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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 75. ATTORNEY GENERAL CHAPTER 15. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE, SEXUAL ASSAULT AND BATTERERS INTERVENTION PROGRAMS

[OAR Docket #10-88]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

Subchapter 2. Domestic Violence and Sexual Assault Programs [AMENDED]

Subchapter 4. Batterers Intervention Programs [REVOKED]

Subchapter 5. Client Records and Confidentiality [AMENDED]

Subchapter 7. Physical Environments [AMENDED]

Subchapter 9. Program Management and Performance Improvement [AMENDED]

Subchapter 13. Personnel and Volunteers [AMENDED]

SUMMARY:

The Attorney General is required to adopt and promulgate rules and standards for certification of domestic violence and sexual assault programs in this state. These rules set forth the requirements which are necessary to provide services pursuant to 74 O.S. § 18p-1 et seq. Amendments are proposed to clarify definitions of "primary" and "secondary" victims; provide for what information is to be gathered upon admission and a timeline; clarify needed information to be requested from crisis-line callers and the conditions of follow-up contact; expound on requirements for providing emergency phone access for clients of transitional living programs; include assessment of underserved populations in annual program evaluations; increase program orientation training hours to match annual training requirements and adding "hotline skills" as well as "legal and ethical issues as training topics;" expand specialization in training requirements for sexual assault and court advocates, and revoke batterers intervention rules due to a proposal to include them in a separate chapter.

AUTHORITY:

Attorney General, Title 74 O.S. § 18p-1 et seq.

COMMENT PERIOD:

Persons wishing to make written comments may do so by 1:00 p.m., March 24, 2010, at the Office of the Attorney General, Victims Services Unit, 313 N.E. 21st, Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input and oral comment on the content of the proposed rules. Each person will be allowed a maximum of 5 minutes to speak and must sign in on Thursday, March 24, 2010, at 1:00 p.m., in the conference room of the Office of the Attorney General, 313 N.E. 21st, Oklahoma City, OK 73105.

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 by the conclusion of the comment period or during the public hearing on March 24, 2010, at the Office of the Attorney General at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules are available in the Office of the Attorney General, 313 N.E. 21st, Oklahoma City, OK.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available in the Victims Services Unit of the Office of the Attorney General at the above address on and after publication of this Notice of Rulemaking Intent on February 16, 2010.

CONTACT PERSON:

Susan Damron Krug, Assistant Attorney General, 405-522-0042

[OAR Docket #10-88; filed 1-22-10]

TITLE 75. ATTORNEY GENERAL CHAPTER 25. BATTERERS INTERVENTION PROGRAM

[OAR Docket #10-89]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 25. Batterers Intervention Programs [NEW]

SUMMARY:

The Attorney General is required to adopt and promulgate rules and standards for certification of batterers intervention programs in this state. These rules set forth the requirements

Notices of Rulemaking Intent

which are necessary to provide services pursuant to 74 O.S. § 18p-1 et seq. Amendments are proposed to create an individual chapter for batterers intervention rules and standards, separate from rules and standards for domestic violence and sexual assault programs.

AUTHORITY:

Attorney General, Title 74 O.S. § 18p-1 et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 1:00 p.m., March 24, 2010, at the Office of the Attorney General, Victims Services Unit, 313 N.E. 21st St., Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules. Each person will be allowed a maximum of 5 minutes to speak and must sign in on Wednesday, March 24, 2010 at 1:00 p.m., in the conference room of the Office of the Attorney General, 313 N.E. 21st St., Oklahoma City, OK 73105.

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 by the conclusion of the comment period or public hearing on March 24, 2010, at the Office of the Attorney General at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules are available in the Office of the Attorney General, 313 N.E. 21st St., Oklahoma City, OK.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available in the Office of the Attorney General at the above address on and after publication of this Notice of Rulemaking Intent on February 16, 2010.

CONTACT PERSON:

Susan Damron Krug, Assistant Attorney General
405-522-0042

[OAR Docket #10-89; filed 1-22-10]

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

[OAR Docket #10-145]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 24. Health Savings Account [NEW]

87:10-24-1. Health Savings Account [NEW]

87:10-24-2. Definitions [NEW]

87:10-24-3. Requirements for eligibility [NEW]

87:10-24-4. Amount of benefits available [NEW]

87:10-24-5. Internal Revenue Code and regulations [NEW]

87:10-24-6. Mid-year changes of benefits [NEW]

87:10-24-7. Health Savings Account option [NEW]

87:10-24-8. Claims for reimbursement [NEW]

87:10-24-9. Forfeiture of unused benefits [NEW]

87:10-24-10. Other governing provisions [NEW]

87:10-24-11. Benefit changes [NEW]

87:10-24-12. Report to participants [NEW]

SUMMARY:

These proposed, permanent administrative rules are identical to and, if approved, will supersede emergency administrative rules approved by Governor Henry December 18, 2009, which added a new Subchapter, twenty-four (24), to Chapter 10 of Title 87 of the Oklahoma Administrative Code. Chapter 10 serves as the "Plan Document" for the administration of the flexible benefits plan for active Oklahoma state employees. This new Subchapter defines important terms, rules, guidelines, and procedures necessary for the effective administration of a new, optional benefit, offered to active state employees beginning in Plan Year 2010 (January 1, 2010, through December 31, 2010), that enables employees participating in Health Savings Accounts to make contributions to the same on a pre-tax basis.

AUTHORITY:

Oklahoma State Employees Benefits Council; 74 O.S.2001 §1366(B)

COMMENT PERIOD:

Persons wishing to present data, views, or arguments, orally or in writing, may do so before 4:45 p.m., Central Standard Time on Thursday, March 18, 2010, at the Employees Benefits Council, 120 North Robinson Avenue, Suite 1100, Oklahoma City, Oklahoma 73102.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., Friday, March 19, 2010, at the Employees Benefits Council, 120 North Robinson Avenue, Suite 1100, Oklahoma City, Oklahoma 73102. Interested persons can present their views at the public hearing, orally or in writing, but must sign in at the door no later than 10:00 a.m., Central Standard Time, Friday, March 19, 2010.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Employees Benefits Council, 120 North Robinson Avenue, Suite 1100, Oklahoma City, Oklahoma 73102. Copies of the proposed rules will be provided pursuant to OAC: 87:1-3-13.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Supp.2005, §303(D), a rule impact statement will be prepared. Copies may be obtained from the Employees Benefits Council at the above address. The rule

impact statement will be issued prior to or within fifteen (15) days after the date of publication of this Notice of Rulemaking Intent.

CONTACT PERSON:

Craig Cates, Employees Benefits Council, (405) 609-3440.

[OAR Docket #10-145; filed 1-26-10]

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

[OAR Docket #10-146]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 28. Early Medical Alert Optional Benefit [NEW]
- 87:10-28-1. Early medical alert optional benefit [NEW]
- 87:10-28-2. Definitions [NEW]
- 87:10-28-3. Requirements for participation [NEW]
- 87:10-28-4. Internal Revenue Code and regulations [NEW]
- 87:10-28-5. Period of coverage- enrollment [NEW]
- 87:10-28-6. Enrollment [NEW]
- 87:10-28-7. Early medical alert account option [NEW]

SUMMARY:

These proposed, permanent administrative rules are identical to, and if approved, will supersede emergency administrative rules approved by Governor Henry August 18, 2009, which added a new Subchapter, twenty-eight (28), to Chapter 10 of Title 87 of the Oklahoma Administrative Code. Chapter 10 serves as the "Plan Document" for the administration of the flexible benefits plan for active Oklahoma state employees. This new Subchapter defines important terms, rules, guidelines, and procedures necessary for the effective administration of a new, optional benefit known as Early Medical Alert, offered to active state employees beginning in Plan Year 2010 (January 1, 2010, through December 31, 2010). This program provides state employees, and their families, who enroll in this benefit and receive emergency medical care with a safe, simple, and inexpensive way to ensure emergency health care providers correctly identify the patient, have vital information about the patient's health history, known allergies, current health status and medications being taken, and the ability to instantly notify emergency contacts pre-designated by the patient. The key that unlocks this vital, online information for emergency health care providers is located on a sticker affixed to the back of a driver's license or a key fob that can be attached to keys, backpacks, diaper bags, etc. This is invaluable when a patient is unconscious or otherwise unable to effectively communicate with emergency health care providers as they are able to more quickly and accurately diagnose the problem at hand, apply the most appropriate treatment, and avoid the unintended

misapplication of inappropriate medications/treatment options that could cause harm or even death.

AUTHORITY:

Oklahoma State Employees Benefits Council; 74 O.S.2001 §1366(B)

COMMENT PERIOD:

Persons wishing to present data, views, or arguments, orally or in writing, may do so before 4:45 p.m., Central Standard Time on Thursday, March 18, 2010, at the Employees Benefits Council, 120 North Robinson Avenue, Suite 1100, Oklahoma City, Oklahoma 73102.

PUBLIC HEARING:

A public hearing will be held at 10:30 a.m., Friday, March 19, 2010, at the Employees Benefits Council, 120 North Robinson Avenue, Suite 1100, Oklahoma City, Oklahoma 73102. Interested persons can present their views at the public hearing, orally or in writing, but must sign in at the door no later than 10:30 a.m., Central Standard Time, Friday, March 19, 2010.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Employees Benefits Council, 120 North Robinson Avenue, Suite 1100, Oklahoma City, Oklahoma 73102. Copies of the proposed rules will be provided pursuant to OAC: 87:1-3-13.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Supp.2005, §303(D), a rule impact statement will be prepared. Copies may be obtained from the Employees Benefits Council at the above address. The rule impact statement will be issued prior to or within fifteen (15) days after the date of publication of this Notice of Rulemaking Intent.

CONTACT PERSON:

Craig Cates, Employees Benefits Council, (405) 609-3440.

[OAR Docket #10-146; filed 1-26-10]

**TITLE 120. CAPITOL-MEDICAL
CENTER IMPROVEMENT AND ZONING
COMMISSION
CHAPTER 10. ZONING REGULATIONS
FOR CAPITOL-MEDICAL CENTER
IMPROVEMENT AND ZONING DISTRICT**

[OAR Docket #10-119]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Zoning Regulations for Capitol-Medical Center Improvement and Zoning District [AMENDED]

SUMMARY:

Proposed revisions to the rules provide updated information, clarification and procedures related to District building

Notices of Rulemaking Intent

permits, conditional uses, and certificates of occupancy reviewed and approved by the Commission, requirement of Oklahoma City building permits in the District, appeals of Commission decisions to the Commission and the District Court, and conflicting municipal provisions.

AUTHORITY:

Capitol-Medical Center Improvement and Zoning Commission, 73 O.S., Section 83.4

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 5:00 p.m. on Thursday, March 25, 2010, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218; or email gerry_smedley@dcs.state.ok.us.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 102/104, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 26, 2010 at 8:15 a.m. Anyone who wishes to speak must sign in by 8:05 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Department with information, including, if possible, direct and indirect costs by type with dollar amounts that a business entity may incur for rule compliance. Business entities may submit the information in writing by the conclusion of the public comment period and public hearing on March 25, 2010 at the Department of Central Services, Administration, P.O. Box 53218, Oklahoma City, OK 73152-3218.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available from the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218 and the agency website at www.dcs.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 3, 2010 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison (405) 522-8519

[OAR Docket #10-119; filed 1-26-10]

TITLE 130. CEREBRAL PALSY COMMISSION CHAPTER 1. ORGANIZATION

[OAR Docket #10-136]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

130:1-1-2 [AMENDED]

130:1-1-7 [AMENDED]

130:1-1-14 [AMENDED]

Appendix A. Waiver Form [REVOKED]

SUMMARY:

The proposed rules update the Center's contact information, clarify the Center's role in providing educational services to inpatients and update the procedure for public use of Center facilities.

AUTHORITY:

63 O.S.2001, § 485.2; Oklahoma Cerebral Palsy Commission.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 24, 2010. Comments may be submitted to Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071. The comment period is from February 16, 2010, to March 24, 2010.

PUBLIC HEARING:

A public hearing has been scheduled for March 24, 2010, at the J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, at 11:00 a.m. Anyone who wishes to speak must sign in at the door by 11:05 a.m.

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 Curtis Peters at the above address during the period from February 16, 2010, to March 24, 2010. The Commission is not aware of any business entities affected by these proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the J.D. McCarty Center. Copies may be obtained by written request mailed to the attention of Curtis Peters, Administrator, 2002 East Robinson, Norman, Oklahoma, 73071.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 16, 2010. A copy of the rule impact statement may be obtained by written request mailed to the attention of Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071.

CONTACT PERSONS:

Curtis Peters, Administrator, J.D. McCarty Center, at (405) 307-2800; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

[OAR Docket #10-136; filed 1-26-10]

**TITLE 130. CEREBRAL PALSY
COMMISSION
CHAPTER 12. ADMINISTRATIVE
PROCEDURES**

[OAR Docket #10-137]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Admission

Part 1. Inpatient

130:12-3-3 [AMENDED]

130:12-3-6 [AMENDED]

Part 3. Outpatient

130:12-3-20 [AMENDED]

130:12-3-21 [AMENDED]

SUMMARY:

The proposed amendments clarify that medical as well as behavioral criteria will be considered in determining staff to patient ratio for the purpose of admitting a patient from the waiting. List. The amendments simplify admission procedures for persons in state custody. The amendments clarify that Physician's Assistants may sign admission order. The amendments modify out-patient admission procedures to include a waiting list and clarifies responsibilities of parents and legal guardians.

AUTHORITY:

63 O.S.2001, § 485.2; Oklahoma Cerebral Palsy Commission.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 24, 2010. Comments may be submitted to Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071. The comment period is from February 16, 2010, to March 24, 2010.

PUBLIC HEARING:

A public hearing has been scheduled for March 24, 2010, at the J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, at 11:00 a.m. Anyone who wishes to speak must sign in at the door by 11:05 a.m.

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 Curtis Peters at the above address during the period from February 16, 2010, to March 24, 2010. The Commission is not aware of any business entities affected by these proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the J.D. McCarty Center. Copies may be obtained by written request mailed to the attention of Curtis Peters, Administrator, 2002 East Robinson, Norman, Oklahoma, 73071.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 16, 2010. A copy of the rule impact statement may be obtained by written request mailed to the attention of Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071.

CONTACT PERSONS:

Curtis Peters, Administrator, J.D. McCarty Center, at (405) 307-2800; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

[OAR Docket #10-137; filed 1-26-10]

**TITLE 130. CEREBRAL PALSY
COMMISSION
CHAPTER 12. ADMINISTRATIVE
PROCEDURES**

[OAR Docket #10-138]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Leaving the Center

130:12-5-2 [AMENDED]

130:12-5-3 [AMENDED]

130:12-5-5 [AMENDED]

130:12-5-6 [AMENDED]

130:12-5-7 [AMENDED]

130:12-5-8 [AMENDED]

130:12-5-9 [REVOKED]

SUMMARY:

The proposed amendments simplify and clarify discharge procedures for persons in state custody. The amendments simplify and clarify protocol in the event a parent or legal guardian abandons a patient. The amendments modify Center policy on providing meals to patients returning from furlough. The amendments clarify the Center's role in providing educational services to patients. The proposed rules revoke visitation of patients in staff members' homes. The amendments also contain clean-up language not affecting substantive policy.

AUTHORITY:

63 O.S.2001, § 485.2; Oklahoma Cerebral Palsy Commission.

Notices of Rulemaking Intent

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 24, 2010. Comments may be submitted to Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071. The comment period is from February 16, 2010, to March 24, 2010.

PUBLIC HEARING:

A public hearing has been scheduled for March 24, 2010, at the J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, at 11:00 a.m. Anyone who wishes to speak must sign in at the door by 11:05 a.m.

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 Curtis Peters at the above address during the period from February 16, 2010, to March 24, 2010. The Commission is not aware of any business entities affected by these proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the J.D. McCarty Center. Copies may be obtained by written request mailed to the attention of Curtis Peters, Administrator, 2002 East Robinson, Norman, Oklahoma, 73071.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 16, 2010. A copy of the rule impact statement may be obtained by written request mailed to the attention of Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071.

CONTACT PERSONS:

Curtis Peters, Administrator, J.D. McCarty Center, at (405) 307-2800; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

[OAR Docket #10-138; filed 1-26-10]

TITLE 130. CEREBRAL PALSY COMMISSION CHAPTER 12. ADMINISTRATIVE PROCEDURES

[OAR Docket #10-139]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Records
130:12-7-1 [AMENDED]
130:12-7-2 [REVOKED]

Subchapter 9. Billing

130:12-9-1 [AMENDED]

SUMMARY:

The proposed amendments and revocation to subchapter 7 reflect changes in federal law, namely, the Health Insurance Portability and Accountability Act of 1996 (Pub.L104-191, Aug.21, 1996, 110 Stat. 1936), as amended. The proposed amendments to subchapter 9 are clean-up language and do not affect substantive policy.

AUTHORITY:

63 O.S.2001, § 485.2; Oklahoma Cerebral Palsy Commission.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 24, 2010. Comments may be submitted to Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071. The comment period is from February 16, 2010, to March 24, 2010.

PUBLIC HEARING:

A public hearing has been scheduled for March 24, 2010, at the J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, at 11:00 a.m. Anyone who wishes to speak must sign in at the door by 11:05 a.m.

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 Curtis Peters at the above address during the period from February 16, 2010, to March 24, 2010. The Commission is not aware of any business entities affected by these proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the J.D. McCarty Center. Copies may be obtained by written request mailed to the attention of Curtis Peters, Administrator, 2002 East Robinson, Norman, Oklahoma, 73071.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 16, 2010. A copy of the rule impact statement may be obtained by written request mailed to the attention of Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071.

CONTACT PERSONS:

Curtis Peters, Administrator, J.D. McCarty Center, at (405) 307-2800; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

[OAR Docket #10-139; filed 1-26-10]

**TITLE 130. CEREBRAL PALSY
COMMISSION
CHAPTER 13. CENTER SERVICES**

[OAR Docket #10-140]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Inpatient Services
 - Part 1. General Provisions
 - 130:13-3-1 [AMENDED]
 - 130:13-3-2 [AMENDED]
 - 130:13-3-4 [NEW]
 - Part 3. Daily Care Services
 - 130:13-3-12 [AMENDED]
 - Part 5. Habilitation Services
 - 130:13-3-21 [AMENDED]
 - Part 7. Recreational Services
 - 130:13-3-30 [AMENDED]
 - 130:13-3-31 [AMENDED]
 - 130:13-3-32 [REVOKED]
 - 130:13-3-33 [AMENDED]
 - 130:13-3-34 [REVOKED]
 - 130:13-3-36 [AMENDED]

SUMMARY:

The proposed amendments in Part 1 reflect changes in services provided at the Center as well as changes in admission and length of stay in respite care. The new language clarifies that the Center is not a local educational authority and does not provide educational services. The proposed amendments in Part 3 simplifies the procedure for providing patients with outside food. The proposed amendments to Part 5 authorizes but does not mandate the Center to provide diagnostic radiology services. The proposed amendments to Part 7 restrict use of the swimming pool to rehabilitative therapeutic uses and reflect changes in physical plant from the old building to the new. The amendments also change the evening hours of recreational services and clarify the Center's participation in patient preparation for Special Olympics. The proposed rule changes revoke the section on showing films. The amendments also contain clean-up language that does not affect substantive policy.

AUTHORITY:

63 O.S.2001, § 485.2; Oklahoma Cerebral Palsy Commission.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 24, 2010. Comments may be submitted to Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071. The comment period is from February 16, 2010, to March 24, 2010.

PUBLIC HEARING:

A public hearing has been scheduled for March 24, 2010, at the J.D. McCarty Center, 2002 East Robinson, Norman,

Oklahoma, at 11:00 a.m. Anyone who wishes to speak must sign in at the door by 11:05 a.m.

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 Curtis Peters at the above address during the period from February 16, 2010, to March 24, 2010. The Commission is not aware of any business entities affected by these proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the J.D. McCarty Center. Copies may be obtained by written request mailed to the attention of Curtis Peters, Administrator, 2002 East Robinson, Norman, Oklahoma, 73071.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 16, 2010. A copy of the rule impact statement may be obtained by written request mailed to the attention of Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071.

CONTACT PERSONS:

Curtis Peters, Administrator, J.D. McCarty Center, at (405) 307-2800; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

[OAR Docket #10-140; filed 1-26-10]

**TITLE 130. CEREBRAL PALSY
COMMISSION
CHAPTER 13. CENTER SERVICES**

[OAR Docket #10-141]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Outpatient Services
 - 130:13-5-1 [AMENDED]
- Subchapter 7. Dental Services
 - 130:13-7-1 [AMENDED]
 - 130:13-7-2 [AMENDED]
- Subchapter 9. Isolation and Disease Spread Prevention Services
 - 130:13-9-2 [AMENDED]
- Subchapter 13. Outreach and Contractual Services
 - 130:13-13-1 [AMENDED]
 - 130:13-13-2 [AMENDED]
- Subchapter 15. Other Services
 - 130:13-15-2 [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

The proposed amendments to subchapter 5 reflect changes to outpatient assessments. The proposed amendments to subchapter 7 provides that dental services will be provided based upon availability and according to Center resources. The amendments to subchapter 9 clarify that the Center will follow State Health Department and State Labor Department standards as well as CDC standards regarding bodily fluids exposure. The amendments to subchapter 13 contain clean-up language and reflect changes in programs offered by other public agencies. The amendments to subchapter 15 constitute clean-up language and do not affect substantive policy.

AUTHORITY:

63 O.S.2001, § 485.2; Oklahoma Cerebral Palsy Commission.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 24, 2010. Comments may be submitted to Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071. The comment period is from February 16, 2010, to March 24, 2010.

PUBLIC HEARING:

A public hearing has been scheduled for March 24, 2010, at the J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, at 11:00 a.m. Anyone who wishes to speak must sign in at the door by 11:05 a.m.

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 Curtis Peters at the above address during the period from February 16, 2010, to March 24, 2010. The Commission is not aware of any business entities affected by these proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the J.D. McCarty Center. Copies may be obtained by written request mailed to the attention of Curtis Peters, Administrator, 2002 East Robinson, Norman, Oklahoma, 73071.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 16, 2010. A copy of the rule impact statement may be obtained by written request mailed to the attention of Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071.

CONTACT PERSONS:

Curtis Peters, Administrator, J.D. McCarty Center, at (405) 307-2800; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

[OAR Docket #10-141; filed 1-26-10]

TITLE 130. CEREBRAL PALSY COMMISSION CHAPTER 14. PATIENT BILL OF RIGHTS

[OAR Docket #10-142]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

130:14-1-5 [AMENDED]

Subchapter 3. Personal Rights

Part 1. Property

130:14-3-1 [AMENDED]

130:14-3-2 [AMENDED]

130:14-3-4 [AMENDED]

Part 3. Self

130:14-3-12 [AMENDED]

Subchapter 5. Medical Rights

130:14-5-3 [AMENDED]

SUMMARY:

The proposed amendments in subchapter 1 are necessary to comply with federal CMS standards. The amendments to subchapter 3 update communication methods used by patients to include e-mail and modify procedures for handling inpatient personal money. The amendments also clarify patient access to medical records and modify the Center's weapons policy to comply with 12 O.S.Supp.2004 § 1289.7a. The proposed amendments to subchapter 5 modify the types of beds used at the hospital to reflect current practices and clarify use of powered wheel chairs for patient safety.

AUTHORITY:

63 O.S.2001, § 485.2; Oklahoma Cerebral Palsy Commission.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 24, 2010. Comments may be submitted to Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071. The comment period is from February 16, 2010, to March 24, 2010.

PUBLIC HEARING:

A public hearing has been scheduled for March 24, 2010, at the J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, at 11:00 a.m. Anyone who wishes to speak must sign in at the door by 11:05 a.m.

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 Curtis Peters at the above address during the period from February 16, 2010, to March 24, 2010. The Commission is not aware of any business entities affected by these proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the J.D. McCarty Center. Copies may be obtained by written request mailed to the attention of Curtis Peters, Administrator, 2002 East Robinson, Norman, Oklahoma, 73071.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 16, 2010. A copy of the rule impact statement may be obtained by written request mailed to the attention of Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071.

CONTACT PERSONS:

Curtis Peters, Administrator, J.D. McCarty Center, at (405) 307-2800; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

[OAR Docket #10-142; filed 1-26-10]

**TITLE 130. CEREBRAL PALSY COMMISSION
CHAPTER 15. EDUCATION**

[OAR Docket #10-143]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

Chapter 15. Education [REVOKED]

SUMMARY:

The proposed rule revokes Chapter 15 to avoid confusion regarding the Center's role in educational services to inpatients. The Center is not a Local Education Authority and does not provide educational services. Educational services are provided by Norman Public Schools.

AUTHORITY:

63 O.S.2001, § 485.2; Oklahoma Cerebral Palsy Commission.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 24, 2010. Comments may be submitted to Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma,

73071. The comment period is from February 16, 2010, to March 24, 2010.

PUBLIC HEARING:

A public hearing has been scheduled for March 24, 2010, at the J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, at 11:00 a.m. Anyone who wishes to speak must sign in at the door by 11:05 a.m.

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 Curtis Peters at the above address during the period from February 16, 2010, to March 24, 2010. The Commission is not aware of any business entities affected by these proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the J.D. McCarty Center. Copies may be obtained by written request mailed to the attention of Curtis Peters, Administrator, 2002 East Robinson, Norman, Oklahoma, 73071.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 16, 2010. A copy of the rule impact statement may be obtained by written request mailed to the attention of Curtis Peters, Administrator, J.D. McCarty Center, 2002 East Robinson, Norman, Oklahoma, 73071.

CONTACT PERSONS:

Curtis Peters, Administrator, J.D. McCarty Center, at (405) 307-2800; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

[OAR Docket #10-143; filed 1-26-10]

**TITLE 135. COMMISSION ON CHILDREN AND YOUTH
CHAPTER 10. PROGRAMS, BOARDS, AND COUNCILS: OPERATION AND ADMINISTRATION**

[OAR Docket #10-144]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

Subchapter 24. Certification of Children's Shelters
Operated by the Oklahoma Department of Human Services [NEW]

135:10-24-1 [NEW]

135:10-24-2 [NEW]

135:10-24-3 [NEW]

Notices of Rulemaking Intent

SUMMARY:

The proposed new rules provide the manner in which the Commission will certify children's shelters operated by the Oklahoma Department of Human Services pursuant to 10 O.S. § 601.3 as amended by Laws 2009, HB 1734, c. 338, section 2.

AUTHORITY:

10 O.S.Supp.2004, § 601.4(9); Oklahoma Commission on Children and Youth.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 23, 2010. Comments may be submitted to Lisa Smith, Executive Director, Oklahoma Commission on Children and Youth, 111 N. Lee, Suite 500, Oklahoma City, Oklahoma 73103. The comment period is from February 16, 2010, to March 23, 2010.

PUBLIC HEARING:

A public hearing has been scheduled for Tuesday, March 23, 2010, at 10:00 a.m., in the conference room of the Oklahoma Commission on Children and Youth, 111 N. Lee, Suite 500, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 10:05 a.m.

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 Lisa Smith at the above address during the period from February 16, 2010, to March 23, 2010. The Commission is not aware of any business entities affected by these proposed rules.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma Commission on Children and Youth. Copies may be obtained by written request mailed to the attention of Lisa Smith, Executive Director, Oklahoma Commission on Children and Youth, 111 N. Lee, Suite 500, Oklahoma City, Oklahoma 73103.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 16, 2010. A copy of the rule impact statement may be obtained by written request mailed to the attention of Lisa Smith, Executive Director, Oklahoma Commission on Children and Youth, 111 N. Lee, Suite 500, Oklahoma City, Oklahoma 73103.

CONTACT PERSONS:

Lisa Smith, Executive Director, at (405) 606-4900; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

[OAR Docket #10-144; filed 1-26-10]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD

[OAR Docket #10-100]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Operation and Procedures
158:1-3-9. Permitting fees, project review [NEW]

SUMMARY:

158:1-3-9 establishes the Construction Industries Board guidelines and fee structure for permitting and formal project review.

AUTHORITY:

The authority for the Construction Industries Board to issue permits, conduct plan review and charge fees related thereto is found at 59 O.S. § 1000.5. The general rulemaking authority of the CIB is found at 59 O.S. § 1000.4(A)(1). Specific plan review provisions are found at 59 O.S. §§ 1002.1, 1681.1 and 1850.3a.

COMMENT PERIOD:

Written and oral comments will be accepted between February 16, 2010 through March 18, 2010, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 23, 2010, at a special meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #10-100; filed 1-26-10]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS**

[OAR Docket #10-101]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 9. Examination Procedures, Licensure and Registration Fees and Duration of Licenses
- 158:30-9-1. Examination procedures [AMENDED]
- 158:30-9-2. Fee schedule for contractors, journeymen, and apprentices [AMENDED]
- 158:30-9-3. Duration of licenses [AMENDED]

SUMMARY:

158:30-9-1 rule raises the minimum examination score for an individual to obtain a plumbing license and also clarifies that recognized experience to obtain a plumbing license is limited to experience obtained while employed by a licensed plumbing contractor. 158:30-9-2 corrects the current version by setting forth the actual fees required in accordance with the statutory amounts indicated at 59 O.S. § 1000.5. 158:30-9-3 removes the one year deadline to renew an expired license.

AUTHORITY:

The Construction Industries Board has the general power to adopt, amend, repeal and promulgate rules as may be necessary to regulate the plumbing trade. 59 O.S. § 1000.4(A)(1). The Construction Industries Board has the specific authority to promulgate and amend rules pertaining to the licensing and registration of plumbers. 59 O.S. § 1002. The Construction Industries Board has the specific authority to promulgate rules regarding the establishment of licensing and registration fees at 59 O.S. § 1000.5.

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 23, 2010, at a special meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #10-101; filed 1-26-10]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS**

[OAR Docket #10-102]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Licensing Requirements, Display of License, and Firm Name, and Bond Requirements
- 158:40-5-1. Apprentice requirements [AMENDED]
- 158:40-5-2. Journeyman requirements [AMENDED]
- 158:40-5-3. Contractor requirements [AMENDED]
- Subchapter 9. Examinations Applications, Examinations and License Registration Fees and Renewals
- 158:40-9-3. License and registration fees and renewals [AMENDED]
- 158:40-9-4. Continuing education [AMENDED]

SUMMARY:

158:40-5-1, 40-5-2 and 40-5-3 revise the national criminal history record check requirements and procedure to obtain regulatory consistency between the different categories of licenses and registrations. 158:40-9-3 corrects the current version by setting forth the actual fees required in accordance with the statutory amounts indicated at 59 O.S. § 1000.5. 158:40-9-4 amends the requirements for continuing education

Notices of Rulemaking Intent

instructors by requiring the instructors to have experience as a licensed electrician.

AUTHORITY:

The Construction Industries Board has the general power to adopt, amend, repeal and promulgate rules as may be necessary to regulate the electrical trade. 59 O.S. § 1000.4(A)(1). The Construction Industries Board has the authority to require and administer national criminal history record checks for contractors, journeymen and apprentices pursuant to 59 O.S. §§ 1685 and 1686. The Construction Industries Board has the specific authority to promulgate rules regarding the establishment of licensing and registration fees at. 59 O.S. § 1000.5. The Construction Industries Board has the authority to adopt and amend rules pertaining to continuing education requirements and procedures pursuant to 59 O.S. § 1681.

