or repeal of any rule.** Any person may petition the Commission in writing requesting a promulgation, amendment or repeal of any rule.

- (1) The petition must be in writing in business letter form or in the form of petitions used in civil cases in this State, and shall contain an explanation and the implications of the request and shall be:

- (A) Signed by the person filing the petition and be filed with the Secretary-Treasurer of the Commission.
- (B) Submitted to the Commission at least thirty (30) days prior to a regular meeting.
- (C) Considered by the Commission at its first meeting following such thirty (30) days.
- (D) Scheduled for a public hearing before the Commission within sixty (60) days after being considered by the Commission in a regular meeting.

- (2) Within sixty (60) days after the public hearing, the Commission shall either grant or deny the petition. If the petition is granted, the Commission shall immediately begin the procedure for the promulgation, amendment or repeal of any rule pursuant to Title 75 O.S. 303.

(3) If the petition is denied the parties retain their rights under 75 O.S. Sec. 318, to proper Judicial Review.

(f) **Petition for declaratory ruling of any rule or order.**

(1) Any person may petition the Commission for a declaratory ruling as authorized by Section 307 of Title 75 of the Oklahoma Statutes as to the applicability of any rule or order of the Commission. Such petition shall:

- (A) be in writing;
- (B) be signed by the person seeking the ruling;
- (C) state the rule or order involved;
- (D) contain a brief statement of facts to which the ruling shall apply; and
- (E) if known and available to petitioner, include citations of legal authority in support of such views.

(2) The Commission shall have at least thirty (30) days to review the petition. Following the review period, the Commission shall consider the petition at its next meeting.

(3) The Commission may compel the production of testimony and evidence necessary to make its declaratory ruling.

(4) Declaratory rulings shall be available for review by the public at the Commission office.

(g) **Contract Forms Committee.**

(1) The contract forms committee is required to draft and revise ~~residential~~—real estate purchase and/or lease contracts and any related addenda for standardization and use by real estate licensees (Title 59 O.S. 858-208 { 14}).

(2) The committee shall consist of eleven (11) members. Three (3) members shall be appointed by the Oklahoma Real Estate Commission; three (3) members shall be appointed by the Oklahoma Bar Association; and five (5) members shall be appointed by the Oklahoma Association of Realtors, Incorporated.

(3) The initial members' terms shall begin upon development of the forms and each member shall serve through the effective date of implementation of form(s) plus one (1) year. Thereafter, the Oklahoma Real Estate Commission shall appoint one (1) member for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years; the Oklahoma Bar Association shall appoint one (1) member for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years. Thereafter, terms shall be for three (3) years and each member shall serve until their term expires and their successor has been appointed. Any vacancy which may occur in the membership of the committee shall be filled by the appropriate appointing entity.

(4) A member can be removed for just cause by the committee.

(5) Each member of the committee shall be entitled to receive travel expenses essential to the performance of the

duties of his appointment, as provided in the State Travel Reimbursement Act.

[OAR Docket #07-1585; filed 11-27-07]

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

[OAR Docket #07-1586]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. Education and Examination Requirements
605:10-3-2. Application for license [AMENDED]
Subchapter 7. Licensing procedures and options
605:10-7-2. License terms and fees; renewals; reinstatements [AMENDED]

AUTHORITY:
Title 59 O.S., Section 858-208. Oklahoma Real Estate Commission

DATES:
Adoption:
October 10, 2007

Approved by Governor:
November 5, 2007

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January 1, 2008

Expiration:
Effective through July 14, 2008, unless superseded by another rule or disapproved by Legislature

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

FINDING OF EMERGENCY:
The Oklahoma Real Estate Commission has found that an imminent peril exists to the preservation of the public health, safety or welfare, requiring emergency rules and amendments to be effective January 1, 2008 to implement the requirements of SB 1006 that were passed this last legislative session:

605:10-3-2. Application for license - adds new paragraph detailing new requirement for applicants pertaining to the national criminal history background check; also sets a maximum fee of Sixty Dollars (\$60.00) that can be charged by the Commission to process the criminal history check; and adds language to the definitions and determinations used regarding good moral character in paragraph (d).