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 23, 2010, at a special meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #10-102; filed 1-26-10]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #10-103]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:50-1-2. Definitions [AMENDED]

Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of Licenses, Mechanical Licensure Application, and Apprentice Registration

158:50-9-1. Qualifications for mechanical licensure [AMENDED]

158:50-9-2. License and registration fees and renewals [AMENDED]

158:50-9-3. Duration of licenses [AMENDED]

158:50-9-4. Mechanical license application [AMENDED]

158:50-9-7. Continuing Education [AMENDED]

Subchapter 13. Procedures of the Variance and Appeals Board, Plan Review Applications and Fees, Code Variance Applications and Fee, Code Interpretation Appeals

158:50-13-2. Procedures of the Variance and Appeals Board [AMENDED]

SUMMARY:

158:50-1-2 revises the current definition of "Sheet metal" for purposes of regulatory clarification and removing redundancies. 158:50-9-1 reduces the minimum number of hours required in accepting a mechanical Vo Tech diploma as a substitute for necessary experience and allows ground source piping and petroleum refinery journeyman licensees to be certified by an alternative examination in lieu of an exam administered by the CIB. 158:50-9-2 corrects the current version by setting forth the actual fees required in accordance with the statutory amounts indicated at 59 O.S. § 1000.5. 158:50-9-3 strikes the term "examination" so that the CIB may recognize certification examinations in limited circumstances. 158:50-9-4 is obsolete and is stricken entirely. 158:50-9-7 recognizes trade related education as an appropriate topic for continuing education and removes the CEU requirements for the license of petroleum refinery journeyman. 158:50-13-2 strikes the specific years of adopted codes so that the rule always follows the currently adopted code.

AUTHORITY:

The Construction Industries Board has the general power to adopt, amend, repeal and promulgate rules as may be necessary to regulate the mechanical trade. 59 O.S. § 1000.4(A)(1). The Construction Industries Board has the specific authority to promulgate and amend rules pertaining to the licensing and registration of mechanical tradesmen. 59 O.S. § 1850.4 -.5.

The Construction Industries Board has the specific authority to promulgate rules regarding the establishment of licensing and registration fees at. 59 O.S. § 1000.5.

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 23, 2010, at a special meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 18, 2010, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #10-103; filed 1-26-10]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 60. INSPECTORS REGULATIONS**

[OAR Docket #10-104]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Categories and Classifications of Inspector Licenses, Qualifications for Inspector Licensure, License Requirements for Inspectors, Fees, Certification

and Continuing Education for Inspectors, and Continuing Education Courses

158:60-5-1. Categories and classifications of inspector licenses [AMENDED]

158:60-5-2. Qualifications for inspector licensure [AMENDED]

SUMMARY:

158:60-5-1 adds license categories and classifications for energy code inspectors. 158:60-5-2 revises references to other rule provisions pertaining to qualifications of inspectors which are currently obsolete or non-existent.

AUTHORITY:

The Construction Industries Board has the general power to adopt, amend, repeal and promulgate rules as may be necessary to regulate building and construction inspectors. 59 O.S. § 1000.4(A)(1). The Construction Industries Board has the specific authority to promulgate rules regarding the licensing of building and construction inspectors, including the classification and categorization of inspector licenses. 59 O.S. § 1032.

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 23, 2010, at a special meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Construction Industries Board at the above address.

Notices of Rulemaking Intent

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #10-104; filed 1-26-10]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 70. HOME INSPECTORS ACT INSPECTION INDUSTRY REGULATIONS

[OAR Docket #10-105]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:70-1-3. Standards of workmanship and practice
[AMENDED]

SUMMARY:

158:70-1-3 changes the home inspection requirements as they pertain to the standards of workmanship and practice to comport with current national and industry practice and standards.

AUTHORITY:

The Construction Industries Board is specifically authorized to promulgate, amend and repeal rules pertaining to the standards of practice for licensed home inspectors. 59 O.S. § 858-627(B)(5). The CIB has general rulemaking authority at 59 O.S. § 1000.4(A)(1).

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 23, 2010, at a special meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #10-105; filed 1-26-10]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 15. CURRICULUM AND INSTRUCTION

[OAR Docket #10-128]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Priority Academic Student Skills
Part 11. Social Studies

210:15-3-100. Oklahoma history for high school
[AMENDED]

210:15-3-102. United States History 1850 to the present for high school [AMENDED]

210:15-3-104. World History for high school [AMENDED]

SUMMARY:

The proposed rule amendments will revise the core curriculum *Priority Academic Students Skills* for Oklahoma History, United States History: 1850 to Present, and World History, to comply with the requirements set forth in 70 O. S. § 11-103.6(a).

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., March 24, 2010, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m. on Thursday, March 25, 2010, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 1:05 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on February 26, 2010.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #10-128; filed 1-26-10]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 25. FINANCE**

[OAR Docket #10-129]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Budgeting and Business Management
Part 1. Implementation
210:25-5-5. Auditing [AMENDED]

SUMMARY:

The proposed rule amendments will eliminate the need of a general fixed asset accounting group that is reported on the annual school district audit. Rule amendments will allow the district to remain a "low risk" auditee by eliminating the requirement for the general fixed assets account group.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., March 24, 2010, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m. on Thursday, March 25, 2010, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 1:05 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. § 303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on February 26, 2010.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #10-129; filed 1-26-10]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS**

[OAR Docket #10-116]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Contracts and Purchasing Unit
[AMENDED]
Appendix K. Professional Service Contract Affidavit Form
[REVOKED]
(Reference APA WF 10-04)

SUMMARY:

The proposed revisions to Subchapter 13 of Chapter 2 amend and create rules to: (1) modify the dollar threshold related to certain purchasing procedures; (2) ensure compliance with the Oklahoma Central Purchasing Act; (3) reflect current contract and purchasing practices; and (4) improve readability and clarity of the rules. Rules are amended to reorganize rules in a more logical order, revoke language that is obsolete or internal Oklahoma Department of Human Services (OKDHS) procedure, and revoke an obsolete appendix.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 85.1 through 85.45k and Sections 84.45o through 85.45s of Title 74 of the Oklahoma Statutes; and House Bill 1032 of the 1st Session of the 52nd Legislature.

COMMENT PERIOD:

Written and oral comments will be accepted February 16, 2010 through March 18, 2010 during regular business hours by contacting Pam Jennings, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-5338.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 18, 2010 at 5:00 p.m.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #10-116; filed 1-26-10]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #10-117]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Human Resources Management Division (HRMD)

Part 1. General Provisions

340:2-1-1 through 340:2-1-2 [AMENDED]

340:2-1-6 [AMENDED]

Part 3. Internal Human Resources

340:2-1-25 [REVOKED]

340:2-1-26 through 340:2-1-29 [AMENDED]

Part 5. Administrative Procedures

340:2-1-56 through 340:2-1-57 [AMENDED]

Part 7. Recruitment, Selection, and Placement Policy and Procedures

340:2-1-75 through 340:2-1-80 [AMENDED]

340:2-1-82 through 340:2-1-85 [AMENDED]

340:2-1-86 [REVOKED]

340:2-1-88 [AMENDED]

340:2-1-93 [AMENDED]

(Reference APA WF 10-01)

SUMMARY:

The proposed revisions to Subchapter 1 of Chapter 2: (1) update rules as they relate to process, procedures, or a change in form name or number; (2) clarify language; and (3) revoke obsolete or duplicative rules.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 250 et seq. of Title 75 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted February 16, 2010 through March 18, 2010 during regular business hours by contacting Kevin M. Sharp, Oklahoma Department of

Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-6829.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 18, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #10-117; filed 1-26-10]

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

[OAR Docket #10-118]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Conditions of Eligibility - Income

Part 3. Income

340:10-3-40 [AMENDED]

Subchapter 10. Conditions of Eligibility - Deprivation

340:10-10-5 [AMENDED]

340:10-10-7 [AMENDED]

Subchapter 15. Conditions of Eligibility - Citizenship and Alienage

340:10-15-1 [AMENDED]

(Reference APA WF 10-03)

SUMMARY:

The proposed revisions to Subchapters 3, 10, and 15 of Chapter 10: (1) clarify how child support received in excess of monthly current ordered support is considered; (2) update eligibility for Iraqis and Afghans admitted as special immigrants for Temporary Assistance for Needy Families (TANF) benefits; (3) remove outdated language; and (4) update language to current terminology.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Section 7301 of Public Law 109-171, Section 101(a)(27) of the INA [8 U.S.C. 1101(a)(27)]; Section 1059, P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006; Section 1244

of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008; Section 525 of Division G of P.L. 110-161, the Consolidated Appropriations Act of 2008; and Section 602, Division F, P.L. 111-08, the Omnibus Appropriations Act of 2009, and Sec 8120 of PL 111-118.

COMMENT PERIOD:

Written and oral comments will be accepted February 16, 2010 through March 18, 2010 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 18, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #10-118; filed 1-26-10]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE**

[OAR Docket #10-133]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions of Child Welfare Services [AMENDED]
- Subchapter 3. Child Protective Services [AMENDED]
- Subchapter 4. Family-Centered and Community Services [AMENDED]
- Subchapter 6. Permanency Planning [AMENDED]
- Subchapter 7. Foster Home Care [AMENDED]
- Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services [AMENDED]
- Subchapter 11. Child Welfare Community-Based Residential Care [AMENDED]
- Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care [AMENDED]

Subchapter 15. Adoptions [AMENDED]

Subchapter 16. Mental Health Treatment Services [AMENDED]

(Reference APA WF 09-06, 09-08, 09-10, 09-19)

SUMMARY:

The proposed revisions to Subchapters 1, 3, 4, 6, 7, 8, 11, 13, 15, and 16 of Chapter 75 amend the rules to bring them into conformity with federal and state statutory requirements, and the Oklahoma Department of Human Services (OKDHS) enhanced Practice Model for Child Welfare Services initiative. Several pieces of significant legislation were enacted during the First Session of the 52nd Legislature in 2009, including: (1) House Bill 2028 (HB 2028) that updated, reformed, and recodified the laws relating to deprived children known as the Oklahoma Children's Code; (2) HB 1734 that significantly effected the operations of OKDHS Child Welfare Services; and (3) the incorporation of requirements from the federal Fostering Connections to Success and Increasing Adoptions Act of 2008.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; the Oklahoma Children's Code of Title 10A of the Oklahoma Statutes; House Bill (HB) 2028; HB 1734, Senate Bill 339, and Fostering Connections to Success and Increasing Adoptions Act of 2008 at House Resolution 6893.

COMMENT PERIOD:

Written and oral comments will be accepted February 16, 2010 through March 18, 2010 during regular business hours by contacting Caprice Tyner, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 918-794-7538.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 18, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #10-133; filed 1-26-10]

Notices of Rulemaking Intent

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 110. LICENSING SERVICES

[OAR Docket #10-135]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
Part 1. Licensing Services - Child Care
340:110-1-4.1 [AMENDED]
340:110-1-6 [AMENDED]
340:110-1-8 through 340:110-1-8.1 [AMENDED]
340:110-1-8.3 [AMENDED]
340:110-1-9 [AMENDED]
340:110-1-9.2 through 340:110-1-9.4 [AMENDED]
340:110-1-10 [AMENDED]
340:110-1-10.1 [NEW]
340:110-1-13 through 340:110-1-15 [AMENDED]
Part 3. Licensing Services - Residential Care and Agencies
340:110-1-43.1 [AMENDED]
340:110-1-45 through 340:110-1-47.1 [AMENDED]
340:110-1-51 through 340:110-1-52 [AMENDED]
340:110-1-54 through 340:110-1-55 [AMENDED]
Subchapter 3. Licensing Standards for Childcare Facilities
Part 1. Requirements for Child Care Centers
340:110-3-2 through 340:110-3-7.1 [AMENDED]
Part 2. Requirements for Part-day Children's Programs
340:110-3-36 through 340:110-3-42 [AMENDED]
Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
340:110-3-81 through 340:110-3-82 [AMENDED]
340:110-3-85 [AMENDED]
340:110-3-88 [AMENDED]
340:110-3-89.1 [AMENDED]
Part 9. Requirements for Residential Child Care Facilities
340:110-3-146 through 340:110-3-147 [AMENDED]
340:110-3-153 [AMENDED]
340:110-3-153.1 [AMENDED]
340:110-3-168 [AMENDED]
Part 14. Requirements for School-Age Programs
340:110-3-221 through 340:110-3-226 [AMENDED]
Subchapter 5. Requirements for Child-Placing Agencies
Part 1. Requirements for Child-Placing Agencies
340:110-5-3 through 340:110-5-8 [AMENDED]
340:110-5-12 [AMENDED]
(Reference WF 09-14 and WF 10-02)

SUMMARY:

The proposed revisions to Subchapters 1, 3, and 5 of Chapter 110 amend the licensing requirements rules for child care centers, part-day programs, family child care homes and large family child care homes, school-age programs, residential facilities, and child placing agencies relating to: (1) criminal history investigations; (2) parent notification regarding liability insurance; and (3) establish and maintain a

child care worker registry. Revisions to Oklahoma Child Care Facilities Licensing Act require the Commission for Human Services to promulgate rules to establish and maintain a child care worker registry effective July 1, 2010. Other revisions reflect changes in state statute during the 2009 legislative session.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Child Care Facility Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes; Senate Bill 478; and House Bill 1742.

COMMENT PERIOD:

Written and oral comments will be accepted February 16, 2010 through March 18, 2010 during regular business hours by contacting Mitzi Lee, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, Oklahoma 73125, and telephone 405-521-2556.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 18, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #10-135; filed 1-26-10]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 30. OKLAHOMA STATE BUREAU OF INVESTIGATION LABORATORY

[OAR Docket #10-65]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
375:30-1-2 [AMENDED]
Subchapter 3. Collection and Submission of DNA Samples from the Oklahoma Department of Corrections
375:30-3-1 through 375:30-3-3 [AMENDED]
Subchapter 5. Collection and Submission of Forensic Evidence for DNA Profiling
375:30-5-2 through 375:30-5-4 [AMENDED]

Subchapter 7. Analysis of State DNA Offender Databank Samples
375:30-7-1 through 375:30-7-3 [AMENDED]
Subchapter 9. Removal of DNA Records from State DNA Database
375:30-9-2 [AMENDED]
Subchapter 11. General Rules for Submission of Evidence
375:30-11-1 through 375:30-11-5 [AMENDED]
375:30-11-7 [AMENDED]

SUMMARY:

The proposed amended sections would amend the rules regarding collection and submission of DNA samples to the OSBI Laboratory. They will also amend the rules for packaging, submission, and disposition of evidence submitted to the OSBI Laboratory for forensic testing.

AUTHORITY:

Oklahoma State Bureau of Investigation; 74 O.S. §150.28, 75 O.S. §250 *et seq.*

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 19, 2010 at the following address: Jimmy Bunn Jr., Chief Legal Counsel, Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on March 19, 2010 at Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Anyone who wishes to speak must sign in at the door by 9:30 a.m. and will be provided five (5) minutes to express their views.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the office of the Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Copies of proposed rules may be obtained at a cost of 25 cents per page copying charge from the Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be available on and after February 26, 2010, and may be obtained from the OSBI at the above address.

CONTACT PERSON:

Jimmy Bunn Jr., Chief Legal Counsel, 6600 N. Harvey, Oklahoma City, OK., 73116, (405) 879-2605

[OAR Docket #10-65; filed 1-20-10]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 1. ADMINISTRATION**

[OAR Docket #10-124]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 1. Administration [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 1 are part of the Department's review of Title 450. In an effort to provide greater assistance and clarity as to the Departments rules, the Department is gradually consolidating all definitions provided for in Title 450 into Chapter 1. This will allow for greater consistency in defining similar terms as well as ease in locating. Changes to Chapter 1 also include changes to the Department's certification process to help expedite the application process and, in turn, provide quicker access to behavioral health services for the public. These changes will also assist applicants for certification by clarifying what standards must be met to obtain certain levels of certification. Further, these changes establish qualifications for individuals providing behavioral health services at state-operated facilities or pursuant to a contract with the Department.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-110, 3-306, 3-306.1, 3-314.1, 3-315, 3-317, 3-318, 3-319 and 3-415; 74 O.S. §85.9G.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., March 18, 2010, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, e-mailed to skennedy@odmhsas.org, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on March 19, 2010 at 9:00 a.m. in Conference Room A of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on March 18, 2010.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address or through the ODMHSAS website at odmhsas.org.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning February 19, 2010. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address or through the ODMHSAS website at odmhsas.org.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871 or skennedy@odmhsas.org.

[OAR Docket #10-124; filed 1-26-10]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 17. STANDARDS AND CRITERIA
FOR COMMUNITY MENTAL HEALTH
CENTERS**

[OAR Docket #10-125]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 17. Standards and Criteria for Community Mental Health Centers [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 17 are part of the Department's review of Title 450. The proposed rules are intended to clarify existing rules, improve processes, and are intended to comply with statutory changes.

In an effort to provide increased clarity and uniformity, Chapter 17 definitions have been changed to be more congruent with like definitions in Chapter 18. Other changes have also been made throughout Chapter 17 to further clarify terms used and to reflect terms that are more current, and additional language has been added to further operationalize service functions. Additional changes include reorganization of information within Chapter 17 to improve clarity, and changes to the process for identifying detailed requirements for clinical documentation in an effort to improve effectiveness and flexibility. Also, qualifications for individual's providing behavioral health services at state-operated facilities or pursuant to contract with the Department have been deferred to Chapter 1 to allow for greater consistency in defining similar terms as well as ease in locating.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315; 74 O.S. §85.9G.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., March 18, 2010, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, e-mailed to skennedy@odmhsas.org, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on March 19, 2010 at 10:00 a.m. in Conference Room A of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address or through the ODMHSAS website at odmhsas.org.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning February 19, 2010. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address or through the ODMHSAS website at odmhsas.org.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871 or skennedy@odmhsas.org.

[OAR Docket #10-125; filed 1-26-10]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 18. STANDARDS AND CRITERIA
FOR ALCOHOL AND DRUG TREATMENT
PROGRAMS**

[OAR Docket #10-126]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 18. Standards and Criteria for Alcohol and Drug Treatment Programs [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 18 are part of the

Department's review of Title 450. The proposed rules are intended to clarify existing rules, improve processes, and are intended to comply with statutory changes.

In an effort to provide increased clarity and uniformity, Chapter 18 definitions have been changed to be more congruent with like definitions in Chapter 17. Other changes have also been made throughout Chapter 18 to further clarify terms used and to reflect terms that are more current, and additional language has been added to further operationalize service functions. Also, qualifications for individual's providing behavioral health services at state-operated facilities or pursuant to contract with the Department have been deferred to Chapter 1 to allow for greater consistency in defining similar terms as well as ease in locating.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315; 74 O.S. §85.9G.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., March 18, 2010, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, e-mailed to skennedy@odmhsas.org, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on March 19, 2010 at 11:00 a.m. in Conference Room A of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address or through the ODMHSAS website at odmhsas.org.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning February 19, 2010. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address or through the ODMHSAS website at odmhsas.org.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871 or skennedy@odmhsas.org.

[OAR Docket #10-126; filed 1-26-10]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 50. STANDARDS AND CRITERIA FOR CERTIFIED BEHAVIORAL HEALTH CASE MANAGERS**

[OAR Docket #10-60]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 450:50-1-2. Definitions [AMENDED]
- Subchapter 3. Behavioral Health Case Manager Certification Application
 - 450:50-3-1. Qualifications for certification [AMENDED]
 - 450:50-3-2. Applications for certification [AMENDED]
 - 450:50-3-3. Duration of certification [AMENDED]
 - 450:50-3-4. Fees [AMENDED]
 - 450:50-3-5. Fitness of applicants [AMENDED]
 - 450:50-3-7. Classifications of Certified Behavioral Health Case Managers [NEW]
- Subchapter 5. Behavioral Health Case Manager Certification Training and Web-based Competency Exam
 - 450:50-5-1. Case management certification training [AMENDED]
 - 450:50-5-4. Continuing education requirements [AMENDED]
 - 450:50-5-5. Web-based competency exam [NEW]
- Subchapter 7. Rules of Professional Conduct
 - 450:50-7-1. Responsibility and scope of practice [AMENDED]
 - 450:50-7-2. Consumer welfare [AMENDED]
 - 450:50-7-3. Reimbursement for services rendered [AMENDED]
 - 450:50-7-4. Professional standards [AMENDED]
 - 450:50-7-5. Failure to comply [AMENDED]
- Subchapter 9. Enforcement
 - 450:50-9-1. Enforcement [AMENDED]
- Subchapter 11. Complaint Process and Investigation/resolution of Complaints [NEW]
 - 450:50-11-1. Complaints of Professional Conduct [NEW]
 - 450:50-11-2. Reviewing complaints [NEW]
 - 450:50-11-3. Investigation [NEW]
 - 450:50-11-4. Filing of an action [NEW]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 50 are part of the

Notices of Rulemaking Intent

Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306 and 3-318.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., March 19, 2010, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, e-mailed to skennedy@odmhsas.org, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on March 22, 2010 at 11:00 a.m. in Conference Room A of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on March 19, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning March 3, 2010. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #10-60; filed 1-15-10]

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

[OAR Docket #10-80]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Organization of Board
550:1-3-3 [AMENDED]

SUMMARY:

The proposed amendments to OAC 550:1-3-3 eliminate the need of mailing nomination petitions to all eligible members. Member will receive a letter from the Executive Director explaining how a nomination petition can be obtained.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., March 18th, 2010, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 11:30 a.m., on Friday, March 19th 2010, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on February 19th, 2010.

CONTACT PERSON:

Darcie Gordon, Administrative Assistant (405) 840-3555 Ext. 227.

[OAR Docket #10-80; filed 1-22-10]

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

[OAR Docket #10-81]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Petition Procedures

550:1-5-2 [AMENDED]

SUMMARY:

The proposed amendments to OAC 550:1-5-2 add language for each party to request one continuance.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., March 18th, 2010, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 11:30 a.m., on Friday, March 19th, 2010, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on February 19th, 2010.

CONTACT PERSON:

Darcie Gordon, Administrative Assistant (405) 840-3555 Ext. 227.

[OAR Docket #10-81; filed 1-22-10]

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

[OAR Docket #10-82]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Collections and Disbursements
550:1-7-1 [AMENDED]

SUMMARY:

The proposed amendments to OAC 550:1-7-1 set out procedures for members to obtain their refund of contributions after cessation of employment.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., March 18th, 2010, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 11:30 a.m., on Friday, March 19th, 2010, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on February 19th, 2010.

CONTACT PERSON:

Darcie Gordon, Administrative Assistant (405) 840-3555 Ext. 227.

[OAR Docket #10-82; filed 1-22-10]

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

[OAR Docket #10-83]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

550:15-1-2 [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

The proposed amendments to OAC 550:15-1-2 requires members to make application to terminate participation in the Oklahoma Police Deferred Option Plan a minimum of ninety (90) days prior to termination of employment with the participating municipality. The Oklahoma Police Pension & Retirement System will have ninety (90) days from the date of receipt of members' application in which to process said application and make payment.

It will allow the Oklahoma Police Pension & Retirement System to ensure that there are sufficient liquid funds available to payout members' Deferred Option Plan account balance without adversely affecting the financial stability of the Oklahoma Police Pension & Retirement System

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., March 18th, 2010, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 11:30 a.m., on Friday, March 19th, 2010, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on February 19th, 2010.

CONTACT PERSON:

Darcie Gordon, Administrative Assistant (405) 840-3555 Ext. 227.

[OAR Docket #10-83; filed 1-22-10]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM **CHAPTER 30. PERIODS OF ABSENCE FOR WHICH A MEMBER IS NOT RECEIVING COMPENSATION**

[OAR Docket #10-84]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

550:30-1-1 [NEW]

SUMMARY:

The proposed new rule OAC 550:30-1-1 establishes when credited service is taken into account during any period of absence, furlough, administrative leave or other period of time for which a member is not receiving compensation.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., March 18th, 2010, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 11:30 a.m., on Friday, March 19th, 2010, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on February 19th, 2010.

CONTACT PERSON:

Darcie Gordon, Administrative Assistant (405) 840-3555 Ext. 227.

[OAR Docket #10-84; filed 1-22-10]

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 15. CENTRAL PURCHASING**

[OAR Docket #10-120]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. Central Purchasing [AMENDED]

SUMMARY:

The proposed permanent rules revise and reorganize state purchasing rules to provide clarification and order more consistent with current agency processes. The draft was developed with input from five other state agencies. Incorporated into the proposed permanent rules are emergency rules, approved by the Governor October 1, 2009, in order to implement changes effected by House Bill 1132, effective August 26, 2009, which increased acquisition thresholds of state agencies from a maximum of \$25,000.00 to not exceeding \$100,000.00 upon approval by the State Purchasing Director and in accordance with rules promulgated by the Department of Central Services. In addition, language related to certain procurement documents requiring notarizations was modified to compliment the use of technology in procurement practices. Proposed rules provide information and revisions related to procurement processes to be consistent with the statute changes and to ensure agencies and suppliers comply with the new mandates.

AUTHORITY:

Director of the Department of Central Services; 74 O.S., Section 85.5

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Thursday, March 18, 2010, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218. A person may submit e-mail comments to gerry_smedley@dcs.state.ok.us

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 19, 2010 at 1:00 p.m. Anyone who wishes to speak must sign in by 12:55 p.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 3, 2010 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison, (405) 522-8519

[OAR Docket #10-120; filed 1-26-10]

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 25. RISK MANAGEMENT PROGRAM**

[OAR Docket #10-123]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 25. Risk Management Program [AMENDED]

SUMMARY:

Proposed rules are to permanently adopt emergency rules approved by the Governor November 3, 2009, which were necessary to ensure Risk Management complied with new requirements mandated by the Federal Medicare, Medicaid and SCHIP Extension Act (MMSEA) in order to avoid potential assessment of fines authorized by the Act. The federal law requires Risk Management (RM) to electronically report claim information and payments to the Centers for Medicare Services. Failure to report the required information may result in a fine of \$1,000 per claim, per day, until the claim is reported. Risk Management rules currently address agencies and other entities covered by the program and not the claimants. The federal law places the burden of gathering and transmitting required claimant information on Risk Management and failure or inability to obtain the information is not accepted as an excuse by MMSEA and will not allow Risk Management to avoid fines. can collect all information from a claimant required to be reported to the federal government in order to comply with MMSEA. In addition, clarification is provided related to a claim that may be declared invalid for failure to provide the requested information.

Proposed rules add information to clarify that Risk Management cannot accept responsibility for any programs it does not know about or administer directly because a state agency has purchased liability insurance without the knowledge of Risk Management [74 O.S. § 85.58A (E)]

Notices of Rulemaking Intent

AUTHORITY:

Department of Central Services; 74 O.S., Section 85.58A

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Thursday, March 18, 2010, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218. A person may submit e-mail comments to gerry_smedley@dcs.state.ok.us

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 19, 2010 at 10:00 a.m. Anyone who wishes to speak must sign in by 9:55 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 3, 2010, at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison, (405) 522-8519

[OAR Docket #10-123; filed 1-26-10]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES CHAPTER 35. FLEET MANAGEMENT DIVISION

[OAR Docket #10-121]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 35. Fleet Management Division [AMENDED]

SUMMARY:

Proposed rule revisions include clarification and updated information related to definitions, reports submitted to the Fleet Management Division and vehicle operating procedures.

AUTHORITY:

Director of the Department of Central Services; 74 O.S., Section 78.(B)(4)

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Thursday, March 18, 2010, at

the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 19, 2010 at 11:00 a.m. Anyone who wishes to speak must sign in by 10:55 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review after March 3, 2010 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-8519

[OAR Docket #10-121; filed 1-26-10]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES CHAPTER 55. COMMITTEE OF ALTERNATIVE FUELS TECHNICIAN EXAMINERS

[OAR Docket #10-122]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 55. Committee of Alternative Fuels Technician Examiners [AMENDED]

SUMMARY:

Proposed rule revisions provide information and procedures to enable testing of alternative fuels technician applicants through use of information technology.

AUTHORITY:

Director of the Department of Central Services; 74 O.S., Section 130.18

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Thursday, March 18, 2010, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 19, 2010 at 11:30 a.m. Anyone who wishes to speak must sign in by 11:25 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will available for review after March 3, 2010 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-8519

[OAR Docket #10-122; filed 1-26-10]

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 15. FISCAL, PERSONNEL AND GENERAL OPERATIONS**

[OAR Docket #10-131]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 29. Oklahoma Today Magazine
- Part 1. General Provisions
- 725:15-29-1 [REVOKED]
- 725:15-29-2 [REVOKED]
- 725:15-29-3 [REVOKED]
- 725:15-29-4 [REVOKED]
- Part 3. Magazine Sales
- 725:15-29-10 [REVOKED]
- 725:15-29-11 [AMENDED]
- Part 5. Resale Merchandise
- 725:15-29-20 [REVOKED]
- 725:15-29-21 [REVOKED]
- Part 7. Credit
- 725:15-29-30 [AMENDED]
- 725:15-29-32 [AMENDED]

SUMMARY:

The proposed rule revocations remove items that are a duplication of statute, and the proposed amended sections have

been revised at the request of the Office of the Attorney General or are amended to provide updated contact information.

AUTHORITY:

Title 74. Chapter 47C - Oklahoma Tourism, Parks and Recreation Enhancement Act, Section 2204 - Oklahoma Tourism and Recreation Commission - Powers, Rights, and Duties

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 pm on Thursday, March 18 at the following address: Kathy Hehnly, Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Thursday, March 18, 2010 at the Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102. Anyone who wishes to speak must sign in at the door by 10:00 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. , §303 (D), a rule impact statement will be on file at the Oklahoma Tourism and Recreation Department and may be requested from the contact person.

CONTACT PERSON:

The contact person is Kathy Hehnly, of the Oklahoma Tourism and Recreation Department. Ms. Hehnly can be reached at kathy.hehnly@oklatourism.gov, 405-230-8308 (phone) or 405-230-8508 (fax). The Oklahoma Tourism and Recreation Department is located at 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing.

[OAR Docket #10-131; filed 1-26-10]

Notices of Rulemaking Intent

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 30. DIVISION OF STATE PARKS

[OAR Docket #10-130]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 2. General Purpose
 - 725:30-2-3. Penalties [AMENDED]
 - 725:30-2-4. Definitions [AMENDED]
 - 725:30-2-6. Closure and curfew [AMENDED]
 - 725:30-2-7. Public notice [AMENDED]
 - 725:30-2-8. Signs, signals and markings [AMENDED]
- Subchapter 4. Public Use and Recreation
 - 725:30-4-1. Preservation and protection of natural, cultural and archaeological resources [AMENDED]
 - 725:30-4-4. Weapons [AMENDED]
 - 725:30-4-6. Audio disturbances and quiet hours [AMENDED]
 - 725:30-4-8. Sanitation [AMENDED]
 - 725:30-4-10. Horses, llamas and pack animals [AMENDED]
 - 725:30-4-12. Smoking [AMENDED]
 - 725:30-4-13. Property [AMENDED]
 - 725:30-4-18. Alcoholic beverages and controlled substances [AMENDED]
 - 725:30-4-20. Soliciting [AMENDED]
 - 725:30-4-25. Memorialization [AMENDED]
- Subchapter 6. Fees, Discounts and Waivers
 - 725:30-6-1. Fee authority, requirements, discounts and waivers [AMENDED]
- Subchapter 8. Camping and Day Use
 - 725:30-8-1. Definitions [AMENDED]
 - 725:30-8-3. Fee collection, restrictions and exemptions [AMENDED]
 - 725:30-8-4. Time limits and extensions [AMENDED]
- Subchapter 12. Reservations and Use of Cabins, Group Camps, Shelters, Reserved/Assigned Camping Facilities, Amphitheaters, Community Buildings and Meeting Rooms
 - 725:30-12-1. Definitions [AMENDED]
 - 725:30-12-3. Group camps [AMENDED]
 - 725:30-12-4. Shelters [AMENDED]
 - 725:30-12-5. Reserved/assigned and group camping [AMENDED]
- Subchapter 18. Special Use Areas
 - 25:30-18-3. McGee Creek Natural Scenic Recreation Area-McGee Creek State Park [AMENDED]
- Subchapter 20. Volunteers
 - 725:30-20-2. Applications, qualification, selection and restrictions [AMENDED]
- Subchapter 22. Concession Leases
 - 725:30-22-2. Bidding process [AMENDED]
 - 725:30-22-8. Grievance process [AMENDED]

- Subchapter 26. Vehicles and Traffic Safety
 - 725:30-26-14. Off-road vehicles [AMENDED]

SUMMARY:

The Department is proposing changes to Subchapter 2: General Provisions, to allow added flexibility in cases of prohibited facility use. The Department added definitions of "Department" and "Visitor" which are beneficial to rule understanding. In addition, the Department proposes a modification for closure and curfews at parks which clarifies that Commission approval is needed for such recommendations and clarifies how public notice will be provided. Signs are clarified to include use of international symbols.

The Department is proposing changes to Subchapter 4: Public Use and Recreation, to allow the park manager and the Director to issue metal or mineral detector permits. The Department is proposing a modification to the weapons language which accommodates current concealed weapon law; modifies language regarding audio disturbance; provides for trash-in and trash-out programs in parks; adds language to accommodate the law regarding certified hay; and clarifies that no-smoking designations may include lodge rooms. The Department further proposes that prohibition of alcoholic beverages in park may include 3.2% alcohol products and the Memorialization section was re-written to clarify the approvals needed for installation of items in state parks.

The Department is proposing changes to Subchapter 6: Fees, Discounts and Waivers, which amend the rules to coincide with state law.

The Department is proposing changes to Subchapter 8: Camping and Day Use, to clarify the definition of "Camping/sleeping unit", to adjust the check-out time for a campsite and clarify what a "family unit" is for certain purposes and provides the park manager with discretion. The Department also proposes a change to time limits and extension of stay during the camping season.

The Department is proposing changes to Subchapter 12: Reservations and Use of Cabins, Group Camps, Shelters, Reserved/Assigned Camping, Facilities, Amphitheaters, Community Buildings and Meeting Rooms, which include a modification of the definition of "Daily" to provide a revised check-out time. The Department proposes a change to Group Camps to delete the ability to make reservations in the Oklahoma City administrative offices and check-out time was modified. The Department proposes a change to Shelters to eliminate use without a reservation. The Department proposes an adjustment to group camping reservations which clarifies cancellation processes and provides for a transaction fee and some manager discretion.

The Department is proposing changes to Subchapter 18: Special Use Areas, clarifying trails use issues.

The Department is proposing changes to Subchapter 20: Volunteers, which modifies the language which prohibits person convicted of serious offenses including sexual offenses from being volunteers.

The Department is proposing changes to Subchapter 22: Concession Leases, which clarifies the publication

of advertising for solicitation of proposals and defines employee participation in bid opening for lease proposals. In addition, unnecessary words are eliminated without change in application in the grievance process section.

The Department is proposing changes to Subchapter 26: Vehicles and Traffic Safety, in the category of off-road vehicles which exempts Lake Murray from the requirement of having whips on vehicles.

AUTHORITY:

Title 74. Chapter 47C - Oklahoma Tourism, Parks and Recreation Enhancement Act, Section 2204 - Oklahoma Tourism and Recreation Commission - Powers, Rights, and Duties

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 pm on March 18, 2010 at the following address: Kathy Hehnly, Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102, 405-230-8308.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Thursday, March 18, 2010 at the Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102. Anyone who wishes to speak must sign in at the door by 10:00 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303 (D), a rule impact statement will be on file at the Oklahoma Tourism and Recreation Department and may be requested from the contact person.

CONTACT PERSON:

The contact person is Kathy Hehnly, of the Oklahoma Tourism and Recreation Department. Ms Hehnly can be reached at kathy.hehnly@oklatourism.gov, 405-230-8308 (phone) or 405-230-8508 (fax). The Oklahoma Tourism and Recreation Department is located at 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing.

[OAR Docket #10-130; filed 1-26-10]

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 35. THE OKLAHOMA FILM AND MUSIC OFFICE**

[OAR Docket #10-132]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Oklahoma Film Enhancement Rebate Program

725:35-1-1 [AMENDED]

725:35-1-2 [AMENDED]

725:35-1-3 [AMENDED]

725:35-1-5 [AMENDED]

SUMMARY:

The Department is proposing changes to Part 1 to update a change in statute.

The Department is proposing changes to Parts 2, 3 and 5 to remove items that are a duplication of statute, and to add language contained in the current Oklahoma Film Enhancement Rebate Program Guidelines and Instructions for Application, which have been developed over the past year.

AUTHORITY:

Title 74. Chapter 47C - Oklahoma Tourism, Parks and Recreation Enhancement Act, Section 2204 - Oklahoma Tourism and Recreation Commission - Powers, Rights, and Duties

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 pm on March 18, 2010 at the following address: Kathy Hehnly, Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102, 405-230-8308.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Thursday, March 18, 2010 at the Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102. Anyone who wishes to speak must sign in at the door by 10:00 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities affected by these proposed rules provide the Department, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss or

Notices of Rulemaking Intent

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 Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be on file and may be requested from the contact person.

CONTACT PERSON:

The contact person is Kathy Hehnly, of the Oklahoma Tourism and Recreation Department. Ms Hehnly can be reached at kathy.hehnly@oklatourism.gov, 405-230-8308 (phone) or 405-230-8508 (fax). The Oklahoma Tourism and Recreation Department is located at 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing.

[OAR Docket #10-132; filed 1-26-10]

TITLE 748. UNIFORM BUILDING CODE **COMMISSION** **CHAPTER 1. ADMINISTRATIVE** **OPERATIONS**

[OAR Docket #10-106]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 748:1-1-1. Organization [NEW]
- 748:1-1-2. Address [NEW]
- 748:1-1-3. Commissioners [NEW]
- 748:1-1-4. Meetings [NEW]

SUMMARY:

These rules are currently in existence and have been previously approved as emergency rules by the Uniform Building Code Commission ("UBCC"). This action seeks to make these rules permanent. 748:1-1-1; 748:1-1-2; 748:1-1-3 and 748:1-1-4 establish rules for the administrative operations of the UBCC by requiring an agency organization, establishing the agency address, setting forth the protocol for Commission members' election of officers, calling meetings and the conduct of meetings, and establishing guidelines for meeting dates, times and locations.

AUTHORITY:

These rules are being promulgated under the authority of 59 O.S. §§ 1000.22, 1000.24 and 1000.26.

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business

hours at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 10:00 A.M. on March 26, 2010, at a special meeting of the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Uniform Building Code Commission requests that business entities affected by these proposed rules provide the Uniform Building Code Commission, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board at the above address.

CONTACT PERSONS:

David Timberlake, Chairman 405.840.2521
Mitchell Hort, Vice Chairman 405.409.8402
Jeanne Britt, Commission Secretary 405.271.2771

[OAR Docket #10-106; filed 1-26-10]

TITLE 748. UNIFORM BUILDING CODE **COMMISSION** **CHAPTER 3. GENERAL PROVISIONS**

[OAR Docket #10-107]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 748:3-1-1. Context and interpretation [NEW]
- 748:3-1-2. Definitions [NEW]

SUMMARY:

These rules are currently in existence and have been previously approved as emergency rules by the Uniform

Building Code Commission ("UBCC"). This action seeks to make these rules permanent. Title 748:3-1-1 sets forth the context and provides interpretive guidance for definitions adopted by the UBCC. Title 748:3-1-2 defines essential terms necessary to implement the Act in accordance with the plain meaning and clear intent of the Act. These terms were not defined by the Oklahoma Legislature in the Act.

AUTHORITY:

These rules are being promulgated under the authority of 59 O.S. §§ 1000.22, 1000.23, 1000.24, 1000.25 and 1000.26.

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 10:00 A.M. on March 26, 2010, at a special meeting of the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Uniform Building Code Commission requests that business entities affected by these proposed rules provide the Uniform Building Code Commission, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board at the above address.

CONTACT PERSONS:

- David Timberlake, Chairman 405.840.2521
- Mitchell Hort, Vice Chairman 405.409.8402
- Jeanne Britt, Commission Secretary 405.271.2771

[OAR Docket #10-107; filed 1-26-10]

**TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 5. FEES AND COLLECTION OF FEES**

[OAR Docket #10-108]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Fees [NEW]
748:5-1-1. Fees [NEW]
- Subchapter 3. Collection and Late Fee Assessment [NEW]
748:5-3-1. Late Fee Assessment [NEW]

SUMMARY:

These rules are currently in existence and have been previously approved as emergency rules by the Uniform Building Code Commission ("UBCC"). This action seeks to make these rules permanent. 748:5-1-1 establishes fees within parameters of 59 O.S. § 1000.25 and sets forth necessary guidelines for the collection and administration of said fees in harmony with the Act. 748:5-3-1 sets forth timelines, percentages and assessment procedures for the assessment of late fees as set forth in Section 1000.25.

AUTHORITY:

These rules are being promulgated under the authority of 59 O.S. §§ 1000.22, 1000.23, 1000.24, 1000.25 and 1000.26.

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 10:00 A.M. on March 26, 2010, at a special meeting of the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Uniform Building Code Commission requests that business entities affected by these proposed rules provide the Uniform Building Code Commission, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Uniform Building Code Commission at the offices of the

Notices of Rulemaking Intent

Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board at the above address.

CONTACT PERSONS:

David Timberlake, Chairman 405.840.2521
Mitchell Hort, Vice Chairman 405.409.8402
Jeanne Britt, Commission Secretary 405.271.2771

[OAR Docket #10-108; filed 1-26-10]

TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 7. COMMISSION COMMITTEES

[OAR Docket #10-109]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General [NEW]
748:7-1-1. General composition and assignments [NEW]
748:7-1-2. Scope [NEW]
748:7-1-3. Reports [NEW]
748:7-1-4. Open Meeting rules [NEW]
748:7-1-5. Participation of the public [NEW]
748:7-1-6. Advisory only [NEW]
748:7-1-7. Prerogative and direction [NEW]
748:7-1-8. Committee forms [NEW]
Subchapter 3. Ad Hoc Committees [NEW]
748:7-3-1. Ad Hoc Committees [NEW]
Subchapter 5. Standing Committees [NEW]
748:7-5-1. Standing Committees [NEW]
Subchapter 7. Technical Committees [NEW]
748:7-7-1. Specific purpose [NEW]
748:7-7-2. Task assignments [NEW]
748:7-7-3. Technical Committee composition [NEW]
748:7-7-4. Member selection [NEW]

SUMMARY:

748:7-1-1, 7-1-2, 7-1-3, 7-1-4, 7-1-5, 7-1-6, 7-1-7 and 7-1-8 establish the general guidelines, composition, subject matter, protocol, scope and forms of committees which may be established by the Uniform Building Code Commission. 748:3-1-1 creates the Ad hoc committee format. 748:7-5-1 establishes the standing committee format. 748:7-7-1, 7-7-2, 7-7-3 and 7-7-4 set forth more specific requirements, tasks and

guidelines governing the Commission's technical committees which will be created to study and make recommendations on the adoption of certain codes, as specified by the Commission.

AUTHORITY:

These rules are being promulgated under the authority of 59 O.S. § 1000.24(A)(1) and (B)(5).

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 10:00 A.M. on March 26, 2010, at a special meeting of the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Uniform Building Code Commission requests that business entities affected by these proposed rules provide the Uniform Building Code Commission, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board at the above address.

CONTACT PERSONS:

David Timberlake, Chairman 405.840.2521
Mitchell Hort, Vice Chairman 405.409.8402
Jeanne Britt, Commission Secretary 405.271.2771

[OAR Docket #10-109; filed 1-26-10]

**TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 10. CODE ADOPTION PROCEDURES**

[OAR Docket #10-110]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 748:10-1-1. Discretion of the Commission [NEW]
- 748:10-1-2. Public input to Technical Committees [NEW]
- 748:10-1-3. Technical Committees recommendations and reports [NEW]
- 748:10-1-4. Final adoption by rulemaking [NEW]

SUMMARY:

748:10-1-1, 10-1-2, 7-10-3 and 7-10-4 establish the protocol of code adoption, including the Commission's use and assignment of a technical committee for the study of a particular code for recommendation to the Commission. These rules provide for public input and comment throughout any code adoption process, from the outright adoption of a code by the Commission without the use of a Committee or the study of the code and recommendation by a technical committee, to the legal minimum of public notice and comment provided by the Oklahoma Administrative Procedures Act at final Commission adoption.

AUTHORITY:

These rules are being promulgated under the authority of 59 O.S. §§ 1000.23 and 1000.24(A)(1) and (B)(5).

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 10:00 A.M. on March 26, 2010, at a special meeting of the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Uniform Building Code Commission requests that business entities affected by these proposed rules provide the Uniform Building Code Commission, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board at the above address.

CONTACT PERSONS:

- David Timberlake, Chairman 405.840.2521
- Mitchell Hort, Vice Chairman 405.409.8402
- Jeanne Britt, Commission Secretary 405.271.2771

[OAR Docket #10-110; filed 1-26-10]

**TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 15. CODES ADOPTED BY STATE AGENCIES AND POLITICAL SUBDIVISIONS**

[OAR Docket #10-111]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 748:15-1-1. Codes which may be adopted [NEW]
- 748:15-1-2. Procedure to adopt different code [NEW]
- 748:15-1-3. Amendment of existing Commission codes [NEW]
- 748:15-1-4. Procedure to amend existing Commission codes [NEW]
- 748:15-1-5. Effect of repeal [NEW]

SUMMARY:

748:15-1-1, 15-1-2, 15-1-3, 15-1-4 and 15-1-5 establish the protocol and procedure for state agencies and political subdivisions to adopt a code which exceeds the standards and requirements of a code adopted by the Commission or amending a code adopted by the Commission as necessary to accommodate a local condition.

AUTHORITY:

These rules are being promulgated under the authority of 59 O.S. §§ 1000.23, 1000.24 and 1000.29.

COMMENT PERIOD:

Written and oral comments will be accepted between February 16th through March 18, 2010, during regular business hours at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 10:00 A.M. on March 26, 2010, at a special meeting of the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5,

Notices of Rulemaking Intent

Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Uniform Building Code Commission requests that business entities affected by these proposed rules provide the Uniform Building Code Commission, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 18, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on March 18, 2010.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 3, 2010, and may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board at the above address.

CONTACT PERSONS:

David Timberlake, Chairman 405.840.2521
Mitchell Hort, Vice Chairman 405.409.8402
Jeanne Britt, Commission Secretary 405.271.2771

[OAR Docket #10-111; filed 1-26-10]

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

[OAR Docket #10-95]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]
Subchapter 3. State Technical Assistance, Supervision, and Services [AMENDED]
Subchapter 5. Finance [AMENDED]
Subchapter 7. Local Programs, Career Majors or Instructional Positions: Application; Student Accounting; Evaluation [AMENDED]
Subchapter 9. Service Contracts and Equipment Guidelines [AMENDED]

SUMMARY:

The rule amendment assures consistency with the terminology that is being used since implementation of the career cluster instructional framework. It improves clarity and reassigns responsibility since the Associate State Director of Field Services is a position that will not be filled in the near future. The proposed rule amendment specifies the guidelines and timeline for issuing refunds for returned curriculum materials. Proposed rule amendment specifies the criteria to be met prior to designating an account as "uncollectible". It further provides better management of uncollectible accounts by placing them in a special account. The rule amendment clarifies the inventory policy for agency reimbursed instructional equipment for Business and Industry Development Programs.

AUTHORITY:

Oklahoma State Board of Career and Technology Education; 70 O.S. Supp. 2009, § 14-103, 70 O.S. 2001 § 14-104, as amended.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so from February 16 through March 19, 2010, to Connie Holland, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

Hearings will begin at 10:00 a.m., Thursday March 25, 2010, in Room 1-20, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies will be on file for public viewing beginning February 18, 2010, in the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared as required by law, and will be available beginning February 18, 2010, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma.

CONTACT PERSON:

Marie Saatkamp, Human Resources Specialist, 405-743-5455

[OAR Docket #10-95; filed 1-26-10]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

[OAR Docket #10-96]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Technology Centers Education [AMENDED]

SUMMARY:

The rule amendment assures consistency with the terminology that is being used since implementation of the career cluster instructional framework. Provide clarification in response to questions that were repeatedly asked during the past year and to define responsibility. It provides citations of relevant legislation. The proposed rule will bring the OK Department of CareerTech rules in line with Oklahoma State Regents for Higher Education policy for the Cooperative Alliance Program.

AUTHORITY:

Oklahoma State Board of Career and Technology Education; 70 O.S. Supp. 2009, § 14-103, 70 O.S. 2001 § 14-104, as amended.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so from February 16 through March 19, 2010, to Connie Holland, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

Hearings will begin at 10:00 a.m., Thursday March 25, 2010, in Room 1-20, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies will be on file for public viewing beginning February 18, 2010, in the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared as required by law, and will be available beginning February 18, 2010, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma.

CONTACT PERSON:

Marie Saatkamp, Human Resources Specialist, 405-743-5455

[OAR Docket #10-96; filed 1-26-10]

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

[OAR Docket #10-97]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

Subchapter 3. Secondary, Full-Time and Short-Term Adult CareerTech Programs [AMENDED]

SUMMARY:

The amended rule replaces outdated language and defines the term instructional program and provides clarity as to the scope of the term; restates secondary and post secondary programs; clarifies the maximum and minimum number of students in a Health Careers Education program; clarifies expectations of a clinical facility. Clarification on educational requirements and health care credentials for faculty in Health Careers Education programs at both technology centers and comprehensive schools. The new rule documents FFA membership requirements. The rule amendment deletes language relating to adult education programs in Family and Consumer Sciences Education which no longer exist and removes outdated language. The rule amendment clarifies the correct division in section (H). The amendment was submitted since STEM (Science, Technology, Engineering & Mathematics) was not represented. The rule describes the Career Major and the teacher requirements as they relate to the number of courses required to teach. The rule reflects the appropriate student organization for the STEM Career Major.

AUTHORITY:

Oklahoma State Board of Career and Technology Education; 70 O.S. Supp. 2009, § 14-103, 70 O.S. 2001 § 14-104, as amended.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so from February 16 through March 19, 2010, to Connie Holland, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

Hearings will begin at 10:00 a.m., Thursday March 25, 2010, in Room 1-20, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies will be on file for public viewing beginning February 18, 2010, in the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared as required by law, and will be available beginning February 18, 2010, at the

Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma.

CONTACT PERSON:

Marie Saatkamp, Human Resources Specialist,
405-743-5455

[OAR Docket #10-97; filed 1-26-10]

Cancelled Hearings/Comment Periods

If an agency cancels a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency must submit a notice of such cancellation to the Office of Administrative Rules (OAR). The OAR publishes the cancellation notice in the next possible issue of the *Register*.

For additional information on cancelled hearings and comment periods, see OAC 655:10-7-27.

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 17. STANDARDS AND CRITERIA FOR COMMUNITY MENTAL HEALTH CENTERS

[OAR Docket #10-67]

RULEMAKING ACTION:

Cancelled comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

- Subchapter 1. General Provision
- 450:17-1-2. Definitions [AMENDED]
- Subchapter 3. Required Services
- Part 1. Required Services
- 450:17-3-2. Core community mental health services [AMENDED]
- Part 7. Outpatient ~~Counseling Therapy~~ Services
- 450:17-3-61. Outpatient ~~counseling therapy~~ services [AMENDED]
- 450:17-3-62. Outpatient ~~therapy counseling~~ services, substance abuse, co-occurring [AMENDED]
- Part 11. Case Management
- 450:17-3-101. Case management services [AMENDED]
- 450:17-3-102. Case management services, locale and frequency [AMENDED]
- Part 15. ~~Adult Recovery and Behavioral Health Rehabilitation Services Programs~~
- 450:17-3-141. Psychiatric rehabilitation ~~programs~~ services [AMENDED]
- 450:17-3-144. General psychiatric rehabilitation ~~program~~ (PSR) [AMENDED]
- 450:17-3-146. ~~ICCD Clubhouse program Model~~ [AMENDED]
- 450:17-3-147. ~~Individual and Group Rehabilitation Services~~ [NEW]
- Part 21. Peer Support Services
- 450:17-3-191. Peer support services [AMENDED]
- 450:17-3-192. ~~Peer~~ Recovery Support Specialists staff requirements [AMENDED]
- Subchapter 5. Optional Services
- Part 5. Homebased Services To Children And Adolescents [REVOKED]
- 450:17-5-22. Homebased services to children and adolescents, family preservation [REVOKED]
- 450:17-5-25. Behavioral health aide services to children, adolescents and families [REVOKED]
- Part 11. Community Living Programs

- 450:17-5-60. Supervised transitional living programs [AMENDED]
- 450:17-5-66. Permanent supported housing programs [AMENDED]
- Part 15. Inpatient Services
- 450:17-5-95. Inpatient services within the community mental health setting [AMENDED]
- Part 19. Program of Assertive Community Treatment
- 450:17-5-111. General program description and target population [REVOKED]
- 450:17-5-112. Admission criteria [REVOKED]
- 450:17-5-113. Discharge criteria [REVOKED]
- 450:17-5-114. Program Management and Capacity [REVOKED]
- 450:17-5-115. Staff communication and planning [REVOKED]
- 450:17-5-116. Clinical supervision [REVOKED]
- 450:17-5-117. Orientation and training [REVOKED]
- 450:17-5-118. Services [REVOKED]
- 450:17-5-119. Medication prescription, administration, monitoring and documentation [REVOKED]
- 450:17-5-120. Rehabilitation [REVOKED]
- 450:17-5-121. Support services [REVOKED]
- 450:17-5-122. Staffing requirements [REVOKED]
- 450:17-5-123. Assessment and treatment planning [REVOKED]
- 450:17-5-124. Treatment planning [REVOKED]
- 450:17-5-125. Discharge [REVOKED]
- 450:17-5-126. PACT Consumer Clinical Records [REVOKED]
- Subchapter 7. Facility Clinical Records
- 450:17-7-5. Clinical record content, screening, intake and assessment [AMENDED]
- 450:17-7-8. ~~Integrated Behavioral Health~~ Service plan [AMENDED]
- 450:17-7-9. Medication record [AMENDED]
- 450:17-7-12. Discharge summary [AMENDED]
- Subchapter 9. Consumer Records and Confidentiality
- 450:17-9-1. Confidentiality, mental health consumer information and records [REVOKED]
- 450:17-9-1.1. Confidentiality of mental health and drug or alcohol abuse treatment information [AMENDED]
- 450:17-9-2. Confidentiality, substance abuse consumer information and records [REVOKED]
- Subchapter 13. Organizational ~~and Facility~~ Management
- 450:17-13-1. Organizational and facility description [AMENDED]
- Subchapter 15. Performance Improvement and Quality Management

Cancelled Hearings/Comment Periods

450:17-15-1.1. Performance improvement program
[AMENDED]

450:17-15-5. Critical ~~Incident~~ incident reporting
[AMENDED]

Subchapter 21. Staff Development and Training

450:17-21-1. Staff qualifications [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 27 Ok Reg 9.

CANCELLED COMMENT PERIOD:

January 16, 2010 to February 15, 2010

CANCELLED PUBLIC HEARING:

10:00 a.m., February 23, 2010, Oklahoma Department of Mental Health and Substance Abuse Services, 1200 NE 13th Street, Oklahoma City, Oklahoma.

ADDITIONAL INFORMATION:

Another comment period and public hearing will be announced at a later date. For additional information, contact Stephanie Kennedy, skennedy@odmhsas.org, (405) 522-3871.

[OAR Docket #10-67; filed 1-21-10]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 18. STANDARDS AND CRITERIA FOR ALCOHOL AND DRUG TREATMENT PROGRAMS

[OAR Docket #10-68]

RULEMAKING ACTION:

Cancelled comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

Subchapter 1. General Provision

450:18-1-2. Definitions [AMENDED]

450:18-1-9. Staff qualifications [NEW]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 27 Ok Reg 9.

CANCELLED COMMENT PERIOD:

January 16, 2010 to February 15, 2010

CANCELLED PUBLIC HEARING:

11:00 a.m., February 23, 2010, Oklahoma Department of Mental Health and Substance Abuse Services, 1200 NE 13th Street, Oklahoma City, Oklahoma.

ADDITIONAL INFORMATION:

Another comment period and public hearing will be announced at a later date. For additional information, contact Stephanie Kennedy, skennedy@odmhsas.org, (405) 522-3871.

[OAR Docket #10-68; filed 1-21-10]

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 25. OKLAHOMA AERONAUTICS COMMISSION CHAPTER 20. AIRCRAFT EXCISE TAX DEDICATION PROGRAM [REVOKED]

[OAR Docket #10-79]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

25:20-1-6 [REVOKED]

25:20-1-7 [REVOKED]

25:20-1-8 [REVOKED]

25:20-1-9 [REVOKED]

25:20-1-10 [REVOKED]

SUBMITTED TO GOVERNOR:

January 20, 2010

SUBMITTED TO HOUSE:

January 20, 2010

SUBMITTED TO SENATE:

January 20, 2010

[OAR Docket #10-79; filed 1-22-10]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

[OAR Docket #10-57]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

35:10-1-3 [AMENDED]

SUBMITTED TO GOVERNOR:

November 18, 2009

SUBMITTED TO HOUSE:

November 18, 2009

SUBMITTED TO SENATE:

November 18, 2009

[OAR Docket #10-57; filed 1-15-10]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #10-58]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Combined Pesticide

Part 11. Standards for Application of Pesticide

35:30-17-27 [REVOKED]

SUBMITTED TO GOVERNOR:

November 18, 2009

SUBMITTED TO HOUSE:

November 18, 2009

SUBMITTED TO SENATE:

November 18, 2009

[OAR Docket #10-58; filed 1-15-10]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 1. FUNCTION AND STRUCTURE OF THE DEPARTMENT

[OAR Docket #10-112]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 1. General Provisions

340:1-1-17 [AMENDED]

(Reference APA WF 09-22)

SUBMITTED TO GOVERNOR:

January 26, 2010

SUBMITTED TO HOUSE:

January 26, 2010

SUBMITTED TO SENATE:

January 26, 2010

[OAR Docket #10-112; filed 1-26-10]

Submissions for Review

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #10-113]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 1. Human Resources Management Division (HRMD)

Part 5. Administrative Procedures

340:2-1-58 [AMENDED]

(Reference APA WF 09-21)

SUBMITTED TO GOVERNOR:

January 26, 2010

SUBMITTED TO HOUSE:

January 26, 2010

SUBMITTED TO SENATE:

January 26, 2010

[OAR Docket #10-113; filed 1-26-10]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 5. ADULT PROTECTIVE SERVICES

[OAR Docket #10-114]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 1. General Provisions

340:5-1-1 through 340:5-1-6 [AMENDED]

340:5-1-8 [AMENDED]

Subchapter 3. Reports of Maltreatment of Vulnerable Adults

340:5-3-1 [AMENDED]

340:5-3-5 through 340:5-3-6 [AMENDED]

Subchapter 5. Investigation of Adult Protective Services Referrals

340:5-5-2 through 340:5-5-7 [AMENDED]

340:5-5-8 [NEW]

(Reference APA WF 09-24)

SUBMITTED TO GOVERNOR:

January 26, 2010

SUBMITTED TO HOUSE:

January 26, 2010

SUBMITTED TO SENATE:

January 26, 2010

[OAR Docket #10-114; filed 1-26-10]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 15. STATE SUPPLEMENTAL PAYMENT

[OAR Docket #10-115]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

340:15-1-4 [AMENDED]

(Reference APA WF 09-23)

SUBMITTED TO GOVERNOR:

January 26, 2010

SUBMITTED TO HOUSE:

January 26, 2010

SUBMITTED TO SENATE:

January 26, 2010

[OAR Docket #10-115; filed 1-26-10]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #10-134]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 1. General Provisions

340:100-1-2 [AMENDED]

Subchapter 3. Administration

Part 1. General Administration

340:100-3-4 [AMENDED]

Part 3. ~~Operations~~ Administration

340:100-3-29 [AMENDED]

340:100-3-38.5 [AMENDED]

Subchapter 5. Client Services

Part 1. Admission and Safeguards

340:100-5-2 through 340:100-5-3 [AMENDED]

Part 3. Service Provisions

340:100-5-20 [NEW]

340:100-5-22 [AMENDED]

340:100-5-22.5 through 340:100-5-22.6 [AMENDED]

Part 5. Individual Planning

340:100-5-52 through 340:5-53 [AMENDED]

Subchapter 17. Employment Services

Part 5. Other State Funded Employment Services

340:100-17-30 [AMENDED]

(Reference APA WF 09-20)

SUBMITTED TO GOVERNOR:

January 26, 2010

SUBMITTED TO HOUSE:

January 26, 2010

SUBMITTED TO SENATE:

January 26, 2010

[OAR Docket #10-134; filed 1-26-10]

**TITLE 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 65. ANESTHESIOLOGIST
ASSISTANTS**

[OAR Docket #10-63]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. Administration and organization [NEW]
- 435:65-1-3. License required [RENUMBERED TO 435:64-3-1]
- 435:65-1-3.1. Definitions [NEW]
- 435:65-1-4. Application for initial licensure/renewal of license [RENUMBERED TO 435:65-3-2]
- 435:65-1-5. Supervision [RENUMBERED TO 435:65-7-1]
- 435:65-1-8. Fees [REVOKED]
- Subchapter 3. Application for licensure [NEW]
- 435:65-3-1. License required [NEW]
- 435:65-3-2. Application for initial licensure/renewal of license - procedures [NEW]
- 435:65-3-3. Required documentation [NEW]
- 435:65-3-5. Licensure by endorsement [NEW]
- Subchapter 5. Biennial renewal [NEW]
- 435:65-5-1. Requirements for renewal of license [NEW]
- 435:65-5-2. Renewal procedure [NEW]
- 435:65-5-3. Late renewal [NEW]
- Subchapter 7. Regulation of practice [NEW]
- 435:65-7-1. Supervision [NEW]
- 435:65-7-2. Supervision; physician responsibility; independent care prohibited [NEW]

SUBMITTED TO GOVERNOR:

January 20, 2010

SUBMITTED TO HOUSE:

January 20, 2010

SUBMITTED TO SENATE:

January 20, 2010

[OAR Docket #10-63; filed 1-20-10]

**TITLE 505. BOARD OF EXAMINERS IN
OPTOMETRY
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #10-86]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. Board Organization and Administration
505:1-3-9 [AMENDED]

SUBMITTED TO GOVERNOR:

January 15, 2010

SUBMITTED TO HOUSE:

January 15, 2010

SUBMITTED TO SENATE:

January 15, 2010

[OAR Docket #10-86; filed 1-22-10]

**TITLE 505. BOARD OF EXAMINERS IN
OPTOMETRY
CHAPTER 10. LICENSURE AND
REGULATION OF OPTOMETRISTS**

[OAR Docket #10-87]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. Licensing Procedures
505:10-3-6 [NEW]

SUBMITTED TO GOVERNOR:

January 15, 2010

SUBMITTED TO HOUSE:

January 15, 2010

SUBMITTED TO SENATE:

January 15, 2010

[OAR Docket #10-87; filed 1-22-10]

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

[OAR Docket #10-90]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 2. Definitions [NEW]
- 590:10-2-1. General Definitions [NEW]
- Subchapter 5. Contributions and Compensation

Submissions for Review

590:10-5-1. Maximum level [AMENDED]
Subchapter 7. Retirement Benefits
590:10-7-16. Rollovers [AMENDED]
590:10-7-19. Required minimum distributions [NEW]
590:10-7-20. Actuarial assumptions [NEW]
590:10-7-21. USERRA [NEW]
590:10-7-22. Qualified military service rights [NEW]
590:10-7-23. Compliance with Section 415 Limitations on
Contributions and Benefits [NEW]