605:10-7-2. License terms and fees; renewals; reinstatements - adds new language to paragraph (c) indicating that if a licensee allows their license to expire they will be subject to a national criminal history background check as a result.

ANALYSIS:
The amendments to OAC 605:10-3-2 and 605:10-7-2 will establish a requirement for all applicants to be subject to a national criminal history check prior to having their license issued to an active status. The amount sent to the Commission shall not exceed \$60.00, which is the amount for both a state and federal background check as determined by OSBI. The applicant shall be required to obtain fingerprints from a local sheriff's office or police department.

CONTACT PERSON:
Anne M. Woody (405) 521-3387

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 JANUARY 1, 2008:

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-2. Application for license

(a) Requirements for completing application.

(1) Any person seeking a real estate license shall make application for such license on a form provided by the Commission. The form shall contain, but not be limited to, the following:

- (A) Legal name to include first, middle and last name.
- (B) Routine biographical information.
- (C) License history in Oklahoma and other states.
- (D) Criminal and/or civil charges or convictions, including bankruptcy and judgments.
- (E) All residential addresses and employment data for past five (5) years.
- (F) Recent photograph.
- (G) Birth date.
- (H) Evidence of successful completion of course requirement as specified in the "Code".
- (I) A sworn statement as to accuracy of the application information.
- (J) Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
- (K) Social security number, pursuant to Title 56, Oklahoma Statutes, Section 240.21A.
- (L) Submit to a national criminal history record check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

(i) A completed national criminal history record check, completed for the Commission, shall be valid for six (6) months from the date of issuance.

(ii) In the event an applicant is not physically able to submit to finger printing, other applicant identifiers shall be utilized, i.e., name, birth date, social security number.

(2) An applicant indicating a bankruptcy or judgment, criminal and/or civil charges or convictions on the application, must submit with the application official documents to the Commission which pertain to the disposition of the matter. If official documents are unable to be obtained, a detailed letter explaining the matter(s) must be attached to the application.

(b) **Applicant shall appear for examination.** Each applicant shall appear for an examination as soon as possible subsequent to the filing of an approved application or the signing of a form as required in 605:10-3-3.

(c) **Applicant must be of good moral character.** The application submitted by an individual seeking a license must indicate that the applicant possesses a reputation for honesty, truthfulness, trustworthiness, good moral character, and that he or she bears a good reputation for fair dealing.

(d) **Determining good moral character.** In determining whether or not an applicant meets the definition of good moral

character, the Commission will consider, but not be limited to, the following:

(1) Whether the probation period given in a conviction or deferred sentence has been completed and fully satisfied to include fines, court costs, etc.

(2) Whether the restitution ordered by a court in a criminal conviction or civil judgment has been fully satisfied.

(3) Whether a bankruptcy that is real estate related has been discharged.

(4) Whether an applicant has been denied licensure or a license has been suspended or revoked by this or any other state or jurisdiction to practice or conduct any regulated profession, business or vocation because of any conduct or practices which would have warranted a like result under the Oklahoma "Code".

(5) Whether an applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for revocation or suspension under the current Oklahoma "Code" had the applicant been licensed.

(e) **Subsequent good conduct.** If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission that the interest of the public will not likely be in danger by the granting of such license, the Commission may approve the applicant as relates to good moral character.

605:10-7-2. License terms and fees; renewals; reinstatements

(a) **License term and fees.** Each original license issued under the Code on and after July 1, 1981, shall be issued to expire at the end of the thirty-sixth (36) month including the month of issuance. Each original provisional sales associate license issued under the Code on and after August 1, 2001, shall be issued to expire at the end of the twelfth (12th) month including the month of issuance. On and after August 1, 2001:

(1) For an original broker license and each subsequent license renewal, to include corporations, associations or partnerships, the fee shall be Two Hundred and Ten Dollars (\$210.00).

(2) For an inactive original broker license and each subsequent inactive license renewal, with the exception of corporations, associations or partnerships, the fee shall be One Hundred and Twenty-five Dollars (\$125.00.) In order to activate such license that was renewed inactive in the same license term, the licensee shall pay One Hundred and Thirty Dollars (\$130.00.) Thereafter, any future request to activate in the same license term shall be in accordance with Rule 605:10-7-4.