SUBMITTED TO GOVERNOR:

January 25, 2010

SUBMITTED TO HOUSE:

January 25, 2010

SUBMITTED TO SENATE:

January 25, 2010

[OAR Docket #10-90; filed 1-25-10]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 15. UNIFORM RETIREMENT
SYSTEM FOR JUSTICES AND JUDGES**

[OAR Docket #10-91]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
590:15-1-1. Purpose; defined benefit plan [AMENDED]
590:15-1-4. Average monthly salary and maximum
compensation [AMENDED]
590:15-1-11. Maximum benefits [AMENDED]
590:15-1-12. Rollovers [AMENDED]
590:15-1-18. Qualified military service rights [NEW]
590:15-1-19. Actuarial assumptions [NEW]
590:15-1-20. Employee contributions vested; forfeiture
[NEW]
590:15-1-21. Required minimum distributions [NEW]

SUBMITTED TO GOVERNOR:

January 25, 2010

SUBMITTED TO HOUSE:

January 25, 2010

SUBMITTED TO SENATE:

January 25, 2010

[OAR Docket #10-91; filed 1-25-10]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 25. DEFERRED
COMPENSATION**

[OAR Docket #10-92]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Election to Defer Compensation
590:25-3-1. Election limits [AMENDED]
Subchapter 9. Benefits
590:25-9-17. Rollovers to other plans [AMENDED]
590:25-9-20. Qualified military service [NEW]

SUBMITTED TO GOVERNOR:

January 25, 2010

SUBMITTED TO HOUSE:

January 25, 2010

SUBMITTED TO SENATE:

January 25, 2010

[OAR Docket #10-92; filed 1-25-10]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 35. DEFERRED SAVINGS
INCENTIVE PLAN**

[OAR Docket #10-93]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 7. Contributions
590:35-7-1. Employer contributions [AMENDED]
Subchapter 13. Benefits and Distributions
590:35-13-9. Rollovers to eligible retirement plan
[AMENDED]
Subchapter 15. Limitations on Annual Additions
590:35-15-2. Definitions [AMENDED]

SUBMITTED TO GOVERNOR:

January 25, 2010

SUBMITTED TO HOUSE:

January 25, 2010

SUBMITTED TO SENATE:

January 25, 2010

[OAR Docket #10-93; filed 1-25-10]

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

[OAR Docket #10-46]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Licensure of Veterinarians [AMENDED]

Subchapter 8. Certification of Euthanasia Technicians
[AMENDED]

SUBMITTED TO GOVERNOR:

January 11, 2010

SUBMITTED TO HOUSE:

January 11, 2010

SUBMITTED TO SENATE:

January 11, 2010

[OAR Docket #10-46; filed 1-12-10]

**TITLE 775. BOARD OF VETERINARY
MEDICAL EXAMINERS
CHAPTER 30. FIELD CITATION
PENALTIES**

[OAR Docket #10-47]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

775:30-1-1. Classifications and administrative penalties
[AMENDED]

SUBMITTED TO GOVERNOR:

January 11, 2010

SUBMITTED TO HOUSE:

January 11, 2010

SUBMITTED TO SENATE:

January 11, 2010

[OAR Docket #10-47; filed 1-12-10]

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 265. STATE FIRE MARSHAL COMMISSION CHAPTER 25. ADOPTED NATIONAL CODES AND STANDARDS

[OAR Docket #10-55]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

265:25-1-3 [AMENDED]

GUBERNATORIAL APPROVAL:

March 27, 2009

[OAR Docket #10-55; filed 1-14-10]

TITLE 265. STATE FIRE MARSHAL COMMISSION CHAPTER 40. FIRE SAFETY STANDARD FOR CIGARETTES

[OAR Docket #10-56]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

265:40-1-1 [NEW]

265:40-1-2 [NEW]

265:40-1-3 [NEW]

265:40-1-4 [NEW]

265:40-1-5 [NEW]

265:40-1-6 [NEW]

265:40-1-7 [NEW]

265:40-1-8 [NEW]

265:40-1-9 [NEW]

265:40-1-10 [NEW]

265:40-1-11 [NEW]

GUBERNATORIAL APPROVAL:

March 27, 2009

[OAR Docket #10-56; filed 1-14-10]

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

[OAR Docket #10-61]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

435:10-1-4. Definitions [AMENDED]

Subchapter 7. Regulation of Physician and Surgeon
Practice

435:10-7-4. Unprofessional conduct [AMENDED]

GUBERNATORIAL APPROVAL:

January 20, 2010

[OAR Docket #10-61; filed 1-20-10]

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

[OAR Docket #10-62]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 7. Regulation of Physician and Surgeon
Practice

435:10-7-2. Use of Board certification [AMENDED]

GUBERNATORIAL APPROVAL:

January 20, 2010

[OAR Docket #10-62; filed 1-20-10]

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

[OAR Docket #10-48]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

450:15-1-1. Purpose [AMENDED]

450:15-1-2. Definitions [AMENDED]
Subchapter 3. Consumer Rights
Part 1. Mental Health and Drug or Alcohol Abuse Services
Consumer Bill of Rights
450:15-3-8. Right to freedom from mistreatment, abuse and neglect [AMENDED]
Part 3. Consumer Grievance Procedure
450:15-3-45. Consumer grievance policy and procedures [AMENDED]
Part 11. Resident Rights, Mental Health Residential Care Facilities
450:15-3-81. Resident rights [AMENDED]
Subchapter 7. Office of Consumer Advocacy
Part 1. Duties
450:15-7-2. Office of Consumer Advocacy purpose and authority [AMENDED]
450:15-7-3. Advocate General [AMENDED]
450:15-7-4. ODMHSAS facility advocacy [AMENDED]
Part 2. Investigations
450:15-7-6. Reporting suspected maltreatment [AMENDED]
450:15-7-7. Administrator's responsibilities regarding allegations reportable to the Office of Consumer Advocacy [AMENDED]
450:15-7-8. Processing reports of maltreatment received by the Office of Consumer Advocacy [AMENDED]
450:15-7-9. Investigation procedures [AMENDED]
450:15-7-10. Rights and responsibilities of accused individuals [AMENDED]
450:15-7-11. Responsibilities [AMENDED]
450:15-7-12. Educational employees [AMENDED]
450:15-7-14. Investigative interviews [AMENDED]
450:15-7-15. Investigative report and findings [AMENDED]

GUBERNATORIAL APPROVAL:

December 29, 2009

[OAR Docket #10-48; filed 1-13-10]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 30. STANDARDS AND CRITERIA
FOR STATE-OPERATED INPATIENT
SERVICES**

[OAR Docket #10-49]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 9. Role of State-operated Inpatient Psychiatric Units

450:30-9-3.1. Voluntary formal and informal admissions to a state-operated inpatient psychiatric unit [AMENDED]

GUBERNATORIAL APPROVAL:

December 29, 2009

[OAR Docket #10-49; filed 1-13-10]

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

[OAR Docket #10-50]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

450:55-1-2. Definitions [AMENDED]

Subchapter 3. Program Description and Pact Services

450:55-3-2. Admission criteria [AMENDED]

450:55-3-5. Hours of operation and staff coverage [AMENDED]

450:55-3-6. Service intensity [AMENDED]

450:55-3-7. Staffing requirements [AMENDED]

Subchapter 5. Pact Clinical Documentation

450:55-5-3. Documentation of individual treatment team members [AMENDED]

450:55-5-5. Comprehensive assessment [AMENDED]

450:55-5-6. Treatment team meeting [AMENDED]

450:55-5-7. Treatment planning [AMENDED]

450:55-5-9. PACT progress note [AMENDED]

Subchapter 11. Organizational Management

450:55-11-2. Program organization [AMENDED]

GUBERNATORIAL APPROVAL:

December 29, 2009

[OAR Docket #10-50; filed 1-13-10]

Gubernatorial Disapprovals

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

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

**TITLE 160. DEPARTMENT OF CONSUMER
CREDIT
CHAPTER 45. TRUTH IN LENDING RULES**

[OAR Docket #10-99]

RULEMAKING ACTION:

Gubernatorial disapproval of emergency rules

RULES:

Subchapter 9. Special Rules for Certain Home Mortgage
Transactions

160:45-9-2 [AMENDED]

GUBERNATORIAL DISAPPROVAL:

Failure of the Governor to approve the rule within 45 calendar days after submission resulted in disapproval on January 4, 2010.

[OAR Docket #10-99; filed 1-26-10]

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 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 45. TRUTH IN LENDING RULES

[OAR Docket #10-98]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Special Rules for Certain Home Mortgage Transactions
160:45-9-7 [NEW]

AUTHORITY:

Administrator of Consumer Credit; 14A O.S., §6-104(1)(e) and (2)

DATES:

Adoption:

December 9, 2009

Approved by Governor:

January 8, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Administrator of Consumer Credit finds that there is a compelling public interest requiring emergency amendments to existing rules. The Federal Reserve Board approved an interim final rule to implement the requirement that notice be given to consumers when their mortgage loan has been sold or transferred. The compelling public interest is maintaining Oklahoma's exemption from federal regulation.

ANALYSIS:

The new rule requires a purchaser or assignee that acquires a mortgage loan to provide the disclosures in writing within thirty (30) days.

CONTACT PERSON:

Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Boulevard, Suite 164, Oklahoma City, OK 73105, 405-521-3653.

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):

SUBCHAPTER 9. SPECIAL RULES FOR CERTAIN HOME MORTGAGE TRANSACTIONS

160:45-9-7. Mortgage transfer disclosures

(a) Scope. The disclosure requirements of this section apply to any covered person except as otherwise provided in this section. For purposes of this section:

(1) "Covered person" means any person, as defined in 160:45-1-2(a)(23), that becomes the owner of an existing mortgage loan by acquiring legal title to the debt obligation, whether through a purchase, assignment, or other transfer, and who acquires more than one mortgage loan in any twelve-month period. For purposes of this section, a servicer of a mortgage loan shall not be treated as the owner of the obligation if the servicer holds title to the loan or it is assigned to the servicer solely for the administrative convenience of the servicer in servicing the obligation.

(2) "Mortgage loan" means any consumer credit transaction that is secured by the principal dwelling of a consumer.

(b) Disclosure required. Except as provided in paragraph (c) of this section, any person that becomes a covered person as defined in this section shall mail or deliver the disclosures required by this section to the consumer on or before the 30th calendar day following the acquisition date. If there is more than one covered person, only one disclosure shall be given and the covered persons shall agree among themselves which covered person shall comply with the requirements that this section imposes on any or all of them.

(1) Acquisition date. For purposes of this section, the date that the covered person acquired the mortgage loan shall be the date of acquisition recognized in the books and records of the acquiring party.

(2) Multiple consumers. If there is more than one consumer liable on the obligation, a covered person may mail or deliver the disclosures to any consumer who is primarily liable.

(c) Exceptions. Notwithstanding paragraph (b) of this section, a covered person is not subject to the requirements of this section with respect to a particular mortgage loan if:

(1) The covered person sells or otherwise transfers or assigns legal title to the mortgage loan on or before the 30th calendar day following the date that the covered person acquired the mortgage loan; or

(2) The mortgage loan is transferred to the covered person in connection with a repurchase agreement and the transferor that is obligated to repurchase the loan continues to recognize the loan as an asset on its own books and

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records. However, if the transferor does not repurchase the mortgage loan, the acquiring party must make the disclosures required by this section within 30 days after the date that the transaction is recognized as an acquisition in its books and records.

(d) Content of required disclosures. The disclosures required by this section shall identify the loan that was acquired or transferred and state the following:

(1) The identity, address, and telephone number of the covered person who owns the mortgage loan. If there is more than one covered person, the information required by this paragraph shall be provided for each of them.

(2) The acquisition date recognized by the covered person.

(3) How to reach an agent or party having authority to act on behalf of the covered person (or persons), which shall identify a person (or persons) authorized to receive legal notices on behalf of the covered person and resolve issues concerning the consumer's payments on the loan. However, no information is required to be provided under this paragraph if the consumer can use the information provided under paragraph (d)(1) of this section for these purposes. If multiple persons are identified under this paragraph, the disclosure shall provide contact information for each and indicate the extent to which the authority of each agent differs. For purposes of this paragraph (d)(3), it is sufficient if the covered person provides only a telephone number provided that the consumer can use the telephone number to obtain the address for the agent or other person identified.

(4) The location where transfer of ownership of the debt to the covered person is recorded. However, if the transfer of ownership has not been recorded in public records at the time the disclosure is provided, the covered person complies with this paragraph by stating this fact.

(e) Optional disclosures. In addition to the information required to be disclosed under paragraph (d) of this section, a covered person may, at its option, provide any other information regarding the transaction.

[OAR Docket #10-98; filed 1-26-10]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #10-127]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-95. Effective date of teaching certificates and licenses [AMENDED]

AUTHORITY:

70 O. S. § 3-104, State Board of Education; 68 O. S. § 6-238.1

DATES:

Adoption:

December 17, 2009

Approved by Governor:

January 14, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

To clarify the law for the affected classes.

ANALYSIS:

The proposed rule amendments will clarify effective renewal dates of an educator's credential if they are not in compliance with Oklahoma tax laws.

CONTACT PERSON:

Connie Holland, 405-521-3308

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

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 9. TEACHER CERTIFICATION

210:20-9-95. Effective date of teaching certificates and licenses

(a) New licenses/certificates. A license/certificate issued to an applicant who completes all requirements and applies for the license/certificate between May 1 and September 1 will be dated and become effective July 1. A license/certificate issued to an applicant who completes all requirements and applies for the license/certificate between September 1 and May 1 will be dated and become effective the first day of the month in which the application and all supporting documents are received by the State Board of Education.

(b) Renewal of standard certificates and licenses. Renewed standard certificates and licenses will become effective July 1 following receipt of the application provided the application is made prior to the expiration of the certificate/license. If the application for renewal is made after the certificate/license has expired, the renewed certificate/license will be dated the first day of the month in which the application and all supporting documents are received. In the event an educator's certificate/license cannot be renewed due to failure to comply with Oklahoma's tax laws, the renewed certificate/license will be dated the date the State Department of Education receives notice from the Tax Commission that the educator has come into compliance.

[OAR Docket #10-127; filed 1-26-10]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 10. THE COUNTY ELECTION BOARD**

[OAR Docket #10-51]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 7. General Administration of the County Election Board
Part 5. Maintaining the Office
230:10-7-48.1. County Election Board electronic mail addresses [NEW]
Part 7. Public Records
230:10-7-59. Public records [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

November 10, 2009

Approved by Governor:

December 3, 2009

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules.

Senate Bill 458, which becomes effective on January 1, 2010, requires the County Election Boards to accept applications for absentee ballots from uniformed services and overseas voters by electronic mail and, under certain circumstances, permits these voters to ask to receive their ballots for state and federal elections by electronic mail. The Secretary believes that guidance concerning the acquisition and use of electronic mail addresses for these purposes is necessary in order for SB 458 to be properly implemented.

Another provision of SB 458 states that electronic mail addresses provided to the County Election Board by uniformed services voters and overseas voters are not open records and requires the County Election Board Secretary to prevent public disclosure of such electronic mail addresses.

The Secretary finds that these emergency rules are necessary to conform the administrative rules of the State Election Board to the amended law and that this need meets the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

It has only been in the past 12 months that all County Election Boards in Oklahoma have acquired personal computers and access to the Internet and electronic mail service. New law becoming effective on January 1, 2010, (SB458) requires County Election Boards to accept Federal Post Card Applications for absentee ballots from uniformed services and overseas voters by electronic mail and, in some circumstances, to transmit absentee ballots to these voters by electronic mail. It is necessary to provide County Election Board Secretaries with some guidance on the acquisition and use of electronic mail addresses for these purposes. A new section in Subchapter 3 establishes guidelines for the configuration of County Election Board electronic mail addresses and for the appropriate uses of such addresses.

Senate Bill 458 also excludes electronic mail addresses provided to the County Election Board by uniformed services voters and overseas voters from the Open Records Act. One section in Subchapter 3 is amended to include this new exception to the open records policy observed by the County Election Board.

CONTACT PERSON:

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING EMERGENCY RULES ARE
CONSIDERED PROMULGATED AND EFFECTIVE**

UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 7. GENERAL ADMINISTRATION OF THE COUNTY ELECTION BOARD

PART 5. MAINTAINING THE OFFICE

230:10-7-48.1. County Election Board electronic mail addresses

The Secretary of the County Election Board shall obtain at least one electronic mail address to use for correspondence with the State Election Board and to receive completed Federal Post Card Application (FPCA) forms from uniformed services and overseas voters as outlined in 230:30-5-1.1 and 230:30-9-5. The Secretary shall notify the State Election Board of the electronic mail address or addresses to be used for these purposes, and if more than one address is obtained, the Secretary shall designate the address to be used for routine correspondence and the address to be used for the receipt of FPCAs. The Secretary shall ensure that more than one member of the County Election Board staff has access to each such electronic mail address and that each such electronic mail address is checked on a daily basis for correspondence and/or FPCAs. Electronic mail addresses used for the purposes outlined in this Section shall not be personal addresses and shall be configured to include as many of the following elements as possible: the county name, the designation "CEB," the county number, and the designation "OK." An acceptable example of this address configuration is "DouglasCEB78@emailservice.com." The Secretary immediately shall notify the State Election Board of any changes to electronic mail addresses used for the purposes outlined in this section.

PART 7. PUBLIC RECORDS

230:10-7-59. Public records

(a) All records of the County Election Board, except as provided in (b), (c) ~~and~~ (d) and (e) of this Section, must be made available for public inspection, copying and/or mechanical reproduction during regular office hours. [51:24A.5] The County Election Board must provide prompt, reasonable access to its records but may establish reasonable procedures to protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

(b) *No information relating to a declination to register to vote in connection with an application made at an office designated a voter registration agency may be used for any purpose other than voter registration.* [26:4-109.2(C)] *The identity of a voter registration agency through which a particular voter registered may not be disclosed to the public.* [26:4-109.2(D)] If a person applies for voter registration in connection with the application for, renewal of or change of address for an Oklahoma driver's license or state identification card, *the office at which the person submits the voter registration application or*

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the fact that the person declined to register shall remain confidential and will be used only for voter registration purposes. [26:4-109.3(A)]

(c) Members of the judiciary, district attorneys, assistant district attorneys, law enforcement personnel, corrections officers, and persons covered by victim's protection orders are entitled by law to apply to the Secretary of the County Election Board for restricted records status. [26:4-115.2] The spouse and/or dependent of a voter entitled to apply for restricted records status also may apply for restricted records status. Restricted records status shall apply to the voter registration form in the Central File, to registration information in OEMS, and to materials used to request and cast absentee ballots. Voter registration information for restricted records voters shall be available only to authorized County Election Board personnel for administrative purposes, with the exception that it may be provided to a candidate or a candidate's representative or other lawful authority in connection with a contest of candidacy, a contest of election, or a petition challenge as provided by law. [26:4-115.2] Restricted records status shall remain in effect until the voter chooses to end it by notifying the Secretary in writing. See 230:15-9-25.

(d) The name, address, and precinct number of an Address Confidentiality Program (ACP) participant who applies to the Secretary of the State Election Board for ACP voter registration and absentee ballots shall not be released to any person for any purpose except by court order. No information concerning an ACP voter shall be entered in OEMS. The name, address and precinct number of an ACP voter shall not appear on any list or report produced by either the State Election Board or the County Election Board.

(e) An electronic mail address provided by a uniformed services voter or an overseas voter for the purposes of absentee voting as provided in 230:30-9-5 and 230:30-9-5.2, shall not constitute public information. [26:14-118] The Secretary of the County Election Board shall ensure that such an electronic mail address is protected from public disclosure. [26:14-118]

[OAR Docket #10-51; filed 1-13-10]

TITLE 230. STATE ELECTION BOARD CHAPTER 30. ABSENTEE VOTING

[OAR Docket #10-52]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions
- 230:30-1-2. Definitions [AMENDED]
- Subchapter 3. Authorization for Absentee Voting
- 230:30-3-3. Voters eligible for absentee ballots [AMENDED]
- Subchapter 5. Application for Absentee Ballots
- 230:30-5-1.1. Applications for absentee ballots [AMENDED]
- 230:30-5-8.1. Time for absentee ballot applications [AMENDED]
- 230:30-5-8.2. Validity of applications for absentee ballots for all elections [AMENDED]
- 230:30-5-9. Rejected applications [AMENDED]
- Subchapter 7. Absentee Voting Boards
- 230:30-7-6. Scheduling Absentee Voting Boards for an election [AMENDED]

- 230:30-7-6.1. Training for Absentee Voting Board members [AMENDED]
- 230:30-7-8. Nursing home ballot box shall be locked [AMENDED]
- 230:30-7-9. Procedure for the nursing home Absentee Voting Board [AMENDED]
- 230:30-7-10. Secretary to indicate date of nursing home visit [AMENDED]
- Subchapter 9. Processing Applications
- 230:30-9-2. Forms needed for processing [AMENDED]
- 230:30-9-3. Processing applications for absentee ballots [AMENDED]
- 230:30-9-5. Processing applications from uniformed services voters and overseas voters [AMENDED]
- 230:30-9-5.1. ~~Faxing~~ Transmitting absentee ballots to uniformed services and overseas voters by fax [AMENDED]
- 230:30-9-5.2. Transmitting absentee ballots to overseas uniformed services voters and overseas voters by electronic mail [NEW]
- Subchapter 11. Receiving and Processing Absentee Ballots
- 230:30-11-2. Opening outer envelopes and examining affidavits [AMENDED]
- 230:30-11-6. Transmitting absentee ballots [AMENDED]
- 230:30-11-6.1. Receiving voted absentee ballots by fax from uniformed services and overseas voters [AMENDED]
- Subchapter 13. Federal Write-in Absentee Ballot
- 230:30-13-2. Receiving and processing federal write-in absentee ballots [AMENDED]
- Subchapter 15. State Write-in Absentee Ballots
- 230:30-15-2. Applications for state write-in absentee ballot [AMENDED]
- 230:30-15-4. State write-in absentee ballot provided by State Election Board [AMENDED]
- 230:30-15-5. Processing applications for state write-in absentee ballots [AMENDED]
- 230:30-15-6. List of candidates [AMENDED]
- 230:30-15-7. Voters who request both regular and state write-in absentee ballots [AMENDED]
- Subchapter 19. Counting the Ballots
- Part 1. Counting Absentee Ballots on Election Day
- 230:30-19-6. Marking substitute ballot to count write-in or faxed ballots and ballots transmitted to voters by electronic mail [AMENDED]
- Subchapter 21. Recording Absentee Voting
- 230:30-21-4. Retaining absentee ballot materials [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules.

House Bill 1402, which became effective November 1, 2009, requires the County Election Board to send an Absentee Voting Board to veterans centers to provide absentee voting services to physically disabled residents. Veterans centers, as they are defined and created by Title 72 O.S., Section 221 et seq, are located only in the following counties: Carter, Cleveland, Comanche, Custer, Latimer, Murray, and Rogers. Several sections have been amended to include references to veterans centers in the instructions observed both by County Election Board personnel and nursing home Absentee Voting Board members.

Senate Bill 458, which will become effective on January 1, 2010, affects absentee voting procedures used by uniformed services and overseas voters. The bill allows these voters to apply for absentee ballots by e-mailing their application forms to the County Election Board and to request, under certain circumstances, that their ballots be transmitted by electronic mail. Several sections have been amended to provide information and instructions for County Election Board personnel to use to receive and process such

applications by electronic mail and to prepare and transmit ballots and related materials to these voters by electronic mail.

The Secretary finds that these emergency rules are necessary to conform the administrative rules to the amended law as well as to include appropriate procedures to implement the new laws and that these needs meet the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

The Definitions section in Subchapter 1 is amended to include two new definitions necessary as a result of the implementation of SB 458 and HB1402.

House Bill 1402 requires the County Election Board to send Absentee Voting Boards to veterans centers in the same manner it sends them to nursing homes. Veterans centers are located only in seven counties: Carter, Cleveland, Comanche, Custer, Latimer, Murray, and Rogers Counties.

Senate Bill 458 requires the County Election Board to accept Federal Post Card Applications for absentee ballots from uniformed services voters and from overseas voters by electronic mail and, upon request and under certain circumstances, to transmit absentee ballots to these voters by electronic mail. Uniformed services voters and overseas voters who ask to receive their absentee ballots by electronic mail will receive only ballots for state and/or federal elections. Uniformed services and overseas voters who receive their ballots by electronic mail must return their voted ballots by regular mail or by fax.

The voter's affirmation (affidavit) that accompanies a federal write-in absentee ballot is now identical in content to the content of the Federal Post Card Application for absentee ballots. The County Election Board will begin entering information from the affirmation form as if it were an FPCA in order to track a federal write-in absentee ballot in OEMS from voters who have not previously submitted absentee ballot applications.

One Section in Subchapter 3 is amended to include the new term "veterans center voter" to the list of voters eligible to vote by absentee ballot.

Several sections in Subchapter 5 are amended both to include references to veterans center voters and to include references to applications received by electronic mail.

Several sections in Subchapter 7 are amended to include references to veterans centers and to veterans center voters in the instructions and procedures for the nursing home Absentee Voting Board, which will be the Absentee Voting Board that provides services to veterans centers.

Several sections in Subchapter 9 are amended to include references to receiving and processing absentee ballot applications from uniformed services and overseas voters by electronic mail. Several new forms, which will be distributed as PDFs only, are required to implement these new procedures. Some sections also include references to veterans center voters.

Several sections in Subchapter 11 are amended to include references to veterans center voters and to transmitting absentee ballots to uniformed services and overseas voters by electronic mail.

Several sections in Subchapter 15 are amended to include references to receiving applications for and transmitting the state write-in absentee ballot by electronic mail.

One section in Subchapter 19 is amended to include instructions for counting ballots that were transmitted by electronic mail. Such ballots must be counted by marking a substitute ballot that can be inserted in the voting device. The same procedure is used for counting both federal and state write-in absentee ballots and ballots that are returned by fax.

One section in Subchapter 21 concerning the retention of absentee ballot materials is amended to include references to applications received by electronic mail.

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), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2010:

SUBCHAPTER 1. GENERAL PROVISIONS

230:30-1-2. Definitions

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

"Convalescent hospital" means a nursing facility as defined in Title 62 O.S. 2001, Section 1-1902.

"Federal election" means an election held on the last Tuesday in July; the fourth Tuesday in August; and the first Tuesday after the first Monday in November in even-numbered years; the first Tuesday in February of an even-numbered year in which the President and Vice President of the United States are to be elected; and the date of a special election called at any other time to fill a vacancy in the office of United States Senator or United States Representative.

"Member of the merchant marine" means a person employed as an officer or crew member of a vessel as identified in 42 U.S.C. 1973ff-6.

"Nursing home" means a nursing facility as defined in Title 62 O.S. 2001, Section 1-1902.

"PDF" means portable document format, a type of computer file used for document exchange.

"Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard, the merchant marine, the commissioned corps of the Public Health Service, the commissioned corps of the National Oceanic and Atmospheric Administration, and the Oklahoma National Guard.

"Veterans center" means a facility established as outlined in Title 72 O.S., Section 221 et seq of the Oklahoma Statutes.

SUBCHAPTER 3. AUTHORIZATION FOR ABSENTEE VOTING

230:30-3-3. Voters eligible for absentee ballots

(a) A registered voter may request absentee ballots for any election in which the voter is eligible to vote. An absentee voter shall not be required to state any reason for the request. [26:14-105]

(b) Registered voters may apply for absentee ballots by stating one of the following reasons.

(1) **Nursing home voters.** Nursing home voters are registered voters who swear or affirm that they are physically incapacitated and confined to a nursing home or convalescent hospital within the county in which they are registered to vote. [26:14-115] They may vote by absentee ballot.

(2) **Physically incapacitated voters.** Physically incapacitated voters are registered voters who swear or affirm that they are physically unable to vote in person at their precinct polling places on the day of an election because they are physically incapacitated but are not confined to a nursing home or convalescent hospital within the county in which they are registered to vote. [26:14-110.1(1)] They may vote by absentee ballot.

(3) **Voters charged with the care of physically incapacitated persons.** Voters charged with the care of physically incapacitated persons are registered voters who

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swear or affirm that they are physically unable to vote in person at their precincts on the day of the election because they are charged with the care of a physically incapacitated person who cannot be left unattended. [26:14-110.1] They may vote by absentee ballot.

(4) **Emergency incapacitated voters.** Emergency incapacitated voters are registered voters who become incapacitated after 5 p.m. on Tuesday preceding an election and are unable to vote at their precinct polling places on election day. [26:14-115.1] They may vote by absentee ballot.

(5) **Uniformed services voters.** Uniformed services voters are residents of Oklahoma who are members of one of the uniformed services of the United States or of the merchant marine and their spouses and dependents who are 18 years of age or older. They may vote by absentee ballot. These persons need not be registered to vote, but they must be qualified to be registered. [26:14-116]

(6) **Overseas voters.** Overseas voters are residents of Oklahoma who are living outside the territorial limits of the United States, and their spouses and dependents, who are 18 years of age or older, and uniformed services voters and their spouses and dependents who, by reason of active duty, are absent from the United States on election day. They may vote by absentee ballot. These persons need not be registered to vote, but they must be qualified to be registered. [26:14-116]

(7) **Veterans center voters.** Veterans center voters are registered voters who swear or affirm that they are physically incapacitated and confined to a veterans center in the county in which they are registered to vote. [26:14-115] They may vote by absentee ballot in the same manner as nursing home voters.

(c) Any registered voter may apply for an in-person absentee ballot at the in-person absentee polling place on Friday or Monday preceding all elections, and also on Saturday preceding state and federal elections. [26:14-115.4(A)] An in-person absentee voter shall not be required to state a reason for the request but shall be required to swear or affirm that he has not voted a regular absentee ballot and that he will not vote at the polling place on election day. [26:14-115.4(A)]

SUBCHAPTER 5. APPLICATIONS FOR ABSENTEE BALLOTS

230:30-5-1.1. Applications for absentee ballots

(a) **Application forms.** Applications for absentee ballots may be made by using the following forms.

(1) **Yellow Application for Absentee Ballots form.** Voters may apply for absentee ballots by completing a yellow Application for Absentee Ballots form and mailing or faxing it to the County Election Board office. Voters also may appear personally at the County Election Board office to complete the form. [26:14-105]

(2) **Pink Application for Absentee Ballots form.** Nursing home voters, physically incapacitated voters, ~~and~~ voters charged with the care of physically incapacitated

persons who cannot be left unattended, and veterans center voters may apply for absentee ballots by completing the pink Application for Absentee Ballots form and mailing or faxing it to the County Election Board office. [26:14-110.1, 14-114]

(3) **Federal Post Card Application.** Uniformed services voters and overseas voters may apply for absentee ballots by completing a Federal Post Card Application, also known as a Department of Defense Form 76, and mailing, ~~or faxing, or e-mailing~~ it to the County Election Board office. [26:14-117] Federal Post Card Applications may be obtained from the voting service officer in a military unit and from United States Embassies and Consulates. The form also is available online at www.fvap.gov. All completed Federal Post Card Applications must be transmitted to the County Election Board by mail, ~~or by fax, or by e-mail~~. [26:14-117]

(4) **Green Application for In-Person Absentee Ballot.** Voters may apply for an in-person absentee ballot by completing a green Application for In-Person Absentee Ballots form at the in-person absentee polling place. [26:14-115.4(A)]

(5) **Application from emergency incapacitated voter.** Emergency incapacitated voters may apply for absentee ballots by making a written request. [26:14-115.1] The written request must be signed by the voter or, if the voter is unable to sign, by a witness. [26:14-115.1] The request must be accompanied by a sworn statement from a duly licensed physician. [26:14-115.1] The request must be transmitted to the County Election Board office by an agent designated by the voter. [26:14-115.1] The white Request for Emergency Incapacitated Absentee Ballot and Sworn Statement by Physician form may be used but is not required.

(b) **Letter suffices.** In all cases, with the exception of the in-person absentee voter, a letter from a voter requesting absentee ballots shall be considered a sufficient application if it contains the information needed to determine the voter's eligibility to vote in the election and to determine where to send the ballots. [26:14-105, 14-110.1, 14-117]

(c) **Telegram suffices in some cases.** In the case of absentee voters, nursing home voters, physically incapacitated voters, ~~and~~ voters charged with the care of physically incapacitated persons, and veterans center voters, a telegram shall be considered a sufficient application if it contains the information needed to determine the voter's eligibility to vote in the election and to determine where to send the ballots. [26:14-105, 14-110.1]

(d) **Facsimile applications accepted.** Absentee voters, nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons, veterans center voters, uniformed services voters, and overseas voters may submit applications for absentee ballots to the County Election Board by electronic facsimile device (a "fax" machine). Voters may transmit one of the absentee ballot application forms described in (a) of this Section or they may transmit a letter as described in (b) of this Section.

(e) **Electronic mail applications accepted from uniformed services voters and overseas voters only.** Uniformed services voters and overseas voters, including the eligible spouses and dependents of both groups, may apply for absentee ballots by electronic mail. They may send a completed Federal Post Card Application form by e-mail or they may send a written request, as described in (b) of this Section, by electronic mail to the County Election Board in the county of their voting residence.

(f) **Applications received by State Election Board.** In the event that applications for absentee ballots are received at the State Election Board office by mail, by fax, or by electronic mail, they immediately shall be forwarded to the appropriate County Election Board.

230:30-5-8.1. Time for absentee ballot applications

(a) All absentee voters, except in-person absentee voters and emergency incapacitated voters, may apply any time prior to 5 p.m. on the Wednesday preceding the election. [26:14-103] The application must be in the hands of County Election Board personnel by that time. An application received after 5 p.m. on Wednesday preceding the election - even if postmarked prior to that time - must be rejected.

(b) Applications for in-person absentee ballots may be made only at the in-person absentee polling place from 8 a.m. to 6 p.m. on Friday and Monday preceding all elections and also from 8 a.m. to 1 p.m. on Saturday immediately preceding state and federal elections. [26:14-115.4]

(c) Applications for emergency incapacitated absentee ballots may be made any time after 5 p.m. on Tuesday preceding an election through 7 p.m. on election day. [26:14-115.1]

(d) The County Election Board office shall remain open until 5 p.m. on Wednesday preceding an election so that applications may be made in person until that time. The Secretary shall cause the County Election Board's post office box, if applicable, to be checked at 5 p.m. The Secretary also shall cause the inbox for each County Election Board electronic mail address and any applicable spam or junk mail folders to be checked at 5 p.m. for Federal Post Card Application forms.

230:30-5-8.2. Validity of applications for absentee ballots for all elections

(a) Absent voters, nursing home voters, physically incapacitated voters, ~~and~~ voters charged with the care of physically incapacitated persons, and veterans center voters may apply for absentee ballots for all elections in which they are eligible to vote. Such applications for all elections shall be considered valid through December 31 of the calendar year in which they are received. Absentee voters who apply for all elections shall be required to submit a new application for absentee ballots for each calendar year.

(b) Applications for absentee ballots received from uniformed services voters and overseas voters shall be considered applications for all elections in which the voter is eligible to vote. Except, however, an application requesting that absentee ballots be transmitted by electronic mail as outlined in 230:30-9-5.2 shall be considered an application for state or

federal ballots only. Applications for absentee ballots received from uniformed services voters and overseas voters shall be considered valid through the next two regularly scheduled federal General Elections. For example, an application for absentee ballots from a uniformed services or overseas voter received in February, 2004, shall be considered valid through the federal General Election in November, 2006. An application received in December, 2004, shall be considered valid through the federal General Election in November, 2008.

(c) If absentee ballots mailed to the address provided by the voter on an application for absentee ballots that requests ballots for all elections are returned undelivered to the County Election Board by the postal service, the Secretary of the County Election Board shall be authorized to cancel the application. The application information may be deleted from OEMS. The Secretary shall indicate on the outside of the returned absentee ballot mailing envelope that the application is cancelled as a result of the returned, undelivered ballots. The returned envelope shall be retained for 24 months.

230:30-5-9. Rejected applications

(a) **Reasons for rejection.** An application for absentee ballots shall be rejected if any one of the following conditions, or combination of the following conditions, occurs.

- (1) The applicant is not a registered voter in the county.
- (2) The application is not properly signed, except as provided in (d) of this Section.
- (3) The applicant is not eligible to vote in the election for which ballots are requested.
- (4) The application does not contain sufficient information to determine which ballots to send.
- (5) The application is received later than 5 p.m. on Wednesday preceding the election.
- (6) The application is illegible.

(b) **Processing rejected application.** In the event that a voter's application for absentee ballots must be rejected, the application shall be entered into OEMS and the reason for the rejection shall be noted on the screen. OEMS will create a Notice of Rejection of Absentee Ballot Application for the voter which will detail the reason the application was rejected. If an Application for In-Person Absentee ~~Ballot~~ Ballots has been rejected, the application shall not be entered into OEMS and, therefore, no Notice of Rejection will be created.

(c) **Form of rejection.** In the event that a voter's application for regular mail absentee ballots must be rejected for any reason, the Secretary shall print the Notice of Rejection of Absentee Ballot Application created by OEMS and mail it to the voter. [26:14-133] If there is sufficient time for the voter to return a corrected application, a new application form shall be enclosed with the notice. In the event that an emergency incapacitated voter's application for absentee ballots must be rejected, the Secretary shall so advise the voter's agent and shall provide the agent with a Notice of Rejection of Absentee Ballot Application form, which shall be completed by the Secretary.

(d) **Applications received by electronic mail from uniformed services and overseas voters.** Applications submitted on the Federal Post Card Application that are received from

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uniformed services and overseas voters by electronic mail shall be accepted and processed without a physical signature.

SUBCHAPTER 7. ABSENTEE VOTING BOARDS

230:30-7-6. Scheduling Absentee Voting Boards for an election

(a) **Notification of Absentee Voting Board members.** At least ten days before the election, the Secretary of the County Election Board shall notify the members of one or more Absentee Voting Boards of the day or days the services of the Absentee Voting Board will be required. The Secretary also shall request the members of the Absentee Voting Board to meet on Tuesday before the election to make plans for their work.

(b) **Scheduling the nursing home Absentee Voting Board.** On Tuesday before the election, the Secretary shall work with the Absentee Voting Board to schedule visits to each affected nursing home or convalescent hospital or veterans center. Visits must be scheduled on Thursday, Friday, Saturday or Monday immediately preceding the election. [26:14-115(1)] Visits shall be planned to all nursing homes or veterans centers in as few days as possible, preferably in a single day. The Secretary shall consult the administrator of each affected nursing home or veterans center to schedule a time that will be convenient for the Absentee Voting Board to visit.

(c) **Scheduling the in-person Absentee Voting Board.** An Absentee Voting Board is required to be on duty at the in-person absentee polling place from 8 a.m. to 6 p.m. on Friday and Monday immediately preceding all elections and also from 8 a.m. to 1 p.m. on Saturday immediately preceding state and federal elections. [26:14-115.4]

(d) **Notifying Sheriff of in-person absentee voting.** The Secretary shall notify the County Sheriff of the dates for in-person absentee voting for an election and shall arrange for the Sheriff to provide security for the memory pack and the voted ballots as outlined in 230:30-7-11.3.

230:30-7-6.1. Training for Absentee Voting Board members

(a) The Secretary of the County Election Board shall train the Absentee Voting Board members in their duties before the Absentee Voting Board makes its first visit to a nursing home or veterans center ~~visit~~ or first provides service to in-person absentee voters. The State Election Board provides the County Election Board Secretary with instructions for conducting training for both nursing home and in-person Absentee Voting Board members.

(1) **Nursing home Absentee Voting Board.** Training for members of a nursing home Absentee Voting Board shall include a review of the blue Instructions for Absentee Voting Board sheet. The Secretary also shall review the types of ballots and the potential combinations of ballots, the contents of the pink absentee voter packet, and the use of the Absentee Voting Board Record, the Spoiled Ballot Affidavit, and the PRECINCT PROBLEM SOLVER.

(2) **In-person Absentee Voting Board.** Training for members of an in-person Absentee Voting Board shall include a review of the green Instructions for Absentee Voting Board for In-Person Absentee Ballots sheet. The Secretary shall provide instructions for using the Central File or an OEMS terminal to verify a voter's registration information and registration status and shall review the types of ballots and potential combinations of ballots. The Secretary also shall review the uses of the Spoiled Ballot Affidavit, the Voter Assistance Form, the Ballot Accounting Forms, and the PRECINCT PROBLEM SOLVER. The Secretary also shall provide instructions on the use of the voting device, the procedures for opening and closing the in-person absentee polling place and the disposition of the memory pack, ballots and other items. If the in-person Absentee Voting Board uses an OEMS terminal, the Secretary shall instruct the Board members to obtain updated voter registration information from inactive voters.

(b) Following the initial training for Absentee Voting Board members, the Secretary shall provide a review of the Absentee Voting Board's duties, if necessary, before it serves in any election.

230:30-7-8. Nursing home ballot box shall be locked

(a) **Nursing home ballot box.** The ballot box to be used by the Absentee Voting Board at the nursing home or veterans center shall be locked before it is removed from the County Election Board office by the Absentee Voting Board. The keys to the locks shall be retained by the Secretary while the ballot box is in the custody of the Absentee Voting Board. After the Absentee Voting Board returns the ballot box to the County Election Board office, the Secretary shall give one key each to the Chairman and Vice Chairman of the County Election Board or shall seal each key in a Key Envelope signed by a member of the Absentee Voting Board.

(b) **Requirements for nursing home ballot box.** The ballot box provided for use by the nursing home Absentee Voting Board shall be constructed of substantial material and must be equipped with three locks, so that the key of one lock will not unlock the others. Each box must be equipped with an opening in the top through which a ballot may be inserted, but must be constructed in such a manner that the box must be unlocked before the ballots can be removed.

230:30-7-9. Procedure for the nursing home Absentee Voting Board

(a) On the day scheduled for the Absentee Voting Board to visit nursing homes and veterans centers, the Board shall meet with the Secretary of the County Election Board at the County Election Board office. The members shall sign the Absentee Voting Board Record. The ballot box shall be prepared as outlined in 230:30-7-8 and issued to the nursing home Absentee Voting Board members. Adequate supplies and ballots shall be provided to anticipate voter assistance requirements and spoiled ballots. Precautions shall be taken to insure accounting for each ballot. The Secretary shall instruct the Absentee

Voting Board as to the type of ballots each voter shall receive in case a voter spoils a ballot and a new ballot must be issued.

(b) The Absentee Voting Board shall observe the following procedure:

(1) The two members of the Absentee Voting Board shall travel together in one automobile, taking all necessary forms and supplies.

(2) Upon arrival at a nursing home or veterans center, the Absentee Voting Board shall make arrangements for those incapacitated voters listed on the Absentee Voting Board Record to vote. Only those persons whose names are on the Absentee Voting Board Record shall be permitted to vote. If the message "Confirm Address" or "Insufficient Address" appears on the Absentee Voting Board Record, the Absentee Voting Board members shall give the voter a copy of the Address Information Requested handout and shall ask the voter to complete an Oklahoma Voter Registration Application form.

(3) The voter must mark his ballots with a ballot marking pen in the presence of the Absentee Voting Board, but in such a manner as to make it impossible for anyone but the voter to tell how the ballots are marked. [26:14-115(3)]

(4) *Insofar as is possible, the voting procedure shall be the same as if the voter were casting his ballot in person at a precinct.* [26:14-115(3)] This includes providing assistance, as provided by law, to persons who are unable to mark their ballots due to physical or visual disabilities or illiteracy. The procedures outlined in the PRECINCT PROBLEM SOLVER shall be followed. However, the Voter Assistance Form shall not be used. The person who marks the voter's ballot shall complete and sign the "Assistant's Oath" on the affidavit envelope. [26:14-113.2]

(5) While a voter may receive assistance, only the voter himself may determine how the ballots are to be marked. If the voter is unable to instruct the person providing assistance, the voter shall not be permitted to vote. If necessary, the voter also may receive assistance to complete the Oklahoma Voter Registration Application.

(6) The procedure outlined in the PRECINCT PROBLEM SOLVER shall be followed if a voter spoils a ballot. The Spoiled Ballot Affidavit shall be used as required.

(7) When the voter has marked his ballots, he shall fold them and seal them in the white ballots envelope. [26:14-115(4)] He then shall seal the white ballots envelope inside the pink affidavit envelope. [26:14-115(4)]

(8) The voter then shall complete and sign the affidavit. [26:14-115(4)] The voter's signature must be witnessed by both members of the Absentee Voting Board. [26:14-115(4)] The members shall sign the affidavit in the space for witnesses but shall not be required to provide their addresses.

(9) The affidavit envelope then shall be placed in the outer envelope and sealed. [26:14-115(5)]

(10) Each outer envelope containing absentee ballots immediately shall be placed in the absentee ballot box.

(11) A member of the Absentee Voting Board shall check either the "Did Vote" column or the "Did Not Vote" column, as appropriate.

(12) All Oklahoma Voter Registration Application forms completed by voters to update their voter registration information shall be placed with other voting supplies for return to the County Election Board office.

(13) When the Absentee Voting Board has completed its visits to each nursing home or convalescent hospital or veterans center scheduled for that particular day, the members shall return to the County Election Board office and leave the ballot box in the custody of the Secretary. [26:14-115(5)] The Absentee Voting Board shall account for all supplies and unused ballots. The ballot box shall be removed from the County Election Board office only when the Absentee Voting Board is performing its duties. The ballot box, once locked, shall not be unlocked again until it is time for the County Election Board members to remove the outer envelopes. See 230:30-11-2.

(c) In the event that members of the nursing home Absentee Voting Board learn that a nursing home voter listed on the Absentee Voting Board Record has died, the Absentee Voting Board members shall ask the nursing home administrator to fill out and sign a Notification of Nursing Facility Resident's Death form. One member of the Absentee Voting Board shall witness the administrator's signature. The Absentee Voting Board shall return the signed form to the County Election Board Secretary along with the ballot box and supplies when their duties are concluded.

230:30-7-10. Secretary to indicate date of nursing home visit

After all visits to nursing homes or convalescent hospitals or veterans centers have been completed, the Secretary shall enter the month and day of the visit in the application information in OEMS for each voter who voted. The Secretary also shall process any Oklahoma Voter Registration Application forms completed by nursing home or veterans center voters to update their voter registration information.

SUBCHAPTER 9. PROCESSING APPLICATIONS

230:30-9-2. Forms needed for processing

The following materials are necessary for processing absentee ballot applications and shall be maintained in packets:

- (1) Absentee voter packet
 - (A) Mailing envelope
 - (B) Outer envelope
 - (C) Yellow affidavit envelope
 - (D) White ballots envelope
 - (E) Yellow Instructions for Voting by Absentee Ballot (Absentee Voter)
- (2) Incapacitated voter packet
 - (A) Mailing envelope
 - (B) Outer envelope
 - (C) Pink affidavit envelope
 - (D) White ballots envelope
 - (E) Pink Instructions for Voting by Absentee Ballot (Incapacitated Voter)

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- (3) Uniformed services/overseas voter packet
 - (A) Red and white mailing envelope
 - (B) Red and white outer envelope
 - (C) Red and white affidavit envelope
 - (D) White ballots envelope
 - (E) Red and white Instructions for Voting by Absentee Ballot (Uniformed Services or Overseas)
- (4) Uniformed services/overseas voter packet for fax ballots
 - (A) Fax cover sheet and letter to voter
 - (B) Instructions for Voting by Write-In Absentee Ballot
 - (C) Instructions for Faxing Voted Ballot to State Election Board or County Election Board
 - (D) Return fax cover sheet
- (5) Overseas uniformed services/overseas voter packet for electronic mail ballots
 - (A) PDF of appropriate state/federal absentee ballot style. Separate ballots for elections held by other entities on the date of an election involving state and/or federal candidates shall not be transmitted by electronic mail.
 - (B) PDF of the affidavit.
 - (C) PDF of Instructions for Voter.
 - (D) PDF of return fax cover sheet.

230:30-9-3. Processing applications for absentee ballots

Applications from all absentee voters, except uniformed services voters and overseas voters, shall be processed according to the following procedures:

- (1) Indicate in the "For County Election Board Use" space the date on which the application is received at the County Election Board office.
- (2) Enter the application information into OEMS. When applications from absentee voters, nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons, and emergency incapacitated voters, and veterans center voters are entered into OEMS, the system automatically verifies the applicant's registration. If an applicant is not registered, see 230:30-9-4.
- (3) If a voter requests absentee ballots for a school district or municipality other than the one to which he or she is assigned, mark the appropriate field on the OEMS screen. OEMS will generate a notice that tells the voter that he or she is assigned to a different school district or municipality than the one for which ballots were requested and that ballots for the assigned district or municipality will be issued. If a voter is not assigned to a school district, the school district field will be empty. In this situation only, enter the appropriate code for the school district indicated by the voter on the absentee ballot application in the school district field. If a voter does not reside in a municipality, the municipality field will contain the word "None." If, however, a voter's municipal assignment cannot be determined, the municipal field will be blank.

In this situation only, enter the code for the municipality indicated by the voter on the absentee ballot application.

(4) If the application must be rejected for any reason, enter the reason for the rejection in the appropriate place on the screen. OEMS will produce a Notice of Rejection of Absentee Ballot Application letter for the voter. However, in the event that an Application for In-Person Absentee ~~Ballot~~ Ballots has been rejected, it shall not be entered into OEMS.

(5) Designate the election or elections for which the voter is requesting ballots in the appropriate place on the screen.

(6) Write the applicant's voter identification number and registration status (active or inactive) on the application form. File the application form in the appropriate absentee voting materials file. If the applicant is a restricted records status voter, file the application in the restricted records status file.

(7) If the application is from an in-person absentee voter and ballots were issued by the Absentee Voting Board, enter the date the application was processed by the Absentee Voting Board in the appropriate space on the screen to give the voter credit for voting. See 230:30-7-12. If the application was rejected, no entry shall be made in OEMS. A rejected Application for In-Person Absentee ~~Ballot~~ Ballots shall be retained with other rejected applications.

(8) If ballots are available, immediately prepare the appropriate absentee voter packet with the correct ballots for the voter and mail it. See 230:30-9-1 and 230:30-9-2. If the letter "I" appears in the upper-right corner of the absentee mailing label, the voter is either an inactive voter or a voter unassigned to a school district due to insufficient address information. Enclose an Oklahoma Voter Registration Application form and an Absentee Voter Address Information Requested sheet with the absentee voter packet and ballots.

230:30-9-5. Processing applications from uniformed services and overseas voters

(a) Applications from uniformed services and overseas voters. Applications for absentee ballots received from uniformed services voters and overseas voters are processed differently than applications from other absentee voters. Uniformed services voters and overseas voters are not required to be registered to vote in the county in order to vote by absentee ballot. Applications received from uniformed services voters and overseas voters are considered to be applications for all elections in which the voter is eligible to vote. Applications from these voters shall be processed according to the ~~following~~ procedures: outlined in (b) of this Section.

(b) Applications received by mail, by fax, or by electronic mail. Uniformed services voters and overseas voters may submit applications for absentee ballots, usually the Federal Post Card Application (FPCA) form, to the County Election Board by mail, by fax, or by electronic mail. Upon receipt of an application for absentee ballots from a uniformed services or overseas voter, the Secretary of the County Election Board shall

cause the application to be processed according to the following procedure.

(1) If the application was received by electronic mail, take these steps.

(A) Print a copy of the electronic mail message and a copy of the attached FPCA form.

(B) Reply to the electronic mail message to notify the voter that the application was received.

(2) Indicate on the application form the date on which it was received at the County Election Board office.

(3) Indicate on the application form whether it was received by mail, by fax, or by electronic mail.

(2-4) Enter the application information into OEMS using the ~~special~~ option for uniformed services (military) and overseas applications. If the voter's address is not located within the county, the application information shall not be entered. The printed application form shall be forwarded immediately to the correct County Election Board. The date the application was received in the first county shall be the received date for the application.

(3-5) Designate the elections for which the voter will receive ballots. If the voter requested that ballots be transmitted by electronic mail, designate only the appropriate state or federal election. (See 230:30-9-5.2 for additional information about requests to transmit ballots by electronic mail.)

(4-6) Write on the application form the voter identification number assigned by OEMS to the application on the form.

(5-7) If ballots are available, immediately follow the appropriate step.

(A) ~~prepare~~ Prepare a uniformed services/overseas voter packet with the correct ballots for the voter and mail it.

(B) If the voter requested that a ballot also be transmitted by fax, follow the instructions in 230:30-9-5.1 to prepare and transmit the appropriate federal ballot and balloting materials.

(C) If the voter requested that ballots be transmitted by electronic mail, follow the instructions in 230:30-9-5.2 to prepare and transmit the appropriate state or federal ballot and balloting materials.

(6-8) After processing of the application is completed, file the application form in the appropriate absentee voting materials file.

(b-c) **Validity of applications received from uniformed services and overseas voters.** Applications for absentee ballots from uniformed services voters and overseas voters shall be considered valid through the next two federal General Elections as outlined in 230:30-5-8.2. However, in the event that a uniformed services or an overseas voter requests that ballots be transmitted by electronic mail, the application shall be considered to be for state or federal elections only. Ballots for other entities holding elections on the same date shall not be transmitted by electronic mail nor shall they be mailed or faxed. If ballots mailed to a uniformed services or overseas voter's address are returned undelivered to the County Election

Board, the County Election Board Secretary shall be authorized to consider the application invalid and shall be authorized to delete the application from OEMS. The Secretary shall indicate on the outside of the returned absentee ballot ~~mailing~~ outer envelope that the voter's absentee ballot application has been cancelled as a result of the returned, undelivered ballots. The returned envelope shall be retained for 24 months.

(d) **Updating existing FPCA.** Upon receipt of an FPCA from a uniformed services voter or an overseas voter that includes an electronic mail address to be used for absentee voting purposes, the Secretary shall determine whether the voter has a currently valid application on file. If so, the Secretary shall amend the existing application to include the newly provided electronic mail address. [26:14-118(B)]

230:30-9-5.1. Faxing-Transmitting absentee ballots to uniformed services and overseas voters by fax

(a) The Secretary of the County Election Board is authorized to ~~fax-transmit~~ an absentee ballot for federal offices to a uniformed services voter or an overseas voter by facsimile device (fax) only under the following circumstances.

(1) The voter submits an application for absentee ballots ~~less than 30 days before a federal election~~ and specifically requests that the Secretary transmit by fax a ballot for federal offices to the voter.

(2) The application is received by the County Election Board Secretary in the county of the voter's residence no later than 5 p.m. Wednesday preceding the election.

(3) The voter provides a fax number for receiving the ballot and related materials.

(b) The Secretary shall process the application for absentee ballots according to the procedure outlined in 230:30-9-5 and shall prepare and mail regular absentee ballots to the voter. The Secretary then shall prepare the following materials and immediately shall transmit them by fax ~~them~~ to the voter.

(1) Fax cover sheet and letter to voter-

(2) Instructions for Voting by Write-in Absentee Ballot-

(3) A state write-in absentee ballot for the election-

(A) Determine the appropriate state write-in absentee ballot for the voter.

(B) Verify that the county name is stamped on both the stub and the ballot and that the stub is correctly numbered.

(C) Detach the ballot. Leave the numbered stub in the book of ballots.

(D) Enter the appropriate Congressional District number in the space provided on the ballot.

(4) A list of the candidates for federal offices in the election-

(5) Instructions for Faxing Voted Ballot to State Election Board

(6) A return fax cover sheet

(c) After ~~faxing-transmitting~~ the materials described in (b) of this Section, the Secretary shall attach the original cover sheet to the application form, and then shall file the application in the appropriate absentee voting materials file. Ballots for

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any future elections for which the voter is eligible shall be mailed to the voter at the appropriate time according to the procedure outlined in 230:30-9-5(a).

230:30-9-5.2. Transmitting absentee ballots to overseas uniformed services voters and overseas voters by electronic mail

(a) The Secretary of the County Election Board is authorized to transmit absentee ballots and related balloting materials by electronic mail to overseas voters, including overseas uniformed services voters, for any election involving state or federal candidates under the following specific circumstances. [26:14-118(B)]

(1) The voter has provided a residence address located within the county and the voter is eligible to vote in the election.

(2) The voter has a valid Federal Post Card Application (FPCA) form, or other valid application as described in 230:30-5-1.1, on file with the County Election Board and is eligible to receive an absentee ballot. [26:14-118(B)]

(3) The voter provides a current address that is located outside the United States and is voting from outside the United States. [26:14-118(B)]

(4) The voter provides an electronic mail address. [26:14-118(B)]

(5) The voter specifically requests that balloting materials be transmitted by electronic mail. [26:14-118]

(b) Upon receipt of an FPCA that includes a request for ballots to be transmitted by electronic mail, the Secretary shall process the application as outlined in 230:30-9-5. However, instead of preparing ballots to be mailed or faxed as described in that Section, the Secretary shall cause the following procedures to be observed.

(1) The Secretary shall determine the correct absentee ballot style for the voter.

(2) The Secretary shall prepare an electronic mail message to the voter and shall attach each of the following electronic documents to the message.

(A) The PDF of the appropriate ballot style for the voter

(B) The PDF of the Affidavit

(C) The PDF of the Instructions for Returning Voted Ballot to County Election Board.

(3) The Secretary shall enter manually the date the ballot is transmitted by electronic mail in the voter's application information in OEMS. This step must be completed prior to requesting absentee mailing labels to prevent a label from formatting for the voter.

(4) The Secretary shall complete the Ballot Accounting Form for Electronic Mail Ballots.

(c) The Secretary shall review any FPCAs received prior to January 1, 2010, that are valid for state and federal elections after January 1, 2010, for requests for ballots to be transmitted by electronic mail and for electronic mail addresses. Any such requests shall be honored as outlined in this Section.

SUBCHAPTER 11. RECEIVING AND PROCESSING ABSENTEE BALLOTS

230:30-11-2. Opening outer envelopes and examining affidavits

The County Election Board may meet any time after 10 a.m. on the Thursday preceding the election to remove outer envelopes. [26:14-123] Unless the number of absentee ballots is extremely high, this meeting shall be scheduled on the day of the election. Upon meeting, the Board shall unlock each ballot box containing absentee ballots. Each envelope shall be removed from the ballot box. The outer envelopes shall be opened and removed and the affidavit envelopes examined. If an inactive voter has enclosed the Oklahoma Voter Registration Application form inside the outer envelope, set the application aside to be processed later. The examination shall determine whether or not the affidavit is properly executed. The following requirements shall be observed:

(1) The signature on a pink affidavit submitted by a physically incapacitated voter, a voter charged with the care of a physically incapacitated person or an emergency incapacitated voter must be witnessed by two other persons. [26:14-113.2]

(A) No one may witness signatures on more than five of these pink affidavits per election. [26:14-113.2(B)] If someone witnesses signatures on more than five of these pink affidavits, the absentee ballots shall be counted but the witness shall be reported to the District Attorney. See 230:30-23-1.

(B) No one who is a candidate for an office on the ballot may witness a pink absentee ballot affidavit. [26:14-113.2]

(C) No one who is related within the third degree by consanguinity or affinity to a candidate for an office on the ballot may witness a pink absentee ballot affidavit. [26:14-113.2]

(2) The signature on a yellow affidavit submitted by an absentee voter must be witnessed by a Notary Public. [26:14-108] Affidavits from states other than Oklahoma may be notarized by a person other than a Notary Public who is authorized to administer oaths.

(A) The Notary Public must sign and impress the notarial seal on the affidavit for the attestation to be valid.

(B) The number and expiration date of a Notary Public in Oklahoma should be included in the attestation. However, the attestation shall be considered valid even if this information is missing.

(C) No one who is a candidate for an office on the ballot may notarize a yellow absentee ballot affidavit. [26:14-108]

(D) No one who is the chairman or treasurer of the campaign of a candidate for an office on the ballot may notarize a yellow absentee ballot affidavit. [26:14-108]

(E) No one who is related to a candidate within the third degree of consanguinity or affinity may notarize a yellow absentee ballot affidavit. [26:14-108]

- (3) The signature on a pink affidavit submitted by a nursing home voter or a veterans center voter must be witnessed by two members of the nursing home Absentee Voting Board, who shall not be required to show their addresses. [26:14-115]
- (4) Voters using the red and white affidavit need not have their signatures witnessed.
- (5) The Voter's Declaration/Affirmation accompanying a federal write-in absentee ballot shall be examined. The voter's signature need not be witnessed. See 230:30-13-2 for more information about the Voter's Declaration/Affirmation.
- (6) The cover sheet used by uniformed services and overseas voters to return voted ballots by fax must include the voter's signature on the affidavit and must include a waiver of right to secret ballot statement. The voter's signature need not be witnessed.
- (7) The Affidavit sheet used by an overseas uniformed services voter or an overseas voter to whom ballots and balloting materials were transmitted by electronic mail must include the voter's signature. The signature need not be witnessed. If the Affidavit is properly signed and dated, such ballots shall be accepted and counted, even if they are not enclosed in official election materials envelopes.

230:30-11-6. Transmitting absentee ballots

- (a) **Transmitting absentee ballots to voter.** The County Election Board shall transmit absentee ballots to all absentee voters --- except nursing home absentee voters, veterans center voters, in-person absentee voters, and emergency incapacitated absentee voters --- by United States mail. [26:14-106; 26:14-111.1; 26:14-118] Absentee ballots for nursing home absentee voters and veterans center voters shall be delivered to the voters in person by the nursing home Absentee Voting Board as outlined in 230:30-7-9. [26:14-115] Absentee ballots for in-person absentee voters shall be issued to the voter by the in-person Absentee Voting Board at the in-person absentee polling place as outlined in 230:30-7-11. [26:14-115] Absentee ballots for emergency incapacitated absentee voters shall be delivered to the voter by the voter's agent as outlined in 230:30-9-6. [~~26:15-115.1~~ 26:14-115.1]
- (b) **Transmitting voted absentee ballots from voter to the County Election Board.** All absentee voters --- except nursing home absentee voters, veterans center voters, in-person absentee voters, and emergency incapacitated absentee voters --- shall transmit their voted absentee ballots back to the County Election Board by United States mail. [26:14-108; 26:14-113.2; 26:14-120] Express delivery service provided by the United States Postal Service (Express MailJ) is considered United States mail. Voted absentee ballots from nursing home or veterans center absentee voters shall be delivered to the County Election Board office by the nursing home Absentee Voting Board as outlined in 230:30-7-9. [26:14-115] Voted absentee ballots from in-person absentee voters shall be deposited by the voter directly into the appropriate voting device as outlined in 230:30-7-11. [26:14-115.4] Voted absentee ballots from emergency incapacitated absentee voters are

delivered to the County Election Board by the voter's agent as outlined in 230:30-9-6. [26:14-115.1]

- (c) **Voters may use private mail service.** Absentee ballots may be returned by a private mail service (such as Federal ExpressJ) that provides delivery documentation. The decision to use such a private mail service to return voted absentee ballots, as well as the expense of such service, shall be the voter's.
- (d) **Transmitting overseas absentee ballots by fax.** Absentee ballots for federal offices only may be faxed to uniformed services and overseas voters only as outlined in 230:30-11-5.1. Uniformed services voters and overseas voters may return voted absentee ballots by fax only as outlined in 230:30-11-6.1.
- (e) **Transmitting overseas absentee ballots by electronic mail.** Absentee ballots for state or federal elections only may be transmitted by electronic mail to overseas uniformed services voters and to overseas voters only as outlined in 230:30-9-5.2. Ballots for other entities holding elections on the same date shall not be transmitted by electronic mail and shall not be mailed to these voters. Absentee voters who receive their ballots by electronic mail shall return the voted ballots by regular mail or by fax.