(3) For an active original sales associate license and each subsequent active license renewal the fee shall be One Hundred and Fifty Dollars (\$150.00.)

(4) For an inactive original sales associate license and each subsequent inactive license renewal the fee shall be Ninety-five Dollars (\$95.00.) In order to activate a sales associate license that was renewed inactive in the same license term, the licensee shall pay One Hundred Dollars (\$100.00.) Thereafter, any future request to activate in

the same license term shall be in accordance with Rule 605:10-7-4.

(5) For a non-renewable original provisional sales associate license the fee shall be Seventy Dollars (\$70.00.)

(6) For an original branch office license and each subsequent license renewal the fee shall be One Hundred and Twenty-five Dollars (\$125.00.)

(7) For each duplicate license or pocket card, where the original license is lost or destroyed, and a written request is made, a fee of Seven Dollars and fifty cents (\$7.50) shall be charged.

(8) An additional Fifteen Dollar (\$15.00) fee, the Education and Recovery Fund fee, shall be added and payable with the license fee for an original license and subsequent license renewal for each license with the exception of a provisional sales associate license which fee shall be Five Dollars (\$5.00) for their twelve (12) month license term and a branch office which shall not pay the fee.

(b) **Terms cannot be altered.** Terms shall not be altered except for purposes of general reassignment of terms which might be necessitated for the purpose of maintaining an equitable staggered license term system.

(c) **Expiration date.** The actual expiration date of a license shall be midnight of the last day of the month of the designated license term. A licensee who allows their license to expire shall be considered an applicant and subject to a national criminal history record check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

(d) **Late penalty.** All renewals shall be filed on or before midnight of the tenth day of the month in which said license is due to expire, except in the event that date falls on a Saturday, Sunday or holiday; in such case, the next Commission working day shall be considered the due date for all renewals except electronic online renewals wherein this exception would not apply. Any such renewal application filed after such date shall be subject to a late penalty fee of Ten Dollars (\$10.00).

(e) **Actual filing of license renewal.** A license shall lapse and terminate if a renewal application and required fees have not been filed with the Commission by midnight of the date on which the license is due to expire, except in the event that date falls on a Saturday, Sunday or holiday; in such case, the next Commission working day shall be considered the due date. A renewal application and required fees are considered filed with the Commission on the date of the United States postal service postmark or the date personal delivery is made to the Commission office.

(f) **Reinstatement of license.** Any licensee whose license term has expired shall be considered for reinstatement of such license upon payment of an amount equal to the current examination fee in addition to the license and late penalty fee(s) for each delinquent license period(s). The following documents and fees must be submitted:

(1) **Lapsed less than one year.** In the case of a license lapsed less than one year:

- (A) License and late penalty fee.
- (B) Reinstatement fee.
- (C) Documents as required by the Commission.

(2) **Lapsed more than one year but less than two years.** In the case of a license lapsed more than one year but less than two years.

- (A) License and late penalty fee.
- (B) Reinstatement fee.
- (C) A completed reinstatement application.
- (D) A statement that the applicant has read a current License Code and Rules booklet.
- (E) If applicable, a statement as to why the license fee was not paid in a timely manner.
- (F) Documents as required by the Commission.

(3) **Lapsed more than two years.** In the case of a license lapsed more than two years.

- (A) License and late penalty fee(s).
- (B) Reinstatement fee(s).
- (C) A completed reinstatement application.
- (D) Successful completion of the appropriate licensing examination.
- (E) Documents as required by the Commission.

(4) **Lapsed more than five years.** If such late application is submitted more than five (5) years subsequent to the most recent year of licensure, the applicant shall be regarded as an original applicant.

(5) **May apply as an original if lapsed more than two years.** In the case of a license lapsed more than two (2) years but less than five (5) years, the applicant may at his or her option apply as an original applicant provided evidence is submitted to show that the applicant has successfully completed the appropriate prelicense course(s). A person who does not possess a valid license may be considered for re-license only through the provision for reinstatement unless such license has been lapsed more than two (2) years. In the case of a provisional sales associate, the applicant would be required to repeat and successfully complete the postlicense requirement. If this option is elected by a previously licensed sales associate, the sales associate shall be regarded as an original applicant.