230:30-11-6.1. Receiving voted absentee ballots by fax from uniformed services and overseas voters

- (a) All uniformed services and overseas voters are entitled to fax their voted absentee ballot to the State Election Board or to the County Election Board that issued the ballot ~~if they receive their regular mail absentee ballot 30 days or less before the date of the election.~~ Uniformed services and overseas voters who request a faxed ballot for federal offices as described in 230:30-9-5.1 must return said ballot by fax. Uniformed services and overseas voters may fax the federal write-in absentee ballot described in 230:30-13-1 through 230:30-13-4 at any time. Uniformed services and overseas voters who request that ballots be transmitted by electronic mail must return said ballot either by regular mail or by fax.
- (b) A uniformed services or overseas voter described in (a) of this section may fax a copy of the voted ballot either to the State Election Board or to the County Election Board that issued the ballot in addition to mailing the original ballot to the issuing County Election Board. A fax cover sheet for this purpose may be downloaded and printed from the Federal Voting Assistance Program (FVAP) website: www.fvap.gov. Uniformed services voters may obtain copies of the fax cover sheet from the Voting Service Officers in their units. Overseas voters may obtain the cover sheet at United States embassies, consulates, and military installations. A voter who chooses to fax a voted ballot must sign a Secret Ballot Waiver and transmit it with the ballot. All faxed ballots must be received by the State Election Board or by the County Election Board no later than 7 p.m. (United States Central Time Zone) on the date of the election in order for the ballot to be counted. In the event that a voter's regular ballot is received by mail at the County Election Board prior to 7 p.m. on election day, only the voter's regular ballot shall be counted. The voter shall follow these

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instructions to fax a voted ballot to the State Election Board or to the County Election Board.

- (1) After marking the ballot, make a photocopy of the ballot, reduced as necessary to fit an 8 2" by 11" page. Do not alter the original ballot.
 - (2) Fill out and sign the affidavit envelope included with the mail absentee ballot.
 - (3) Fill out the fax cover sheet.
 - (4) Fax the cover sheet, affidavit, and voted ballot to one of the secure numbers provided by the FVAP for ballot transmission.
 - (5) Immediately mail the voted original ballot to the County Election Board. Follow the instructions included with the ballot.
- (c) The Secretary of the State Election Board shall assign one or more employees to receive and process voted ballots faxed by uniformed services and overseas voters. Upon receipt by fax of a voted ballot, the assigned employees shall take the following steps to transmit the ballot and related information to the appropriate County Election Board Secretary.
- (1) Verify that each voted ballot is accompanied by a fax cover sheet that includes the following information:
 - (A) the voter's name
 - (B) the voter's county of residence in Oklahoma
 - (C) the voter's signature on the Secret Ballot Waiver
 - (D) the voter's signed Affidavit if the faxed ballot is a copy of the voter's regular mail absentee ballot
 - (2) Stamp the fax cover sheet with the date and time it was received and immediately transmit both the cover sheet and the ballot to the appropriate County Election Board Secretary. If the Secretary does not have a fax machine in the office, notify the Secretary that a voted absentee ballot is being transmitted.
 - (3) In the event that a voted ballot is received without an appropriate identifying cover sheet and/or without the voter's signature on the Secret Ballot Waiver, the ballot shall be set aside in a secure place. If possible, immediately send a notice that the transmission was incomplete and that the ballot cannot be counted. Instruct the voter to send both the cover sheet and the ballot again. Document the receipt of the unidentified ballot and then destroy it.
 - (4) In the event that an identifying cover sheet is received without the voted ballot, set the cover sheet aside in a secure place. If possible, immediately send notice that the transmission was incomplete and the ballot was not received. Instruct the voter to send both the cover sheet and the ballot again. If the voter does not send the cover sheet and ballot again by 7 p.m. in the United States Central Time Zone on election day, document the receipt of the cover sheet without the ballot, and notify the County Election Board Secretary that the voter attempted to return the ballot but the ballot was not received.
 - (5) Ballots received by fax after 7 p.m. on election day in Oklahoma shall not be counted.
 - (6) Mail the original faxed ballot and cover sheet to the appropriate County Election Board.

(d) Upon receipt by fax of a voted ballot from the State Election Board, the Secretary of the County Election Board shall take the following steps.

- (1) Attach the fax cover sheet to the ballot with a paper clip, fold the sheets in half and place in the locked absentee ballot box. If the ballot is received from the State Election Board on election day after the absentee ballot box has been opened, place the faxed ballot in a secure place until the County Election Board members are ready to count the ballot.
 - (2) Enter the date received in the voter's absentee application information in OEMS.
 - (3) After 7 p.m. on election day, the members of the County Election Board shall mark a substitute ballot and count it as instructed in 230:30-19-6.
- (e) Upon receipt by fax of a voted ballot from a uniformed services voter or an overseas voter, the Secretary of the County Election Board shall follow the same steps outlined in (c) of this section.
- (f) A voter who faxes a voted ballot to the State Election Board or to a County Election Board as described in this section must sign a Secret Ballot Waiver. The Secret Ballot Waiver is part of the fax cover sheet provided by the FVAP, and also is part of the fax cover sheet provided by the County Election Board to voters who ask for a federal office ballot to be faxed as outlined in 230:30-9-5.1. However, if neither of these cover sheets is available, the voter must include the following signed statement among the materials faxed with the voted ballot. "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot." This statement must be signed and dated by the voter.

SUBCHAPTER 13. FEDERAL WRITE-IN ABSENTEE BALLOT

230:30-13-2. Receiving and processing federal write-in absentee ballots

Upon receipt of a federal write-in absentee ballot, the Secretary shall indicate the received date on the front of the envelope and then shall place the envelope in the absentee ballot box. When the County Election Board meets to open outer envelopes and examine affidavits as described in 230:30-11-2, the Secretary also shall take the following steps.

- (1) After opening the outer envelope, attach the Voter's Declaration/Affirmation form to the secrecy envelope with a paper clip.
- (2) Determine whether the voter is a uniformed services voter or an overseas voter by examining item 1a on the Voter's Declaration/Affirmation form.
 - (A) If the ballot is from an overseas voter, verify that the voter is located outside the United States by examining the information in item 4a "My Current Address (Where I live now)." This address should be located outside the United States. If this address is located within the United States and the voter is an overseas voter, the federal write-in absentee ballot cannot be counted.

- (B) If the ballot is from a uniformed services voter, the ballot can be counted even if it was submitted from an address located within the United States.
- (3) Examine item 3 "My Voting Residence Address" to determine the voter's correct precinct. Note the precinct number on the Voter's Declaration/Affirmation.
- (4) Check the absentee information in OEMS to determine whether the voter submitted an application for regular mail absentee ballots.
- (A) If the voter submitted an application for regular mail absentee ballots, determine whether those ballots have been received.
- (i) If the voter's regular absentee ballots have been received, the federal write-in absentee ballot shall not be counted. Note the reason the ballot cannot be counted on the Voter's Declaration/Affirmation and set it and the unopened secrecy envelope aside in a secure place.
- (ii) If the voter's regular absentee ballots have not been received by 7 p.m. on election day, the federal write-in absentee ballot shall be counted.
- (B) If the voter did not submit an application for regular mail absentee ballots, enter in OEMS the information from the voter's affirmation as if it were a Federal Post Card Application. See 230:30-9-5. The federal write-in absentee ballot shall be counted.
- (5) In the event that a voter's federal write-in absentee ballot cannot be counted, the Secretary shall notify the voter in writing of the reason the ballot was rejected.
- (6) If a federal write-in absentee ballot is counted for a voter who had previously applied for regular absentee ballots, enter the date the federal write-in absentee ballot was received in the voter's absentee information in OEMS.
- (7) Follow the instructions in 230:30-19-6 to count a federal write-in absentee ballot.

SUBCHAPTER 15. STATE WRITE-IN ABSENTEE BALLOTS

230:30-15-2. Applications for state write-in absentee ballot

Uniformed services voters and overseas voters may apply for the state write-in absentee ballot with the ~~Department of Defense Form 76~~ Federal Post Card Application (FPCA) or by writing a letter setting forth substantially the same facts as included on the FPCA. The FPCA or letter may ~~either be mailed or~~ be submitted by regular mail, by electronic facsimile device (a "fax" machine), or by electronic mail as outlined in 230:30-9-5.2. The voter must specifically request the state write-in absentee ballot. ~~The voter must state that due to military contingencies or due to living in an isolated or extremely remote area of the world, the regular absentee ballot application procedure cannot be followed.~~ The remarks section (Section 5) on the FPCA may be used by the voter to request the state write-in absentee ballot. The voter also may request regular absentee ballots. See 230:30-5-5. The voter may

request that the state write-in absentee ballot be transmitted by electronic mail. See 230:30-9-5.2.

230:30-15-4. State write-in absentee ballot provided by State Election Board

- (a) The State Election Board will provide the Secretary of the County Election Board with a ~~supply of PDF file of each~~ state write-in absentee ~~ballots~~ ballot not less than 90 days before an election involving federal candidates.
- (b) Upon receipt of the ~~county's supply of~~ state write-in absentee ballots from the State Election Board, the following procedure shall be observed:
- (1) ~~Number the ballot stubs in each book of ballots by hand. Each book of ballots shall be numbered beginning with the number "1."~~ Save the PDF file or files on the County Election Board computer.
- (2) ~~Stamp the county name on all ballot stubs and all ballots in each book of ballots~~
- (3) Write or stamp "Special Write-In Ballot" on several red-and-white outer envelopes.
- (4) ~~Place the supply of state write-in absentee ballots and the prepared outer envelopes in a secure place until an application for the state write-in absentee ballot is received.~~

230:30-15-5. Processing applications for state write-in absentee ballots

- (a) When an application for a state write-in absentee ballot is received from a uniformed services voter or an overseas voter, the following procedure shall be observed to prepare and transmit the ballot by regular mail:
- (1) If the application is for a Primary or Runoff Primary Election, determine the voter's political affiliation. See item 7 on the FPCA. If the voter does not indicate a political affiliation in the application for a Primary or Runoff Primary Election, contact the State Election Board for additional instructions.
- (2) Determine the appropriate state write-in absentee ballot for the voter.
- (3) ~~Detach the state write-in absentee ballot. Leave the numbered stub in the book of ballots.~~ Print one copy of the appropriate state write-in absentee ballot.
- (4) Number the stub of the state write-in absentee ballot by hand. Record the number on the appropriate State Write-in Absentee Ballot Accounting Form.
- (4) ~~5~~ Enter the appropriate Congressional district number in the blank space on the ballot.
- (5) ~~6~~ Assemble the following materials and mail them to the voter:
- (A) the appropriate ballot.
- (B) a copy of the letter to the voter.
- (C) a copy of Instructions for Voting by Write-In Absentee Ballot.
- (D) a uniformed services/overseas absentee voter packet. Use the outer envelopes with "Special Write-in Ballot" written or stamped on the front.

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(E) a list of candidates for the offices, if available.
See 230:30-15-6.

(b) When an application for a state write-in absentee ballot is received from an overseas uniformed services voter or an overseas voter, and when the voter has requested to receive the state write-in absentee ballot by electronic mail, the procedure outlined in 230:30-9-5.2 shall be observed to transmit the ballot and related balloting materials listed in (a)(5) of this Section by electronic mail.

230:30-15-6. List of candidates

The State Election Board will provide each County Election Board with a list of candidates for each federal office on the ballots as soon as it is available before an election. The list of candidates shall be ~~mailed-sent~~ either by regular or electronic mail to voters who request the state write-in absentee ballot. If the list is available when the state write-in absentee ballot is mailed, it shall be ~~enclosed-sent~~ with the ballot. If the list is not available at the time the ballot is ~~mailed-sent~~, the list shall be ~~mailed-sent~~ to the voter as soon as it becomes available by the same method the ballot was sent.

230:30-15-7. Voters who request both regular and state write-in absentee ballots

Uniformed services voters and overseas voters are entitled to apply for both the state write-in absentee ballots and regular absentee ballots for the same election. The two requests may be made in the same application or may be made separately. If a uniformed services voter or an overseas voter requests both regular and state write-in absentee ballots, the state write-in absentee ballot shall be mailed in one set of absentee envelopes as outlined in 230:30-15-5, and the regular absentee ballots shall be mailed in a separate set of absentee envelopes as outlined in 230:30-9-2. The request for regular ballots shall be processed as outlined in 230:30-9-5. In the event that a voter requests that the state write-in absentee ballot be transmitted by electronic mail, the ballot shall be sent according to the procedure outlined in 230:30-9-5.2 and the state write-in absentee ballot shall not be sent by regular mail.

SUBCHAPTER 19. COUNTING THE BALLOTS

PART 1. COUNTING ABSENTEE BALLOTS ON ELECTION DAY

230:30-19-6. Marking substitute ballot to count write-in or faxed ballots and ballots transmitted to voters by electronic mail

In the event that the County Election Board must count a federal write-in absentee ballot, a state write-in absentee ballot, ~~or~~ a regular ballot received by fax, or an absentee ballot transmitted to the voter by electronic mail, the following procedure shall be observed.

(1) The Secretary shall verify that regular mail absentee ballots from the voter or voters were not received by 7 p.m. on election day.

(2) A federal or state write-in ballot may be counted for federal offices only.

(A) The Secretary shall provide a blank Optech absentee ballot of the appropriate style.

(B) The Chairman of the County Election Board shall read the voter's write-in ballot and the Vice Chairman shall mark the blank Optech ballot for the voter's choice for federal offices only.

(C) The Chairman, Vice Chairman, and Secretary shall review the substitute ballot and shall agree that it has been marked exactly as the voter's write-in ballot was marked.

(D) The Secretary shall write identical numbers on the back of each original write-in ballot and on the back of the substitute Optech ballot, being careful to avoid the area of the voting tracks. For example, the first such ballot and its substitute shall be marked "1," the second, "2," etc.

(E) The Secretary shall direct a County Election Board staff member to insert the ~~marked Optech substitute~~ ballot in the appropriate absentee voting device.

~~(2-3)~~ A regular ballot returned by fax shall be counted for all offices and questions for which the voter's ~~intent can be determined~~ markings can be discerned.

(A) The Secretary shall provide a blank Optech absentee ballot identical to the style originally mailed or faxed to the voter.

(B) The Chairman of the County Election Board shall read the voter's choice for each office and question on the ballot and the Vice Chairman shall mark the Optech ballot.

(C) The Chairman, Vice Chairman, and Secretary shall review the substitute ballot and shall agree that it is marked exactly as the faxed copy of the voter's ballot is marked.

(D) The Secretary shall write identical numbers on the back of each faxed ballot and on the back of the substitute Optech ballot, being careful to avoid the area of the voting tracks. For example, the first such ballot and its substitute shall be marked "1," the second, "2," etc.

(E) The Secretary shall direct a County Election Board staff member to insert the substitute ballot in the appropriate absentee voting device.

(4) A regular ballot transmitted to a voter by electronic mail and returned either by mail or by fax shall be counted for all offices and questions for which the voter's markings can be discerned. Follow the steps outlined in (3) (A) through (E) of this Section to count the ballot.

~~(4-5)~~ In the event that a federal or state write-in ballot is marked for a candidate or a political party not on the ballot in Oklahoma, no substitute ballot shall be marked. The minutes of the County Election Board meeting shall

indicate both that the ballot could not be counted and the reason.

(5-6) In the event that a ballot received by fax is illegible and the voter's markings cannot be discerned, no attempt shall be made to mark a substitute ballot. The minutes of the County Election Board meeting shall indicate both that the ballot could not be counted and the reason.

(3-7) The Secretary shall document in the minutes of the County Election Board meeting the number of substitute ballots marked and inserted in the absentee voting device, and the original federal write-in absentee ballot, state write-in absentee ballot, or faxed ballot shall be retained with the minutes.

SUBCHAPTER 21. RECORDING ABSENTEE VOTING

230:30-21-4. Retaining absentee ballot materials

All materials used in requesting and casting absentee ballots shall be retained in the office of the County Election Board for 24 months after the date of the election and shall not be removed except under court order. [26:14-132] Applications for absentee ballots that cover more than one election in a calendar year shall be placed in a special file for such applications and shall be retained for 24 months after December 31 of that year. In the case of applications received by electronic mail as outlined in 230:30-5-1.1(e), the electronic mail message containing the application, any printed copy used to process the application, and any electronic mail messages used to transmit ballots and balloting materials as outlined in 230:30-9-5.2 shall be retained for 24 months.

[OAR Docket #10-52; filed 1-13-10]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 40. TYPES OF ELECTIONS**

[OAR Docket #10-53]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 3. Special Elections
- Part 9. Substitute Nominees
- 230:40-3-30. Notification of State Election Board [AMENDED]
- Subchapter 7. School Elections
- Part 23. Multi-County School Districts
- 230:40-7-97.1. Elections for technology center districts serving 70 or more school districts [NEW]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

November 10, 2009

Approved by Governor:

December 3, 2009

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules.

House Bill 1081, which became effective November 1, 2009, concerns the death of a political party's nominee for state or county office. The new statutory language increases from five to fifteen days the length of time available to the party's central committee to notify the appropriate Election Board of the name of an alternative candidate. The bill also provides that such notice must be provided no later than sixty days prior to the General Election for a state or federal office and not later than fifty-five days prior to the General Election for all other offices. One section has been amended to include this new information.

Senate Bill 275, which became effective July 1, 2009, concerns elections in technology center districts that serve seventy or more school districts. At the present time, only the Kiamichi Technology Center in southeastern Oklahoma is affected by the provisions of the bill. The bill requires Kiamichi both to nominate and to elect its Board of Education members by district zone. Previously members were nominated by zone but elected at large. This means that the candidates for member of the Board of Education in this district must be residents of the zone they seek to represent and that only voters who are residents of the zone may vote for these candidates. This new provision will be in effect for the February 9, 2010, Annual School Election in the Kiamichi Technology Center district.

The Secretary finds that these emergency rules are necessary to conform the administrative rules to the amended law and that this need meets the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

One Section in Subchapter 3 is amended to include new statutory language enacted by HB1081 concerning the death of a political party's nominee for office. The new language provides a revised timetable for party leadership to provide the name of a substitute candidate for the General Election.

One new Section in Subchapter 7 is added to include new statutory language enacted by SB275 which concerns career technology center districts that serve 70 or more school districts. Currently, only the Kiamichi Technology Center district is affected by this law. The law provides for the establishment of "district zones" within the district and requires that the Board of Education of the district must consist of one member elected from each zone. It provides that Board members be elected only by the electors of the zone and not at-large by all the electors of the district. This is a change, as all technology center board members previously were elected at-large by all qualified electors in the district.

CONTACT PERSON:

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

SUBCHAPTER 3. SPECIAL ELECTIONS

PART 9. SUBSTITUTE NOMINEES

230:40-3-30. Notification of State Election Board

(a) **Substitutes for offices filing with State Election Board.** *If the deceased nominee was a candidate who filed his Declaration of Candidacy with the State Election Board, the state central committee of the party affected shall notify the Secretary of the State Election Board of the name of an alternative candidate to be placed on the General Election ballot.*

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[26:1-105(2)]. The notice shall be made in writing within ~~five~~ fifteen days after the death occurs but not later than 60 days prior to the General Election for statewide or federal offices and not later than 55 days prior to the General Election for all other offices. [26:1-105(2)] The notice shall be signed by at least two duly authorized members of the party's state central committee. [26:1-105(2)]

(b) **Substitutes for county office.** If the nominee was a candidate for county office, the county central committee of the political party affected *shall notify the Secretary of the County Election Board of the name of an alternative candidate to be placed on the General Election ballot.* [26:1-105(1)] The notice shall be made in writing within ~~five~~ fifteen days after the death occurs but not later than 55 days prior to the General Election. [26:1-105(1)] The notice shall be signed by at least two duly authorized members of the party's county central committee. [26:1-105(1)]

SUBCHAPTER 7. SCHOOL ELECTIONS

PART 23. MULTI-COUNTY SCHOOL DISTRICTS

230:40-7-97.1. Elections for technology center districts serving 70 or more school districts

The Board of Education for a technology center district that serves 70 or more school districts shall consist of one member elected from each of the district zones. [70:14-108(D)] The electors of each district zone shall elect a person, who shall be a resident of the district zone, to represent the zone on the Board of Education. [70:14-108(D)] As of July 1, 2009, only the Kiamichi Technology Center district is affected by this requirement.

[OAR Docket #10-53; filed 1-13-10]

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

[OAR Docket #10-76]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-5. [AMENDED]
(Reference APA WF # 09-73)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Article 10, Section 23 of the Oklahoma Constitution; 42 CFR 447.50 through 447.55

DATES:

Adoption:

December 10, 2009

Approved by Governor:

January 14, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, 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 increase co-payments for certain medical services provided through SoonerCare as well as require co-pays for additional provider types. Revisions are necessary to reduce the Agency's operations budget in order to comply with the budget reductions mandated by the Oklahoma Legislature through the end of State Fiscal Year 2010. Without the recommended revisions, the Agency is at risk of exhausting its State appropriated dollars required to maintain the State's Medicaid Program.

ANALYSIS:

Agency rules are revised to increase co-payments for certain medical services provided through SoonerCare. Under Section 1902(a)(14) of the Social Security Act, States are permitted to require certain members to share some of the cost of their health care by imposing upon them such payments as enrollment fees, premiums, deductibles, co-insurance, co-payments, or similar cost sharing charges. The Centers for Medicare and Medicaid Services excludes the States from requiring cost sharing for children, pregnant women and institutionalized individuals as well as for emergency and family planning services. According to Article 10, Section 23 of the Oklahoma Constitution, all state agencies must maintain a balanced budget. In order for the Agency to accomplish the necessary financial reductions, rules are in need of revision to increase the existing co-payments for some services for certain SoonerCare members.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-5. Assignment and Cost Sharing

(a) **Definitions.** The following words and terms, when used in subsection (c) of this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Fee-for-service contract"** means the provider agreement specified in OAC 317:30-3-2. This contract is the contract between the Oklahoma Health Care Authority and medical providers which provides for a fee with a specified service involved.

(2) **"Within the scope of services"** means the set of covered services defined at OAC 317:25-7 and the provisions of the ~~Primary Care Case Manager~~ SoonerCare Choice contracts in the SoonerCare Program.

(3) **"Outside of the scope of the services"** means all medical benefits outside the set of services defined at OAC

317:25-7 and the provisions of the ~~Primary Care Case Manager SoonerCare Choice~~ contracts in the SoonerCare Program.

(b) **Assignment in fee-for-service.** The Authority's OHCA's Medicaid State Plan provides that participation in the medical program is limited to providers who accept, as payment in full, the amounts paid by OHCA plus any deductible, coinsurance, or ~~copayment~~ co-payment required by the State Plan to be paid by the ~~recipient~~ member and make no additional charges to the ~~patient~~ member or others.

(1) OHCA presumes acceptance of assignment upon receipt of an assigned claim. This assignment, once made, cannot be rescinded, in whole or in part by one party, without the consent of the other party.

(2) Once an assigned claim has been filed, the ~~patient~~ member must not be billed and the ~~patient~~ member is not responsible for any balance except the amount indicated by OHCA. The only amount a ~~patient~~ member may be responsible for is ~~the personal participation as agreed to at the time of determination of eligibility a co-payment,~~ or the ~~patient~~ member may be responsible for services not covered under the medical programs. ~~The amount of personal participation will be shown on the OHCA notification of eligibility.~~ In any event, the ~~patient~~ member should not be billed for charges on an assigned claim until the claim has been adjudicated or other notice of action received by the provider. Any questions regarding amounts paid should be directed to OHCA, ~~Customer~~ Provider Services.

(3) When potential assignment violations are detected, the Authority OHCA will contact the provider to assure that all provisions of the assignment agreement are understood. When there are repeated or uncorrected violations of the assignment agreement, the Authority OHCA is required to suspend further payment to the provider.

(c) **Assignment in SoonerCare.** Any provider who holds a fee for service contract and also executes a contract with a provider in the ~~Primary Care Case Management SoonerCare Choice~~ program ~~shall~~ must adhere to the rules of this subsection regarding assignment.

~~(1) If the service provided to the recipient is within the scope of the services outlined in the SoonerCare Contract, the recipient shall not be billed for the service. In this case, the provider shall pursue collection from the Primary Care Physician in the case of the SoonerCare Program.~~

~~(2) If the service provided to the recipient member is outside of the scope of the services outlined in the SoonerCare Contract, then the provider may bill or seek collection from the recipient member.~~

~~(3) In the event there is a disagreement whether the services are in or out of the scope of the contracts referenced in (1) and (2) of this subsection, the Oklahoma Health Care Authority shall be the final authority for this decision. The provider seeking payment under the SoonerCare Program may appeal to OHCA under the provisions of OAC 317:2-1-2.1.~~

(43) Violation of this provision shall be grounds for a contract termination in the fee-for-service and SoonerCare programs.

(d) **Cost Sharing-Copayment.** Section 1902(a)(14) of the Social Security Act permits states to require certain ~~recipients~~ members to share some of the costs of ~~Medicaid SoonerCare~~ by imposing upon them such payments as enrollment fees, premiums, deductibles, coinsurance, ~~copayments~~ co-payments, or similar cost sharing charges. OHCA requires a ~~copayment~~ co-payment of some ~~Medicaid recipients SoonerCare~~ members for certain medical services provided through the fee for service program. A ~~copayment~~ co-payment is a charge which must be paid by the ~~recipient~~ member to the service provider when the service is covered by ~~Medicaid SoonerCare~~. Section 1916(e) of the Act requires that a provider participating in the ~~Medicaid SoonerCare~~ program may not deny care or services to an eligible individual based on such individual's inability to pay the ~~copayment~~ co-payment. A person's assertion of their inability to pay the copayment co-payment establishes this inability. This rule does not change the fact that a ~~recipient~~ member is liable for these charges and it does not preclude the provider from attempting to collect the ~~copayment~~ co-payment.

(1) ~~Copayment~~ Co-payment is not required of the following ~~recipients~~ members:

- (A) Individuals under age 21. Each ~~recipient's~~ member's date of birth is available on the REVS system or through a commercial swipe card system.
- (B) ~~Recipients~~ Members in nursing facilities and intermediate care facilities for the mentally retarded.
- (C) Pregnant women.
- (D) Home and Community Based ~~Waiver service recipients~~ Service waiver members except for prescription drugs.

(2) ~~Copayment~~ Co-payment is not required for the following services:

- (A) Family planning services. Includes all contraceptives and services rendered.
- (B) Emergency services provided in a hospital, clinic, office, or other facility.

(3) ~~Copayments required include~~ Co-payments are required in an amount not to exceed the federal allowable for the following:

- (A) ~~\$3.00 per day for inpatient~~ Inpatient hospital services ~~stays. Copayments for inpatient care paid under the Diagnosis Related Groups (DRG) methodology are calculated on the actual length of stay and are capped at \$90. Copayments for claims paid under Level of Care methodology are calculated at \$3.00 per day.~~
- (B) ~~\$3.00 per day for outpatient~~ Outpatient hospital services ~~visits.~~
- (C) ~~\$3.00 per day for ambulatory~~ Ambulatory surgery services ~~visits~~ including free-standing ambulatory surgery centers.
- (D) ~~\$1.00 for each service rendered by~~ Encounters with the following rendering providers:
 - (i) Physicians,

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- (ii) Advanced Practice Nurses,
 - (iii) Physician Assistants,
 - (~~iv~~) Optometrists,
 - (~~iv~~) Home Health Agencies,
 - (~~iv~~) Rural Health Clinics,
 - (~~vi~~) Certified Registered Nurse Anesthetists,
and
 - (~~vii~~) Federally Qualified Health Centers.
Anesthesiologist Assistants,
 - (viii) Durable Medical Equipment providers,
and
 - (ix) Outpatient behavioral health providers.
- (E) Prescription drugs.
- (i) Zero for preferred generics.
 - (ii) \$1.00 \$2.00 for prescriptions having a Medicaid SoonerCare allowable of \$29.99 or less.
 - (iii) \$2.00 \$3.00 for prescriptions having a Medicaid SoonerCare allowable of \$30.00 or more.
- (F) Crossover claims. Dually eligible Medicare/Medicaid recipients—Medicare/SoonerCare members must make a copayment co-payment of \$.50 in an amount that does not exceed the federal allowable per service visit/encounter for all Part B covered services. This does not include dually eligible HCBW service recipients HCBS waiver members.

[OAR Docket #10-76; filed 1-21-10]

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

[OAR Docket #10-77]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-57. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 5. Pharmacies
317:30-5-72. [AMENDED]
(Reference APA WF # 09-74)

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:

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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 modify the script limit from three brand drugs and three generics to two brand drugs and four generics. SoonerCare members will still receive a total of six prescriptions per month, however only a maximum of two brands. Revisions are necessary to reduce the Agency's operations budget in order to comply with the budget reductions mandated by the Oklahoma Legislature through the end of State Fiscal Year 2010. Without the recommended revisions, the Agency is at risk of exhausting its State appropriated dollars required to maintain the State's Medicaid Program.

ANALYSIS:

Agency rules are revised to change the script limit for SoonerCare members from three brand drugs and three generic to two brand drugs and four generic. The revisions are needed in order to reduce the Agency's budget to comply with the legislative mandated budget reductions.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 3. GENERAL MEDICAL PROGRAM INFORMATION

317:30-3-57. General SoonerCare coverage - categorically needy

The following are general SoonerCare ~~coverages~~ coverage guidelines for the categorically needy:

- (1) Inpatient hospital services other than those provided in an institution for mental diseases.
 - (A) Adult coverage for inpatient hospital stays as described at OAC 317:30-5-41.
 - (B) Coverage for members under 21 years of age is not limited. All admissions must be medically necessary. All psychiatric admissions require prior authorization for an approved length of stay.
- (2) Emergency department services.
- (3) Dialysis in an outpatient hospital or free standing dialysis facility.
- (4) Outpatient therapeutic radiology or chemotherapy for proven malignancies or opportunistic infections.
- (5) Outpatient surgical services - facility payment for selected outpatient surgical procedures to hospitals which have a contract with OHCA.
- (6) Outpatient Mental Health Services for medical and remedial care including services provided on an outpatient basis by certified hospital based facilities that are also qualified mental health clinics.
- (7) Rural health clinic services and other ambulatory services furnished by rural health clinic.