(g) **Reinstatement of a provisional sales associate license wherein postlicense education was completed prior to license expiration date.** On and after June 1, 1996, an applicant who successfully completed the postlicense education requirement before their first license expiration date and failed to renew their license on or before such date shall be eligible to reinstate the license as a sales associate according to 605:10-7-2 (f), (1) through (5).

(h) **Reinstatement of a provisional sales associate license wherein postlicense education was not completed prior to license expiration date.** On and after June 1, 1996, an applicant who has not successfully completed the postlicense educational requirement prior to the first license expiration date shall not be eligible to reinstate such license and shall apply and qualify as an original applicant.

(i) **Reinstatement of revoked license.** An applicant may not apply for re-license or reinstatement of license for a minimum of three (3) years from the effective date of license revocation. Upon the passage of the three (3) year period, the applicant shall be required to comply with the requirements of an original applicant.

Emergency Adoptions

(j) **Reinstatement of a surrendered or cancelled license.** A surrendered or cancelled applicant may be reinstated provided the applicant has received approval for re-issuance from the Commission. The following forms and fees must be submitted:

(1) **Reinstatement with term of license still current.** A surrendered or cancelled applicant whose license term is still current:

- (A) Applicable reinstatement fee.
- (B) Re-issuance fee.
- (C) Documents as required by the Commission.

(2) **Reinstatement with term of license expired.** A surrendered or cancelled applicant whose license term has expired shall be required to comply with the requirements of (f) of this Section.

(3) **Reinstatement of provisional sales associate with term of license expired.** A surrendered or cancelled provisional sales associate whose license term has expired shall be required to comply with the following:

(A) If a provisional sales associate completed the postlicensing requirement on or before the first license expiration date, the applicant shall be eligible to reinstate the license according to 605:10-7-2 (f), (1) through (5).

(B) If a provisional sales associate did not complete the postlicensing requirement on or before the first license expiration date, the applicant shall be required to apply and qualify as an original applicant.

(k) **Continuing education requirement.** On and after July 1, 1984, each licensee with the exception of those as listed in Title 59, O.S., Section 858-307.2 (D) seeking renewal of a license must submit evidence that he or she has completed the continuing education requirements enumerated in Section 858-307.2 of Title 59. Further, on and after July 1, 1984, an applicant seeking active reinstatement of a lapsed license must submit evidence that he or she has completed continuing education requirements. The applicant must meet the continuing education requirement for each term in which an active license is requested.

(l) **Sales to broker license fee prorated.** If a real estate sales associate or provisional sales associate shall qualify for a license as a real estate broker, the unused license fee shall be credited to the broker license fee. The unused license fee credit shall commence with the first full month following the month in which the broker license is to be issued.

~~(m) **Issuance of license from provisional sales associate to sales associate if licensed prior to August 1, 2001.** A provisional sales associate is required to furnish to the Commission evidence of successful completion of the postlicense education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the postlicense education requirement, the provisional sales associate must apply by submitting the appropriate document(s) and fee of Twenty five Dollars (\$25.00) to the Commission for issuance of a renewable sales associate license. The issuance of the license from a provisional sales associate to a sales associate only changes the license type and does not change the expiration date of the license.~~

~~(m) **Licensed prior to effective date of national criminal history check and license expires however eligible for reinstatement** - Licensees who allow their license to expire after the effective date of this act shall be required to submit to a national criminal history check; however, such individual shall be allowed to proceed with reinstatement of such license pending receipt by the Commission of the background check. However, if, the national criminal history check, is not received by the Commission within sixty (60) days, or a date otherwise approved by the Commission, the license will be placed inactive and a hold placed on the license until the background check is received by the Commission. Upon receipt of the national criminal history check the license may be reactivated.~~

(n) **Issuance of license from provisional sales associate to sales associate if licensed on and after August 1, 2001.** A provisional sales associate is required to furnish to the Commission evidence of successful completion of the Provisional Postlicense Course of Real Estate, Part II of II education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the Provisional Postlicense Course of Real Estate, Part II of II education requirement, the provisional sales associate must submit the appropriate document(s) to the Commission prior to the provisional sales associate's license expiration date for issuance of a renewable sales associate license. The Commission shall not issue the provisional sales associate a renewable sales associate license until the end of the provisional sales associate's license term and until the provisional sales associate has successfully completed the Provisional Postlicense Course of Real Estate, Part II of II education requirement and has initiated a renewal for a renewable sales associate license.