- (8) Optometrists' services - only as listed in Subchapter 5, Part 45, Optometrist specific rules of this Chapter.
- (9) Maternity Clinic Services.
- (10) Outpatient diagnostic x-rays and lab services. Other outpatient services provided to adults, not specifically addressed, are covered only when prior authorized by the agency's Medical Authorization Unit.
- (11) Medically necessary screening mammography. Additional follow-up mammograms are covered when medically necessary.
- (12) Nursing facility services (other than services in an institution for tuberculosis or mental diseases).
- (13) Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT) are available for members under 21 years of age to provide access to regularly scheduled examinations and evaluations of the general physical and mental health, growth, development, and nutritional status of infants, children, and youth. Federal regulations also require that diagnosis and treatment be provided for conditions identified during a screening whether or not they are covered under the State Plan, as long as federal funds are available for these services. These services must be necessary to ameliorate or correct defects and physical or mental illnesses or conditions and require prior authorization. EPSDT/OHCA Child Health services are outlined in OAC 317:30-3-65.2 through 317:30-3-65.4.
- (A) Child health screening examinations for eligible children by a medical or osteopathic physician, physician assistant, or advanced practice nurse practitioner.
- (B) Diagnostic x-rays, lab, and/or injections when prescribed by a provider.
- (C) Immunizations.
- (D) Outpatient care.
- (E) Dental services as outlined in OAC 317:30-3-65.8.
- (F) Optometrists' services. The EPSDT periodicity schedule provides for at least one visual screening and glasses each 12 months. In addition, payment is made for glasses for children with congenital aphakia or following cataract removal. Interperiodic screenings and glasses at intervals outside the periodicity schedule for optometrists are allowed when a visual condition is suspected.
- (G) Hearing services as outlined in OAC 317:30-3-65.9.
- (H) Prescribed drugs.
- (I) Outpatient Psychological services as outlined in OAC 317:30-5-275 through OAC 317:30-5-278.
- (J) Inpatient Psychotherapy services and psychological testing as outlined in OAC ~~317:30-5-95~~ 317:30-5-95 through OAC 317:30-5-97.
- (K) Transportation. Provided when necessary in connection with examination or treatment when not otherwise available.
- (L) Inpatient hospital services.
- (M) Medical supplies, equipment, appliances and prosthetic devices beyond the normal scope of SoonerCare.
- (N) EPSDT services furnished in a qualified child health center.
- (14) Family planning services and supplies for members of child-bearing age, including counseling, insertion of intrauterine device, implantation of subdermal contraceptive device, and sterilization for members 21 years of age and older who are legally competent, not institutionalized and have signed the "Consent Form" at least 30 days prior to procedure. Reversal of sterilization procedures for the purposes of conception is not covered. Reversal of sterilization procedures are covered when medically indicated and substantiating documentation is attached to the claim.
- (15) Physicians' services whether furnished in the office, the member's home, a hospital, a nursing facility, ICF/MR, or elsewhere. For adults, payment is made for compensable hospital days described at OAC 317:30-5-41. Office visits for adults are limited to four per month except when in connection with conditions as specified in OAC 317:30-5-9(b).
- (16) Medical care and any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law. See applicable provider section for limitations to covered services for:
- (A) Podiatrists' services
- (B) Optometrists' services
- (C) Psychologists' services
- (D) Certified Registered Nurse Anesthetists
- (E) Certified Nurse Midwives
- (F) Advanced Practice Nurses
- (G) Anesthesiologist Assistants
- (17) Free-standing ambulatory surgery centers.
- (18) Prescribed drugs not to exceed a total of six prescriptions with a limit of ~~three~~ two brand name prescriptions per month. Exceptions to the six prescription limit are:
- (A) unlimited medically necessary monthly prescriptions for:
- (i) members under the age of 21 years; and
- (ii) residents of Nursing Facilities or Intermediate Care Facilities for the Mentally Retarded.
- (B) seven medically necessary generic prescriptions per month in addition to the six covered under the State Plan are allowed for adults receiving services under the 1915(c) Home and Community Based Services Waivers. These additional medically necessary prescriptions beyond the ~~three~~ two brand name or thirteen total prescriptions are covered with prior authorization.
- (19) Rental and/or purchase of durable medical equipment.
- (20) Adaptive equipment, when prior authorized, for members residing in private ICF/MR's.

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(21) Dental services for members residing in private ICF/MR's in accordance with the scope of dental services for members under age 21.

(22) Prosthetic devices limited to catheters and catheter accessories, colostomy and urostomy bags and accessories, tracheostomy accessories, nerve stimulators, hyperalimentation and accessories, home dialysis equipment and supplies, external breast prostheses and support accessories, oxygen/oxygen concentrator equipment and supplies, respirator or ventilator equipment and supplies, and those devices inserted during the course of a surgical procedure.

(23) Standard medical supplies.

(24) Eyeglasses under EPSDT for members under age 21. Payment is also made for glasses for children with congenital aphakia or following cataract removal.

(25) Blood and blood fractions for members when administered on an outpatient basis.

(26) Inpatient services for members age 65 or older in institutions for mental diseases, limited to those members whose Medicare, Part A benefits are exhausted for this particular service and/or those members who are not eligible for Medicare services.

(27) Nursing facility services, limited to members preauthorized and approved by OHCA for such care.

(28) Inpatient psychiatric facility admissions for members under 21 are limited to an approved length of stay effective July 1, 1992, with provision for requests for extensions.

(29) Transportation and subsistence (room and board) to and from providers of medical services to meet member's needs (ambulance or bus, etc.), to obtain medical treatment.

(30) Extended services for pregnant women including all pregnancy-related and postpartum services to continue to be provided, as though the women were pregnant, for 60 days after the pregnancy ends, beginning on the last date of pregnancy.

(31) Nursing facility services for members under 21 years of age.

(32) Personal care in a member's home, prescribed in accordance with a plan of treatment and rendered by a qualified person under supervision of a R.N.

(33) Part A deductible and Part B ~~medicare~~ Medicare Coinsurance and/or deductible.

(34) Home and Community Based Waiver Services for the mentally retarded.

(35) Home health services limited to 36 visits per year and standard supplies for 1 month in a 12-month period. The visits are limited to any combination of Registered Nurse and nurse aide visits, not to exceed 36 per year.

(36) Medically necessary solid organ and bone marrow/stem cell transplantation services for children and adults are covered services based upon the conditions listed in (A)-(D) of this paragraph:

(A) Transplant procedures, except kidney and cornea, must be prior authorized to be compensable.

(B) To be prior authorized all procedures are reviewed based on appropriate medical criteria.

(C) To be compensable under the SoonerCare program, all transplants must be performed at a facility which meets the requirements contained in Section 1138 of the Social Security Act.

(D) Finally, procedures considered experimental or investigational are not covered.

(37) Home and community-based waiver services for mentally retarded members who were determined to be inappropriately placed in a NF (Alternative Disposition Plan - ADP).

(38) Case Management services for the chronically and/or severely mentally ill.

(39) Emergency medical services including emergency labor and delivery for illegal or ineligible aliens.

(40) Services delivered in Federally Qualified Health Centers. Payment is made on an encounter basis.

(41) Early Intervention services for children ages 0-3.

(42) Residential Behavior Management in therapeutic foster care setting.

(43) Birthing center services.

(44) Case management services through the Oklahoma Department of Mental Health and Substance Abuse Services.

(45) Home and Community-Based Waiver services for aged or physically disabled members.

(46) Outpatient ambulatory services for members infected with tuberculosis.

(47) Smoking and Tobacco Use Cessation Counseling for children and adults.

(48) Services delivered to American Indians/Alaskan Natives in I/T/Us. Payment is made on an encounter basis.

(49) OHCA contracts with designated agents to provide disease state management for individuals diagnosed with certain chronic conditions. Disease state management treatments are based on protocols developed using evidence-based guidelines.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 5. PHARMACIES

317:30-5-72. Categories of service eligibility

(a) **Coverage for adults.** Prescription drugs for categorically needy adults are covered as set forth in this subsection.

(1) With the exception of (2) and (3) of this subsection, categorically needy adults are eligible for a maximum of six covered prescriptions per month with a limit of ~~three~~ two brand name prescriptions.

(2) Subject to the limitations set forth in OAC 317:30-5-72.1, OAC 317:30-5-77.2, and OAC 317:30-5-77.3, exceptions to the six medically necessary prescriptions per month limit are:

(A) unlimited monthly medically necessary prescriptions for categorically related individuals who are residents of Nursing Facilities or Intermediate Care Facilities for the Mentally Retarded; and
 (B) seven additional medically necessary prescriptions which are generic products per month to the six covered under the State Plan are allowed for adults receiving services under the 915(c) Home and Community Based Services Waivers. Medically necessary prescriptions beyond the ~~three~~ two brand name or thirteen total prescriptions will be covered with prior authorization.

(3) Drugs exempt from the prescription limit include: Antineoplastics, anti-retroviral agents for persons diagnosed with Acquired Immune Deficiency Syndrome (AIDS) or who have tested positive for the Human Immunodeficiency Virus (HIV), certain prescriptions that require frequent laboratory monitoring, birth control prescriptions, over the counter contraceptives, hemophilia drugs, compensable smoking cessation products, low-phenylalanine formula and amino acid bars for persons with a diagnosis of PKU, certain carrier or diluent solutions used in compounds (i.e. sodium chloride, sterile water, etc.), and drugs used for the treatment of tuberculosis. For purposes of this Section, exclusion from the prescription limit means claims filed for any of these prescriptions will not count toward the prescriptions allowed per month.

(b) **Coverage for children.** Prescription drugs for SoonerCare eligible individuals under 21 years of age are not limited.

(c) **Individuals eligible for Part B of Medicare.** Individuals eligible for Part B of Medicare are also eligible for the Medicare Part D prescription drug benefit. Coordination of benefits between Medicare Part B and Medicare Part D is the responsibility of the pharmacy provider. The SoonerCare pharmacy benefit does not include any products which are available through either Part B or Part D of Medicare.

(d) **Individuals eligible for a prescription drug benefit through a Prescription Drug Plan (PDP) or Medicare Advantage - Prescription Drug (MA-PD) plan as described in the Medicare Modernization Act (MMA) of 2003.** Individuals who qualify for enrollment in a PDP or MA-PD are specifically excluded from coverage under the SoonerCare pharmacy benefit. This exclusion applies to these individuals in any situation which results in a loss of Federal Financial Participation for the SoonerCare program. The exclusion will become effective January 1, 2006, or the date Medicare Part D is implemented for dual eligible individuals, whichever is later. This exclusion shall not apply to items covered at OAC 317:30-5-72.1(2) unless those items are required to be covered by the prescription drug provider in the MMA or subsequent federal action.

[OAR Docket #10-77; filed 1-21-10]

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

[OAR Docket #10-69]

RULEMAKING ACTION:
 EMERGENCY adoption

RULES:
 Subchapter 3. General Provider Policies
 Part 3. General Medical Program Information
 317:30-3-62. [NEW]
 (Reference APA WF # 09-51)

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

DATES:

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 December 10, 2009

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 Effective through July 14, 2010, 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 the agency's general provider policies. Rules are written to establish a policy for serious reportable events in healthcare. These emergency rule revisions will implement the non-coverage of three surgical errors and address the applicable billing procedures for such serious events. This quality initiative ensures that state and federal funds are not being used to promote serious medical errors and that all Oklahomans will continue to have access to quality healthcare.

ANALYSIS:
 Agency rules are written to establish policy for serious reportable events in healthcare, also called never events. Rules will non-cover three surgical errors and set billing policy to implement appropriate claims processing. The three surgical errors are (1) wrong surgical or other invasive procedures performed on a member, (2) surgical or other invasive procedures performed on the wrong body part, and (3) surgical or other invasive procedures performed on the wrong member. Rules will also include a related claims review (if appropriate) and the avoidance of SoonerCare to act as a secondary payer for Medicare non-payment of the three surgical errors.

CONTACT PERSON:
 Tywanda Cox at (405)522-7153

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 FEBRUARY 1, 2010:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 3. GENERAL MEDICAL PROGRAM INFORMATION

Emergency Adoptions

317:30-3-62. Serious reportable events - never events

(a) **Definitions.** The following words and terms, when used in this Section, have the following meaning, unless the context clearly indicates otherwise:

(1) **"Surgical and other invasive procedures"** are defined as operative procedures in which skin or mucous membranes and connective tissues are incised or an instrument is introduced through a natural body orifice. Invasive procedures include a range of procedures from minimally invasive dermatological procedures (biopsy, excision, and deep cryotherapy for malignant lesions) to extensive multi-organ transplantation. They include all procedures described by the codes in the surgery section of the Current Procedural Terminology (CPT) and other invasive procedures such as percutaneous transluminal angioplasty and cardiac catheterization. They include minimally invasive procedures involving biopsies or placement of probes or catheters requiring the entry into a body cavity through a needle or trocar. They do not include use of instruments such as otoscopes for examinations or very minor procedures such as drawing blood.

(2) A surgical or other invasive procedure is considered to be the wrong procedure if it is not consistent with the correctly documented informed consent for that member.

(3) A surgical or other invasive procedure is considered to have been performed on the wrong body part if it is not consistent with the correctly documented informed consent for that member including surgery on the right body part, but on the wrong location on the body; for example, left versus right (appendages and/or organs), or at the wrong level (spine).

(4) A surgical or other invasive procedure is considered to have been performed on the wrong member if that procedure is not consistent with the correctly documented informed consent for that member.

(b) **Coverage.** The Oklahoma Health Care Authority (OHCA) will no longer cover a particular surgical or other invasive procedure to treat a particular medical condition when the practitioner erroneously performs (1) a different procedure altogether; (2) the correct procedure but on the wrong body part; or (3) the correct procedure but on the wrong member. SoonerCare will not cover hospitalizations or any services related to these non-covered procedures. All services provided in the operating room when an error occurs are considered related and therefore not covered. All providers in the operating room when the error occurs, who could bill individually for their services, are also not eligible for payment. All related services provided during the same hospitalization in which the error occurred are not covered. A provider cannot shift financial liability or responsibility for the non-covered services to the member if the OHCA has determined that the service is related to one of the above erroneous surgical procedures.

(c) **Billing.** For inpatient claims, hospitals are required to bill two claims when the erroneous surgery is reported, one claim with covered services or procedures unrelated to the erroneous surgery, the other claim with the non-covered services

or procedures as a no-payment claim. For outpatient and practitioner claims, providers are required to append the applicable HCPCS modifiers to all lines related to the erroneous surgery. Claim lines submitted with one of the applicable HCPCS modifiers will be line-item denied.

(d) **Related claims.** Once a claim for the erroneous surgery(s) has been received, OHCA may review member history for related claims as appropriate. Incoming claims for the identified member may be reviewed for an 18-month period from the date of the surgical error. If such claims are identified to be related to the erroneous surgical procedure(s), OHCA may take appropriate action to deny such claims and recover any overpayments on claims already processed.

(e) **Dually eligible members.** SoonerCare will not act as a secondary payer for Medicare non-payment of the aforementioned erroneous surgery(s).

[OAR Docket #10-69; filed 1-21-10]

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

[OAR Docket #10-75]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-14. [AMENDED]

(Reference APA WF # 09-70)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Centers for Medicare & Medicaid Services State Health Official Letter #09-011

DATES:

Adoption:

December 10, 2009

Approved by Governor:

January 14, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, 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 comply with the Centers for Medicare & Medicaid Services (CMS) State Health Official Letter (SHO) 09-011. SHO #09-011 requires all State Medicaid agencies to reimburse a vaccine administration fee to all Medicaid contracted providers administering the 2009 H1N1 vaccine to eligible populations.

ANALYSIS:

Agency rules are revised to comply with CMS SHO #09-111 requiring all State Medicaid agencies to reimburse a vaccine administration fee to all Medicaid contracted providers administering the 2009 H1N1 vaccine to eligible populations. Currently, rules only allow for reimbursement for vaccine administration in limited circumstances. Revisions allow for reimbursement

of an administration fee for pandemic virus vaccines administered to eligible SoonerCare members following a declaration by the Centers for Disease Control of a pandemic virus. Revisions also allow for an administration fee to be paid to providers administering the Human Papillomavirus (HPV) vaccine to eligible SoonerCare members.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 1. PHYSICIANS

317:30-5-14. Injections

(a) Coverage for injections is limited to those categories of drugs included in the vendor drug program for SoonerCare. SoonerCare payment is not available for injectable drugs whose manufacturers have not entered into a drug rebate agreement with the Centers for Medicare and Medicaid Services (CMS). OHCA administers and maintains an open formulary subject to the provisions of Title 42, United States Code (U.S.C.), Section 1396r-8. The OHCA covers a drug that has been approved by the Food and Drug Administration (FDA) subject to the exclusions and limitations provided in OAC 317:30-5-72.1.

(1) Immunizations for children. An administration fee will be paid for vaccines administered by providers participating in the Vaccines for Children Program. When the vaccine is not included in the program, the administration fee is included in the vaccine payment. Payment will not be made for vaccines covered by the Vaccines for Children Program.

(2) Immunizations for adults. Coverage for adults is provided as per the Advisory Committee on Immunization Practices (ACIP) guidelines. A separate payment will not be made for the administration of a vaccine unless specifically outlined in policy. The administration fee is included in the vaccine payment.

(b) Providers must use the appropriate HCPCS code and National Drug Code (NDC). In addition to the NDC and HCPCS code, claims must contain the drug name, strength, and dosage amount.

(c) Payment is made for allergy injections for adults and children. When the contracted provider actually administers or supervises the administration of the injection, the administration fee is compensable. No payment is made for administration when the allergy antigen is self-administered by the member. When the allergy antigen is purchased by the physician, payment is made by invoice attached to the claim.

(d) Rabies vaccine, Imovax, Human Diploid and Hyperab, Rabies Immune Globulin are covered under the vendor drug

program and may be covered as one of the covered prescriptions per month. Payment can be made separately to the physician for administration. If the vaccine is purchased by the physician, payment is made by invoice attached to the claim.

(e) Human Papillomavirus (HPV) vaccine is approved and covered under guidelines established by the ACIP for children and adults. Payment can be made separately to the physician for administration and the vaccine product.

(f) Trigger point injections (TPI's) are covered using appropriate CPT codes. Modifiers are not allowed for this code. Payment is made for up to three injections (3 units) per day at the full allowable. Payment is limited to 12 units per month. The medical records must clearly state the reasons why any TPI services were medically necessary. All trigger point records must contain proper documents and be available for review. Any services beyond 12 units per month or 36 units per 12 months will require mandatory review for medical necessity. Medical records must be automatically submitted with any claims for services beyond 36 units.

(g) If a physician bills separately for surgical injections and identifies the drugs used in a joint injection, payment will be made for the cost of the drug in addition to the surgical injection. The same guidelines apply to aspirations.

(h) When IV administration in a Nursing Facility is filed by a physician, payment may be made for medication. Administration should be done by nursing home personnel.

(i) Intravenous fluids used in the administration of IV drugs are covered. Payment for the set is included in the office visit reimbursement.

(j) In the event a pandemic virus is declared by the Centers for Disease Control (CDC) and/or the Department of Health & Human Services, an administration fee will be paid to providers for administering the pandemic virus vaccine to adults and children as authorized by the Centers for Medicare and Medicaid Services (CMS).

[OAR Docket #10-75; filed 1-21-10]

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

[OAR Docket #10-71]

RULEMAKING ACTION: EMERGENCY adoption

RULES: Subchapter 5. Individual Providers and Specialties Part 1. Physicians 317:30-5-24. [AMENDED] Part 3. Hospitals 317:30-5-42.1. [AMENDED] (Reference APA WF # 09-60)

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: December 10, 2009

Emergency Adoptions

Approved by Governor:

January 14, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, 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 the agency's outpatient hospital policies. Rules are revised to clarify the intent of coverage for implantable devices inserted during the course of a surgical procedure and to provide consistency throughout policy. These emergency rule revisions will make rules consistent with reimbursement practices and clarify coverage and access to healthcare for Oklahomans, thereby reducing confusion among SoonerCare providers and ultimately reducing the amount of uncompensated care provided by healthcare providers.

ANALYSIS:

Outpatient hospital rules are revised to clarify the intent of reimbursement for implantable devices inserted during the course of a surgical procedure. Separate payment will be made for implantable devices, but only when the implantable device is not included in the rate for the procedure to insert the device. Additional revisions include removing all-inclusive reimbursement language for outpatient radiological services and additional clarification in regards to adult therapies performed in an outpatient hospital based setting.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 1. PHYSICIANS

317:30-5-24. Radiology

(a) Outpatient and emergency department.

(1) The technical component of outpatient radiological services performed during an emergency department visit is ~~included in the emergency department all-inclusive payment rate on a per visit basis which is paid to the hospital covered.~~

(2) The professional component of x-rays performed during an emergency department visit is covered.

(3) Ultrasounds for obstetrical care are paid in accordance with provisions found at OAC 317:30-5-22(b)(2)(A-C).

(4) Payment is made for charges incurred for the administration of chemotherapy for the treatment of medically necessary and medically approved procedures. Payment for radiation therapy is limited to the treatment of proven malignancies and benign conditions appropriate for ~~stereotactic~~ stereotactic radiosurgery (e.g., gamma knife).

(5) Medically necessary screening mammography is a covered benefit. Additional follow-up mammograms are covered when medically necessary.

(b) **Inpatient procedures.** Inpatient radiological procedures are compensable if done on a referral basis. Claims for inpatient interpretations by the attending physician are not compensable unless the attending physician reads interpretations for the hospital on all patients.

(c) **Inpatient radiology performed outside of hospital.** When a member is an inpatient but has to be taken elsewhere for an x-ray, such as to an office or another hospital because the admitting hospital did not have proper equipment, the place of service must still be inpatient hospital, since the member is considered to be in the hospital at the time of service.

(d) **Radiology therapy management.** Weekly clinical management is based on five fractions delivered comprising one week regardless of the time interval separating the delivery of treatments. Weekly clinical management must be billed as one unit of service rather than five.

(e) **Miscellaneous.**

(1) **Arteriograms, angiograms and aortograms.** When arteriograms, angiograms or aortograms are performed by a radiologist, they are considered radiology, not surgery.

(2) **Injection procedure for arteriograms, angiograms and aortograms.** The "interpretation only" code and the "complete procedure" code are not both allowed for one of these procedures.

(3) **Evac-U-Kit or Evac-O-Kit.** Evac-U-Kit and Evac-O-Kit are included in the charge for the Barium Enema.

(4) **Examination.** Examination at bedside or in operating room allows an additional charge to be made. Examination outside regular hours is not a covered charge.

(5) **Supplies.** Separate payment is not made for supplies such as "administration set" used in provision of office chemotherapy.

(6) **Fluoroscopy or Esophagus study.** Separate charge for fluoroscopy or esophagus study in addition to a routine gastrointestinal tract examination is not covered unless a report is submitted indicating an esophagram was done as a separate procedure.

(f) **Magnetic Resonance Imaging.** MRI/MRA scans are covered when medically necessary. Documentation in the progress notes must reflect the medical necessity. The diagnosis code must be shown on the claim.

(g) **Placement of radium or other radioactive material.**

(1) For Radium Application use the appropriate HCPCS code.

(2) When a physician supplies the therapeutic radionuclides (implant grains or Gold Seeds) and provides a copy of the invoice, payment is made at 100% of the invoice charges. Fee must include cost of radium, container, and shipping and handling.

PART 3. HOSPITALS

317:30-5-42.1. Outpatient hospital services

- (a) Hospitals providing outpatient hospital services are required to meet the same requirements that apply to OHCA contracted, non-hospital providers performing the same services. Outpatient services performed outside the hospital facility are not reimbursed as hospital outpatient services.
- (b) Covered outpatient hospital services must meet all of the criteria listed in (1) through (4) of this subsection.
- (1) The care is directed by a physician or dentist.
 - (2) The care is medically necessary.
 - (3) The member is not an inpatient.
 - (4) The service is provided in an approved hospital facility.
- (c) Covered outpatient hospital services are those services provided for a member who is not a hospital inpatient. A member in a hospital may be either an inpatient or an outpatient, but not both (see OAC 317:30-5-41).
- (d) 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.
- (e) Physical, occupational, and speech therapy services are covered when performed in an outpatient hospital based setting. Coverage is limited to one evaluation/re-evaluation visit (unit) per discipline per calendar year and 15 visits (units) per discipline per date of service per calendar year. Claims for these services must include the appropriate revenue code(s).

[OAR Docket #10-71; filed 1-21-10]

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

[OAR Docket #10-72]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties
Part 85. ADvantage Program Waiver Services
317:30-5-764. [AMENDED]
Part 95. Agency Personal Care Services
317:30-5-950. [AMENDED]
(Reference APA WF #09-65A)

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 440.180

DATES:

Adoption:

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January 14, 2010

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 5. Individual Providers and Specialties

Part 85. ADvantage Program Waiver Services
317:30-5-764. [AMENDED]

Gubernatorial approval:

March 24, 2009

Register Publication:

26 Ok Reg 994

Docket number:

09-541

Superseded rules:

Subchapter 5. Individual Providers and Specialties
Part 95. Agency Personal Care Services
317:30-5-950. [AMENDED]

Gubernatorial approval:

March 9, 2009

Register Publication:

26 Ok Reg 756

Docket number:

09-380

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 require that the provision of Case Management and certain other in-home ADvantage services to SoonerCare members be documented using the Interactive Voice Response Authentication (IVRA) time and attendance system. The new electronic IVRA system will replace the current system of manual time documentation and therefore increase the efficiency of processing claims while reducing the error rate caused by duplication of records, resulting in a substantial savings of SoonerCare dollars over time.

ANALYSIS:

Rules are revised to require the use of the new Interactive Voice Response Authentication (IVRA) system to document time and attendance for certain in-home ADvantage services provided to SoonerCare members. In-home services are necessarily provided in the individual homes of persons with physical and cognitive disabilities. The verification of service delivery is typically a paper time sheet signed by the member receiving services with a high potential for errors. Additionally, a paper based time and attendance system which requires transcription of time units from paper to computer is both inefficient and affords many opportunities for inadvertent errors.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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 FEBRUARY 1, 2010:

**SUBCHAPTER 5. INDIVIDUAL PROVIDERS
AND SPECIALTIES**

**PART 85. ADVANTAGE PROGRAM WAIVER
SERVICES**

317:30-5-764. Reimbursement

(a) Rates for waiver services are set in accordance with the rate setting process by the Committee for Rates and Standards State Plan Amendment Rate Committee (SPARC) and approved by the Oklahoma Health Care Authority Board.

- (1) The rate for NF Respite is set equivalent to the rate for routine level of care nursing facility services that require providers having equivalent qualifications;

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(2) The rate for daily units for Adult Day Health Care are set equivalent to the rate established by the Oklahoma Department of Human Services for the equivalent services provided for the OKDHS Adult Day Service Program that require providers having equivalent qualifications;

(3) The rate for units of Home-Delivered Meals are set equivalent to the rate established by the Oklahoma Department of Human Services for the equivalent services provided for the OKDHS Home-Delivered Meals Program that require providers having equivalent qualifications;

(4) The rates for units of ADvantage Personal Care and In-Home Respite are set equivalent to State Plan Agency Personal Care unit rate which require providers having equivalent qualifications;

(5) The rates for Advanced Supportive/Restorative Assistance is set equivalent to 1.077 of the State Plan Agency Personal Care unit rate;

(6) CD-PASS rates are determined using the Individual Budget Allocation (IBA) Expenditure Accounts Determination process for each member. The IBA Expenditure Accounts Determination process includes consideration and decisions about the following:

(A) The ~~individual~~ Individual Budget Allocation (IBA) ~~expenditure~~ Expenditure Accounts Determination constrains total Medicaid reimbursement for CD-PASS services to be less than expenditures for equivalent services using agency providers.

(B) The PSA and APSA service unit rates are calculated by the ~~AA~~ OKDHS/ASD during the CD-PASS service eligibility determination process. The ~~AA~~ OKDHS/ASD sets the PSA and APSA unit rates at a level that is not less than 80 percent and not more than 95 percent of the comparable Agency Personal Care (for PSA) or Advanced Supportive/Restorative (for APSA) service rate. The allocation of portions of the PSA and/or APSA rate to cover salary, mandatory taxes, and optional benefits (including Worker's Compensation insurance, if available) is determined individually for each member using the CD-PASS Individualized Budget Allocation Expenditure Accounts Determination Process.

(C) The IBA Expenditure Accounts Determination process defines the level of program financial resources required to meet the member's need for CD-PASS services. If the member's need for services changes due to a change in health/disability status and/or a change in the level of support available from other sources to meet needs, the Case Manager, based upon an updated assessment, amends the service plan to increase CD-PASS service units appropriate to meet additional member need. The ~~AA~~ OKDHS/ASD, upon favorable review, authorizes the amended plan and updates the member's IBA. Service amendments based on changes in member need for services do not change an existing PSA or APSA rate. The member, with assistance from the FMS, reviews

and revises the IBA Expenditure Accounts calculation annually or more often to the extent appropriate and necessary.

(7) Three per diem reimbursement rate levels for the ADvantage assisted living services are set. Different rate per diem levels are established to adequately reimburse the provider for the provision of different levels of service to accommodate different level of member need for services-type, intensity and frequency to address member ADL/IADL and health care needs. Rounded to the nearest cent, the lowest level Assisted Living Services per diem rate is set equivalent to 11.636 of the State Plan Agency Personal Care unit rate; the mid-level per diem rate is set equivalent to 15.702 of the State Plan Agency Personal Care unit rate; and the highest level Assisted Living Services per diem rate is set equivalent to 21.964 of the State Plan Agency Personal Care unit rate. The specific rate level appropriate to a particular member's service is determined by UCAT assessment by the member's ADvantage Case Manager employed by a Case Management agency that is independent of the Assisted Living Services provider. ADvantage payment is not made for 24-hour skilled care in an Assisted Living Center. Federal financial participation is not available for room and board, items of comfort or convenience, or the costs of facility maintenance, upkeep and improvement. Separate payment is not made for ADvantage services of personal care, advanced supportive/restorative assistance, skilled nursing, Personal Emergency Response System, home-delivered meals, adult day care or environmental modifications to a member while receiving Assisted Living Services since these services are integral to and inherent in the provision of Assisted Living Service. However, separate payment may be made for Medicaid State Plan and/or Medicare Home Health benefits to members receiving ADvantage Assisted Living. Separate payment is not made for ADvantage respite to a member while receiving Assisted Living Services since by definition Assisted Living Services assume the responsibility for 24-hour oversight/monitoring of the member, eliminating the need for informal support respite. The member is responsible for room and board costs; however, for an ADvantage member, the ADvantage Assisted Living Services provider is allowed to charge a maximum for room and board that is no more than 90% of the SSI Federal Benefit Rate. If in accordance with OAC 317:35-17-1(b) and 317:35-17-11, the member has a vendor payment obligation, the provider is responsible for collecting the vendor payment from the member.

(b) The ~~AA~~ OKDHS/ASD approved ADvantage service plan is the basis for the MMIS service prior authorization, specifying:

- (1) service;
- (2) service provider;
- (3) units authorized; and
- (4) begin and end dates of service authorization.

(c) ~~As part of ADvantage quality assurance, provider audits evaluate whether paid claims are consistent with service plan authorizations and documentation of service~~

provision. Evidence of paid claims that are not supported by service plan authorization and/or documentation of service provisions will be turned over to SURS for follow up investigation. Service time for Personal Care, Case Management, Case Management services for Transitioning, Nursing, Advanced Supportive/Restorative Assistance, In-Home Respite, CD-PASS Personal Services Assistance, and Advanced Personal Services Assistance is documented solely through the use of the Interactive Voice Response Authentication (IVRA) system when services are provided in the home. Providers are required to use the IVRA system after access to the system is made available by OKDHS. The IVRA system provides alternate backup solutions should the automated system be unavailable. In the event of IVRA backup system failure, the provider will document time in accordance with their agency backup plan. The agency's backup procedures are only permitted when the IVRA system is unavailable.

(d) As part of ADvantage quality assurance, provider audits evaluate whether paid claims are consistent with service plan authorizations and documentation of service provision. Evidence of paid claims that are not supported by service plan authorization and/or documentation of service provisions will be turned over to SURS for follow-up investigation.

PART 95. AGENCY PERSONAL CARE SERVICES

317:30-5-950. Eligible providers

Payment is made only to agencies that have been certified as personal care providers by the Oklahoma State Department of Health and are certified by the ~~ADvantage Program Administrative Agent (AA)~~ as meeting applicable federal, state and local laws, rules and regulations. In order to be eligible for payment, the personal care agency must have an approved provider agreement on file with the ~~Medicaid agency OHCA~~, in accordance with OAC 317:30-3-2. Service time of Personal Care is documented solely through the Interactive Voice Response Authentication (IVRA) system when services are provided in the home. Providers are required to use the IVRA system after access to the system is made available by OKDHS. The IVRA system provides alternate backup solutions should the automated system be unavailable. In the event of IVRA backup system failure, the provider will document time in accordance with their agency backup plan. The agency's backup procedures are only permitted when the IVRA system is unavailable.