(o) **Active status requested, however, Commission unable to activate for reasons as stated in statutes elsewhere.** In the event a licensee requests an active original license or subsequent license renewal to be issued on active status and for reasons beyond the Commission's control the licensee is unable to obtain an active license at that time, the fees as received by the Commission shall be retained and not refunded. Once the licensee corrects the problem with the appropriate regulatory agency and such agency authorizes the issuance of an active license, the Commission will then, upon receipt of an activation fee and required documentation, initiate the issuance of an active license within the respective license term.

~~(p) **License fees non-refundable**Active sales associate to inactive broker license - no remaining credit to be given.~~ On and after August 1, 2001, in the event an active sales associate within six (6) months of obtaining their original license, reinstatement or license renewal qualifies for an inactive broker license, the Commission shall not ~~refund~~ be credited the difference in the license fees.

[OAR Docket #07-1586; filed 11-27-07]

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

1:2007-48.

EXECUTIVE ORDER 2007-48

I, Brad Henry, Governor of the State of Oklahoma, in recognition of Pearl Harbor Remembrance Day, direct that appropriate steps be taken to fly all American flags and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Friday, December 7, 2007, to honor the many Oklahoma and United States citizens who perished on December 7, 1941, as a result of the infamous attack by the Japanese on Pearl Harbor, Hawaii and in recognition of the dedication of a Memorial to their sacrifice.

On that day, 2,403 service people were killed, including 429 aboard the USS Oklahoma. Eight of the 429 aboard the USS Oklahoma were Oklahoma citizens. The loss of those people was a heavy burden for all Americans to bear. The flying of these flags at half staff is a symbol from Oklahomans that demonstrates our remembrance of those killed and sympathy for their families.

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 30th day of December, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

Kathy Jekel

Acting Assistant Secretary of State

[OAR Docket #07-1593; filed 12-3-07]

1:2007-49.

EXECUTIVE ORDER 2007-49

I, Jari Askins, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. All of the 77 counties in Oklahoma are currently under a severe winter weather watch or warning for freezing rain, ice, snow, and possible flooding due to ice clogged waterways that started on December 8, 2007 and is continuing. The entire State is affected.

2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. There is hereby declared a disaster emergency caused by the snow and ice storms, and flooding in the entire State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety

4. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

5. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

Executive Orders

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, this 10th day of December, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Jari Askins

ATTEST:
Tod Wall
Acting Assistant Secretary of State

[OAR Docket #07-1629; filed 12-12-07]

1:2007-50.

EXECUTIVE ORDER 2007-50

I, Jari Askins, Governor of the State of Oklahoma, pursuant to the power vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and 63 O.S. §§ 683.1 *et seq.*, hereby declare that because there is a state of emergency existing in the State of Oklahoma due to catastrophic weather occurring statewide, it is necessary to assist and expedite all efforts of storm relief. In order to accommodate this need and to provide assistance to the citizens of Oklahoma in this extraordinary situation, I hereby order the temporary suspension of the following as they apply to vehicles used in the support efforts:

1. The requirements for special permits for use of over-weight/oversized vehicles under Title 47;
2. The requirements for licensing/operating authority as required by the Oklahoma Corporation Commission;
3. The requirements for licensing/registration as required by the Oklahoma Tax Commission; and,
4. This Executive Order shall terminate at the end of thirty (30) days.

This executive order shall be forwarded to the Oklahoma Corporation Commission, the Oklahoma Tax Commission and the Commissioner of Public Safety, 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, this 10th day of December, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Jari Askins

ATTEST:
Tod Wall Acting Assitant
Secretary of State

[OAR Docket #07-1633; filed 12-12-07]

1:2007-51.

EXECUTIVE ORDER 2007-51

I, Brad Henry, Governor of the State of Oklahoma, 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, December 17, 2007 to honor Specialist Tara Roark an Oklahoma resident, who died on Sunday, December 9, 2007, at age 26.

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 13th day of December, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Kathy Jekel
Acting Assistant Secretary of State

[OAR Docket #07-1634; filed 12-14-07]