[OAR Docket #10-72; filed 1-21-10]

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

[OAR Docket #10-74]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties
Part 105. Residential Behavioral Management Services in Group Settings and Non-Secure Diagnostic and Evaluation Centers
317:30-5-1040 through 317:30-5-1044 [AMENDED]
317:30-5-1046 [AMENDED]
317:30-5-1047 [AMENDED]
(Reference APA WF # 09-69)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; CMS-2237-IFC

DATES:

Adoption:

December 10, 2009

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Approved by Governor:

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Expiration:

Effective through July 14, 2010, 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 change the status of the Office of Juvenile Affairs (OJA) from an Organized Health Care Delivery System to a Foster Care Agency for reimbursement purposes. Rule revisions are necessary to comply with federal regulations regarding Targeted Case Management. Rules are also being revised to limit the number of beds that may be served in a Residential Behavioral Management Services home to 16 beds or less.

ANALYSIS:

Agency rules are revised to change the status of the Office of Juvenile Affairs from an Organized Health Care Delivery System to a Foster Care Agency. The revisions are needed in order to maintain current levels of reimbursement after OJA's Targeted Case Management (TCM) Services were affected by the CMS final rule regarding TCM Services, CMS-2237-IFC. Rules are also revised to reduce the number of beds in Residential Behavioral Management Services (RBMS) homes to 16 or less in order for the homes to not be considered "public institutions" and risk loss of federal financial participation for the services currently provided in the homes to SoonerCare members.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 105. RESIDENTIAL BEHAVIORAL MANAGEMENT SERVICES IN GROUP SETTINGS AND NON-SECURE DIAGNOSTIC AND EVALUATION CENTERS

Emergency Adoptions

317:30-5-1040. ~~Organized health care delivery system~~ Foster Care Agency

The OHCA recognizes an ~~Organized Health Care Delivery System (OHCDS)~~ as an entity with an identifiable component within its mission which is organized for the purpose of delivering health care. The entity must furnish at least one service covered by the Oklahoma Medicaid State Plan itself (i.e. through its own employees). Those employees who furnish each service must meet the State's minimum qualifications for its provision. So long as the entity continues to furnish at least one service itself, it may contract with other qualified providers to furnish Medicaid covered services.

A Foster Care Agency is an agency that provides foster care as defined in the Code of Federal Regulations (CFR) as "24-hour substitute care for children outside their own homes." Foster care settings include, but are not limited to, non-relative foster family homes, relative foster homes (whether payments are being made or not), group homes, emergency shelters, residential facilities, and pre-adoptive homes.

317:30-5-1041. Eligible providers

Payment is made for Residential Behavior Management Services (RBMS) provided in private group settings and non-secure Diagnostic and Evaluation (D&E) Centers with 16 beds or less, to any OHCDS who is a child placing agency who has a statutory authority for the care of children in the custody of the State of Oklahoma and which enters into a contract with the State Medicaid program. The OHCDS must certify to the OHCA that all direct providers of services (whether furnished through its own employees or under contract) meet the minimum program qualifications. Residential Behavior Management Services and Diagnostic and Evaluation services are covered only for those beds contracted by the OHCDS. All providers eligible for reimbursement under this section must be a legally recognized Foster Care Agency (FCA) in the State of Oklahoma and have a contract on file with the Oklahoma Health Care Authority. Employees and contractors of the FCA who furnish each covered service must meet the State's minimum qualifications for its provision. All services must be prior authorized by the Oklahoma Department of Human Services (OKDHS) or the Office of Juvenile Affairs (OJA).

317:30-5-1042. Memorandum of agreement

A Memorandum of Agreement between the Oklahoma Health Care Authority and the ~~Organized Health Care Delivery System~~ Foster Care Agency (FCA) must be in effect before reimbursement can be made for compensable services. The agreement outlines the contractual and ~~subcontractual~~ sub-contractual requirements for reimbursement. ~~This agreement provides that the OHCDS is responsible for the Medicaid State share required for federal financial participation for all RBMS provided to custody children in residential group home and diagnostic and evaluation settings.~~

317:30-5-1043. Coverage by category

(a) **Adults.** Residential Behavioral Management Services (RBMS) in Group Settings and Non-Secure Diagnostic and Evaluation Center Services are not covered for adults.

(b) **Children.** Residential Behavioral Management Services (RBMS) in Group Settings and Non-Secure Diagnostic and Evaluation Centers are covered for children as set forth in this subsection.

(1) **Description.** Residential Behavior Management Services are provided by ~~Organized Health Care Delivery Systems (OHCDS)~~ Foster Care Agencies (FCA) for children in the care and custody of the State who have special psychological, behavioral, emotional and social needs that require more intensive care than can be provided in a family or foster home setting. The behavior management services are provided in the least restrictive environment and within a therapeutic milieu. The group setting is restorative in nature, allowing children with emotional and psychological problems to develop the necessary control to function in a less restrictive setting. Residential Behavior Management Services are reimbursed in accordance with the intensity of supervision and treatment required for the group setting in which the child is placed. Members residing in a Level E and Intensive Treatment Services (ITS) Group Homes receive maximum supervision and treatment. In addition, ITS group homes provide crisis and stabilization intervention and treatment. Members residing in a Level D+ Group Home receive highly intensive supervision and treatment. Members residing in a Level D Group ~~home~~ Home ~~or in a wilderness camp~~ receive close supervision and moderate treatment. Members residing in a Level C Group Home receive minimum supervision and treatment. Members residing in Residential Diagnostic and Evaluation Centers receive intensive supervision and a 20 day comprehensive assessment. Members residing in a Sanctions Home receive highly intensive supervision and treatment. Members residing in an Independent Living Group Home receive intensive supervision and treatment. It is expected that RBMS in group settings are an all-inclusive array of treatment services provided in one day. In the case of a child who needs additional specialized services, under the Rehabilitation Option or by a psychologist, prior authorization by the OHCA or designated agent is required. Only specialized rehabilitation or psychological treatment services to address unique, unusual or severe symptoms or disorders will be authorized. If additional services are approved, the ~~OHCDS~~ FCA collaborates with the provider of such services as directed by the OHCA or its agent. Any additional specialized behavioral health services provided to children in state custody are funded in the normal manner. The ~~OHCDS~~ FCA must provide concurrent documentation that these services are not duplicative. The OHCDS determines the need for RBMS.

(2) **Medical necessity criteria.** The following medical necessity criteria must be met for residential behavior Management Services.

(A) Any DSM-IV AXIS I primary diagnosis, with the exception of V codes, with a detailed description

of the symptoms supporting the diagnosis. A detailed description of the child's emotional, behavioral and psychological condition must be on file. A diagnosis is not required for behavior management services provided in Diagnostic and Evaluation centers.

(B) The child is medically stable and not actively suicidal or homicidal and not in need of substance abuse detoxification services.

(C) It has been determined by the ~~OHCDS~~ FCA that the current disabling symptoms could not have been or have not been manageable in a less intensive treatment program.

(D) Documentation that the child's presenting emotional and/or behavioral problems prevent the child from living in a traditional family home. The child requires the availability of 24 hour crisis response/behavior management and intensive clinical interventions from professional staff.

(E) The ~~Agency~~ agency which has permanent or temporary custody of the child agrees to active participation in the child's treatment needs and planning.

(F) All of the medical necessity criteria must also be met for continued stay in residential group settings.

(3) **Treatment components.**

(A) **Individual plan of care development.** A comprehensive individualized plan of care for each resident shall be formulated by the provider agency staff within 30 days of admission, for ITS level within 72 hours, with documented input from the agency which has permanent or temporary custody of the child and when possible, the parent. This plan must be revised and updated at least every three months, every seven days for ITS, with documented involvement of the agency which has permanent or temporary custody of the child. Documented involvement can be written approval of the individual plan of care by the agency which has permanent or temporary custody of the child and indicated by the signature of the agency case worker or liaison on the individual plan of care. It is acceptable in circumstances where it is necessary to fax a service plan to someone for review and then have them fax back their signature; however, the provider obtains the original signature for the clinical file within 30 days. No stamped or ~~Xeroxed~~ photo copied signatures are allowed. An individual plan of care is considered inherent in the provision of therapy and is not covered as a separate item of behavior management services. The individual plan of care is individualized taking into account the child's age, history, diagnosis, functional levels, and culture. It includes appropriate goals and time limited and measurable objectives. Each member's individual plan of care must also address the provider agency's plans with regard to the provision of services in each of the following areas:

- (i) group therapy;
- (ii) individual therapy;
- (iii) family therapy;

- (iv) alcohol and other drug counseling;
- (v) basic living skills redevelopment;
- (vi) social skills redevelopment;
- (vii) behavior redirection; and
- (viii) the provider agency's plan to access appropriate educational placement services. (Any educational costs are excluded from calculation of the daily rate for behavior management services.)

(B) **Individual therapy.** The provider agency must provide individual therapy on a weekly basis with a minimum of one or more sessions totaling one hour or more of treatment per week to children and youth receiving RBMS in ~~Wilderness—Camps~~, Level D, Level D+ homes, Level E Homes, Independent Living Homes, and Sanctions Homes. ITS Level residents will receive a minimum of five or more sessions totaling a minimum of five or more hours of individual therapy per week. Members residing in Diagnostic and Evaluation Centers and Level C Group Homes receive Individual Therapy on an as needed basis. Individual therapy must be age appropriate and the techniques and modalities employed relevant to the goals and objectives of the individual's plan of care. Individual counseling is a face to face, one to one service, and must be provided in a confidential setting.

(C) **Group therapy.** The provider agency must provide group therapy to children and youth receiving residential behavioral management services. Group therapy must be a face to face interaction, age appropriate and the techniques and modalities employed relevant to the goals and objectives of the individual's plan of care. The minimum expected occurrence would be one hour per week in Level D, Level C, ~~Wilderness—Camps~~ and Independent Living. Two hours per week are required in Levels D+ and E. Ten hours per week are required in Sanctions Homes, Intensive Treatment Service Level. Group therapy is not required for Diagnostic and Evaluation Centers. Group size should not exceed six members and group therapy sessions must be provided in a confidential setting. One half hour of individual therapy may be substituted for one hour of group therapy.

(D) **Family therapy.** Family therapy is a face to face interaction between the therapist/counselor and family, to facilitate emotional, psychological or behavioral changes and promote successful communication and understanding. The provider agency must provide family therapy as indicated by the resident's individual plan of care. The agency must work with the caretaker to whom the resident will be discharged, as identified by the ~~OHCDS~~ FCA custody worker. The agency must seek to support and enhance the child's relationships with family members (nuclear and appropriate extended), if the custody plan for the child indicates family reunification. The RBMS provider must also seek to involve the child's parents in treatment team meetings, plans and decisions and

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to keep them informed of the child's progress in the program. Any service provided to the family must have the child as the focus.

(E) **Alcohol and other drug abuse treatment education, prevention, therapy.** The provider agency must provide alcohol and other drug abuse treatment for residents who have emotional or behavioral problems related to substance abuse/chemical dependency, to begin, maintain and enhance recovery from alcoholism, problem drinking, drug abuse, drug dependency addiction or nicotine use and addiction. This service is considered ancillary to any other formal treatment program in which the child participates for treatment and rehabilitation. For residents who have no identifiable alcohol or other drug use, abuse, or dependency, age appropriate education and prevention activities are appropriate. These may include self esteem enhancement, violence alternatives, communication skills or other skill development curriculums.

(F) **Basic living skills redevelopment.** The provider agency must provide goal directed activities designed for each resident to restore, retain, and improve those basic skills necessary to independently function in a family or community. Basic living skills redevelopment is age appropriate and relevant to the goals and objectives of the individual plan of care. This ~~many may include, but is not limited to~~ food planning and preparation, maintenance of personal hygiene and living environment, household management, personal and household shopping, community awareness and familiarization with community resources, mobility skills, job application and retention skills.

(G) **Social skills redevelopment.** The provider agency must provide goal directed activities designed for each resident to restore, retain and improve the self help, communication, socialization, and adaptive skills necessary to reside successfully in home and community based settings. These are age appropriate, culturally sensitive and relevant to the goals of the individual plan of care. For ITS level of care, the minimum skill redevelopment per day is three hours. Any combination of basic living skills and social skills redevelopment that is appropriate to the need and developmental abilities of the child is acceptable.

(H) **Behavior redirection.** The provider agency must be able to provide behavior redirection management by agency staff as needed 24 hours a day, 7 days per week. The agency must ensure staff availability to respond in a crisis to stabilize residents' behavior and prevent placement disruption. In addition, ITS group homes will be required to provide crisis stabilization interaction and treatment for new residents 24 hours a day, seven days a week.

(4) **Providers.** For eligible RBMS agencies to bill the Oklahoma Health Care Authority for services of their providers, the ~~providers~~ provider of individual, group and family therapies must:

(A) be a licensed psychologist, social worker (clinical specialty only), professional counselor, marriage and family therapist, or behavioral practitioner, or under ~~Board Supervision~~ board supervision to be licensed in one of the above stated areas; or

(B) have one year of experience in a behavioral health treatment program and a master's degree in a mental health treatment field licensable in Oklahoma by one of the following licensing boards:

- (i) Psychology,
- (ii) Social work (clinical specialty only),
- (iii) Licensed professional counselor,
- (iv) Licensed marriage and family therapist, or
- (v) Licensed behavioral practitioner; or

(C) have a baccalaureate degree in a mental health field in one of the stated areas listed in (B) of this paragraph AND three or more years post-baccalaureate experience in providing direct patient care in a behavioral health treatment setting and be provided a minimum of weekly supervision by a staff member licensed as listed in (A) of this paragraph; or

(D) be a registered psychiatric nurse; AND

(E) demonstrate a general professional or educational background in the following areas:

- (i) case management, assessment and treatment planning;
- (ii) treatment of victims of physical, emotional, and sexual abuse;
- (iii) treatment of children with attachment disorders;
- (iv) treatment of children with hyperactivity or attention deficit disorders;
- (v) treatment methodologies for emotional disturbed children and youth;
- (vi) normal childhood development and the effect of abuse and/or neglect on childhood development;
- (vii) treatment of children and families with substance abuse and chemical dependency disorders;
- (viii) anger management; and
- (ix) crisis intervention.

(5) For eligible RBMS agencies to bill the Oklahoma Health Care Authority for services provided by their staff for behavior management therapies (Individual, Group, Family) as of July 1, 2007, providers must have the following qualifications:

(A) be licensed in the state in which the services are delivered as a licensed psychologist, social worker (clinical specialty only), professional counselor, marriage and family therapist, or behavioral practitioner, alcohol and drug counselor or under Board approved Supervision to be licensed in one of the above stated areas; or

(B) be licensed as an Advanced Practice Nurse certified in a psychiatric mental health specialty, licensed as a registered nurse with a current certification of

recognition from the Board of Nursing in the state in which services are provided, AND

(C) demonstrate a general professional or educational background in the following areas:

- (i) case management, assessment and treatment planning;
- (ii) treatment of victims of physical, emotional, and sexual abuse;
- (iii) treatment of children with attachment disorders;
- (iv) treatment of children with hyperactivity or attention deficit disorders;
- (v) treatment methodologies for emotionally disturbed children and youth;
- (vi) normal childhood development and the effect of abuse and/or neglect on childhood development;
- (vii) treatment of children and families with substance abuse and chemical dependency disorders;
- (viii) anger management; and
- (ix) crisis intervention.

(D) Staff providing basic living skills redevelopment, social skills redevelopment, and alcohol and other substance abuse treatment, must meet one of the following areas:

- (i) Bachelor's or Master's degree in a behavioral health related field including but not limited to, psychology, sociology, criminal justice, school guidance and counseling, social work, occupational therapy, family studies, alcohol and drug; or
- (ii) a current license as a registered nurse in Oklahoma; or
- (iii) certification as an Alcohol and Drug Counselor to provide substance abuse rehabilitative treatment to those with alcohol and/or other drug dependencies or addictions as a primary or secondary ~~DSM-IV~~ DMS-IV Axis I diagnosis; or
- (iv) current certification as a Behavioral Health Case Manager from DMHSAS and meets OHCA requirements to perform case management services, as described in OAC 317:30-5-595.

(E) Staff providing behavior redirection services must have current certification and required updates in nationally recognized behavior management techniques, such as Controlling Aggressive Patient Environment (CAPE) or MANDT. Additionally, staff providing these services must receive initial and ongoing training in at least one of the following areas:

- (i) trauma informed methodology,
- (ii) anger management,
- (iii) crisis intervention,
- (iv) normal child and adolescent development and the effect of abuse,
- (v) neglect and/or violence on such development,
- (vi) grief and loss issues for children in out of home placement,

(vii) interventions with victims of physical, emotional and sexual abuse,

(viii) care and treatment of children with attachment disorders,

(ix) care and treatment of children with hyperactive, or attention deficit, or conduct disorders,

(x) care and treatment of children, youth and families with substance abuse and chemical dependency disorders,

(xi) passive physical restraint procedures,

(xii) procedures for working with delinquents or the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

(F) In addition, Behavioral Management staff must have access to consultation with an appropriately licensed mental health professional.

317:30-5-1044. Payment rates

~~A per diem rate is established for each residential level of care in which behavior management services are provided. The payment rate is based upon a sample analysis of the average annual allowable cost of providing the program components of behavior management services using facility time study and cost reports of the OHCDs and the facilities under contract to them. The payment is an all inclusive daily rate for all behavior management services provided under the auspices of the OHCDs. Room and Board costs, educational costs and related administrative costs are not reimbursable and are excluded from the calculation of the daily rate. RBMS services are limited to a maximum of one service per day per eligible recipient. Payment is made at the lower of the provider's usual and customary charge or the OHCA fee schedule for Sooner-Care compensable services.~~

317:30-5-1046. Documentation of records and records review

(a) ~~The OHCDs FCA~~ and the facilities with whom it contracts must maintain appropriate records system. Current individual plans of care, case files, and progress notes are maintained in the facilities' files during the time the child or youth is receiving services. All services rendered must be reflected by documentation in the case records.

(b) OHCA and the Centers for Medicare and Medicaid Services (CMS) may evaluate through inspection or other means, the quality, appropriateness and timeliness of services provided by the ~~OHCDs FCA~~ or facilities with whom it contracts.

(c) All residential behavioral management services in group settings and non-secure diagnostic and evaluation centers must be reflected by documentation in the patients' records. Individual, group, family, and alcohol and other drug counseling and social and basic living skills development services must include all of the following:

- (1) date;
- (2) start and stop time for each session;
- (3) signature of the therapist/staff providing service;
- (4) credentials of therapist/staff providing service;

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- (5) specific problem(s) addressed (problem must be identified on individualized plan of care);
- (6) methods used to address problem(s);
- (7) progress made toward goals;
- (8) patient response to the session or intervention; and
- (9) any new problem(s) identified during the session.

317:30-5-1047. Confidentiality of information

In accordance with the provisions of 42 CFR 431, Subpart F, the ~~OHCA~~ FCA and the facilities with whom it contracts must safeguard information about the ~~client~~ member.

[OAR Docket #10-74; filed 1-21-10]

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

[OAR Docket #10-78]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties
Part 17. Medical Suppliers
317:30-5-211.10. [AMENDED]
317:30-5-211.12. [AMENDED]
317:30-5-211.15. [AMENDED]
317:30-5-218. [AMENDED]
Part 61. Home Health Agencies
317:30-5-547. [AMENDED]
(Reference APA WF # 09-76)

AUTHORITY:

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

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 5. Individual Providers and Specialties
Part 17. Medical Suppliers
317:30-5-211.10. [AMENDED]

Gubernatorial approval:

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Register Publication:

27 Ok Reg 304

Docket number:

09-1367

(Reference APA WF # 09-32)

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of revisions to the Agency's durable medical equipment rules. Revisions are necessary to reduce the Agency's operations budget in order to comply with the budget reductions mandated by the Oklahoma Legislature through the end of State Fiscal Year 2010. Without the recommended

revisions, the Agency is at risk of exhausting its State appropriated dollars required to maintain the State's Medicaid Program.

ANALYSIS:

Durable medical equipment (DME) rules are revised to reduce and/or eliminate certain durable medical equipment benefits to adults in order to comply with the budget reductions mandated by the Oklahoma Legislature through the end of State Fiscal Year 2010. Revisions include the elimination of osteogenic stimulators, portable oxygen contents, the reduction of blood glucose strips and lancets without a prior authorization, and flexibility in the agency's reimbursement terminology.

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 17. MEDICAL SUPPLIERS

317:30-5-211.10. Durable medical equipment (DME)

(a) **DME.** DME includes, but is not limited to: medical supplies, orthotics and prosthetics, custom braces, therapeutic lenses, respiratory equipment and other qualifying items when acquired from a contracted DME provider.

(b) **Certificate of medical necessity.** Certain items of DME require a CMN/OHCA CMN which should be submitted with the request for prior authorization. These items include but are not limited to:

- (1) hospital beds;
- (2) support surfaces;
- (~~3~~) ~~wheelchairs~~;
- (~~4~~) continuous positive airway pressure devices (~~Bi-CPAP~~ BiPAP and CPAP);
- (~~5~~) patient lift devices;
- (~~6~~) external infusions pumps;
- (~~7~~) enteral and parenteral nutrition; and
- (~~8~~) ~~osteogenesis stimulators~~; and
- (~~9~~) pneumatic compression devices.

(c) **Prior authorization.**

(1) **Rental.** Rental of hospital beds, support surfaces, ~~wheelchairs~~, continuous positive airway pressure devices (CPAP and BiPAP), pneumatic compression devices, and lifts require prior authorization and a completed CMN/OHCA CMN; medical necessity must be documented in the member's medical record and be signed by the physician.

(2) **Purchase.** Equipment will be purchased when a member requires the equipment for an extended period of time. During the prior authorization review the PA consultant may change the authorization from a rental to a purchase or a purchase to a rental based on the documentation submitted. The provider must indicate whether the DME item provided is new or used.

(d) **Backup equipment.** Backup equipment is considered part of the rental cost and not a covered service without prior authorization.

(e) **Home modification.** Equipment used for home modification is not a covered service.

317:30-5-211.12. Oxygen rental

A monthly rental payment is made for rental of liquid oxygen systems, gaseous oxygen systems and oxygen concentrators. The rental payment for a stationary system includes all contents and supplies, such as, regulators, tubing, masks, etc that are medically necessary. An additional monthly payment may be made for a portable liquid or gaseous oxygen system based on medical necessity.

- (1) Oxygen concentrators are covered items for members residing in their home or in a nursing facility.
- (2) For members who meet medical necessity criteria, SoonerCare covers portable liquid or gaseous oxygen systems and portable oxygen content. Portable oxygen contents are not covered. The need for a portable oxygen system must be stated on the CMN. A portable system that is used as a standby backup system only is not a covered item.
- (3) When six or more liters of oxygen are medically necessary, an additional payment will be paid up to 150% of the allowable for a stationary system when billed with the appropriate modifier.

317:30-5-211.15. Supplies

(a) The OHCA provides coverage for supplies that are prescribed by the appropriate medical provider, medically necessary and meet the special requirements below.

- (b) Special requirements:
 - (1) **Intravenous therapy.** Supplies for intravenous therapy are covered items. Drugs for IV therapy are covered items only as specified by the Vendor Drug program.
 - (2) **Diabetic supplies.** ~~The purchase of one glucometer, one spring loaded lancet device, and replacement batteries as defined by the life of the battery are covered items. In addition, a~~ A maximum of ~~200~~ 100 glucose test strips and ~~200~~ 100 lancets per month when medically necessary and prescribed by a physician are covered items. Diabetic supplies in excess of these parameters must be prior authorized.
 - (3) **Catheters.** Permanent indwelling catheters, male external catheters, drain bags and irrigation trays are covered items. Single use self catheters when the member has a history of urinary tract infections is a covered item. The prescription from the attending physician must indicate such documentation is available in the member's medical record.
 - (4) **Colostomy and urostomy supplies.** Colostomy and urostomy bags and accessories are covered items.

317:30-5-218. Reimbursement

(a) **Medical equipment and supplies.** Reimbursement for durable medical equipment and supplies will be made using

an amount derived from the lesser of the OHCA maximum allowable fee or the provider's usual and customary charge. The maximum allowable fee is the maximum amount that OHCA will pay a provider for an allowable procedure. When a code is not assigned a maximum allowable fee for a unit of service, a fee will be established ~~based on efficiency, economy, and quality of care as determined by the OHCA.~~ The fee schedule will be reviewed annually and adjustments to the fee schedule may be made at any time based on efficiency, budget considerations, and quality of care as determined by the OHCA.

(b) **Oxygen equipment and supplies.**

- (1) Payment for stationary oxygen systems (liquid oxygen systems, gaseous oxygen systems and oxygen concentrators) is based on continuous rental, i.e., a continuous monthly payment is made as long as it is medically necessary. The rental payment includes all contents and supplies, i.e., regulators, tubing, masks, etc. Portable oxygen systems are considered continuous rental. ~~Content for portable systems should be billed monthly with one unit equal to one month's supply.~~ Ownership of the equipment remains with the supplier.
- (2) Separate payment will not be made for maintenance, servicing, delivery, or for the supplier to pickup the equipment when it is no longer medically necessary.
- (3) ~~Effective July 1, 2007, payment~~ Payment for oxygen and for oxygen equipment and supplies will not exceed the Medicare fee for the same procedure code be based on the Medicaid allowable in effect for the Oklahoma region on June 30, 2007. Reimbursement for members who reside in a nursing facility may be at a reduced rate. The fee schedule will be reviewed annually; and adjustments to the fee schedule may be made at any time based on efficiency, budget considerations, and quality of care as determined by the OHCA.

PART 61. HOME HEALTH AGENCIES

317:30-5-547. Reimbursement

- (a) Nursing services and home health aide services are covered services on a per visit basis. Reimbursement for any combination of nursing or home aid service shall not exceed 36 visits per calendar year per member. Additional visits for children must be prior authorized when medically necessary.
- (b) Reimbursement for durable medical equipment and supplies will be made using the amount derived from the lesser of the OHCA fee schedule or the provider's usual and customary charge. The maximum allowable fee is the maximum amount that OHCA will pay a provider for an allowable procedure code. When a procedure code is not assigned a maximum allowable fee for a unit of service, a fee will be established ~~based on efficiency, economy, and quality of care as determined by the OHCA.~~ Once the service has been provided, the supplier is required to include a copy of the invoice documenting the supplier's cost of the item with the claim.
- (c) Reimbursement for oxygen and oxygen supplies is as follows:

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- (1) Payment for oxygen systems (stationary, liquid and oxygen concentrators) is based on continuous rental, i.e., a continuous monthly payment is made as long as it is medically necessary. The rental payment includes all contents and supplies, i.e., regulators, tubing, masks, etc. Portable oxygen systems are also considered continuous rental. ~~Content for portable systems should be billed monthly with one unit equal to one month's supply.~~ Ownership of the equipment remains with the supplier.
- (2) Separate payment will not be made for maintenance, servicing, delivery, or for the supplier to pickup the equipment when it is no longer medically necessary.
- (3) ~~Effective July 1, 2007, payment for oxygen and for oxygen equipment and supplies will not exceed the Medicare fee for the same procedure code be based on the Medicaid allowable in effect for the Oklahoma region on June 30, 2007. Reimbursement for members who reside in a nursing facility may be at a reduced rate.~~ The fee schedule will be reviewed annually; and adjustments to the fee schedule may be made at any time based on efficiency, budget considerations, and quality of care as determined by the OHCA.

[OAR Docket #10-78; filed 1-21-10]

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

[OAR Docket #10-70]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Eligibility and Countable Income
Part 3. Non-Medical Eligibility Requirements
317:35-5-25. [AMENDED]

Subchapter 6. ~~SoonerCare Health Benefits~~ SoonerCare for Categorically Needy Pregnant Women and Families with Children

Part 7. Certification, Redetermination and Notification
317:35-6-60. [AMENDED]
317:35-6-61. [AMENDED]

(Reference APA WF # 09-55)

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 435.117; Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3

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SUPERSEDED EMERGENCY ACTIONS:

Subchapter 5. Eligibility and Countable Income
Part 3. Non-Medical Eligibility Requirements
317:35-5-25. [AMENDED]

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 comply with provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3. The legislation amended the citizenship and identity documentation requirements added by the Deficit Reduction Act of 2005 to provide that children who were initially eligible for Medicaid as deemed newborns are now considered to have provided satisfactory documentation of citizenship and identity when their eligibility is renewed on their first birthday. In addition, Public Law 111-3 eliminated the requirement for Medicaid that newborns coming home from the hospital must live with and remain a member of the mother's household, and the mother must remain eligible for Medicaid (or would remain eligible if still pregnant). Emergency rulemaking is required in order to comply with the federal mandate.

ANALYSIS:

SoonerCare eligibility rules regarding coverage for deemed newborns are revised to comply with provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3. The Deficit Reduction Act of 2005 added specific citizenship and identity documentation requirements in order for individuals to qualify for Medicaid. Public Law 111-3 provides that children who were initially eligible for Medicaid as deemed newborns shall be considered to have provided satisfactory documentation of citizenship and identity when their eligibility is renewed on their first birthday. The legislation further eliminates the requirement that, in order to receive coverage, newborns coming home from the hospital must live with the mother, remain a member of the mother's household, and that the mother remain eligible for Medicaid (or would remain eligible if still pregnant). Rules are revised to state that a deemed newborn will be regarded as meeting the citizenship and identity requirements for all future SoonerCare eligibility determinations. Further, the certification period for the deemed newborn will be shortened only in the event the child loses Oklahoma residence or expires. Other revisions clarify that deemed newborns are to be certified for SoonerCare through the end of the month that the child reaches age one.

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

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

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~~ SoonerCare. An exception is individuals who are initially eligible for SoonerCare as deemed newborns; according to Section 1903(x) of the Social Security Act, they will not be required to further document citizenship or identity at any subsequent SoonerCare eligibility redetermination. They

are considered to have provided satisfactory documentation of citizenship and identity by virtue of being born in the United States.

(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);
- (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; or
- (E) Tribal membership card or Certificate of Degree of Indian Blood (CDIB) card, with a photograph of the individual.

(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;
- (viii) An Official U.S. Military Record of Service showing a U.S. place of birth (for example a DD-214);
- (ix) Tribal membership card or Certificate of Degree of Indian Blood (CDIB) card, without a

photograph of the individual, for Native Americans;

- (x) Oklahoma Voter Registration Card; or
- (xi) Other acceptable documentation as approved by OHCA.

(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 SoonerCare. 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;

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- (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~~ **Reasonable opportunity to obtain citizenship verification.**

(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 SoonerCare. The reasonable opportunity time frame usually consists of 60 days. In rare instances, the ~~CVU may extend the~~ time frame may be extended to a period not to exceed an additional 60 days.

(2) ~~Additional~~ The following 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 SoonerCare 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 SoonerCare 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;
- (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~~ SoonerCare 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) **Afghan Special Immigrants.** Afghan special immigrants, as defined in Public Law 110-161, who have special immigration status after December 26, 2007, are exempt from the five year period of ineligibility for SoonerCare services for a time-limited period. The time-limited exemption period for Afghan special immigrants is ~~six~~ eight months from the date of entry into the United States as a special immigrant or the date of conversion to special immigrant status. All other eligibility requirements must be met to qualify for SoonerCare services. If these individuals do not meet one of the categorical relationships, they may apply and be determined eligible for Refugee Medical Assistance. Once the eight month exemption period ends, Afghan special immigrants are no longer exempt from the five year bar for SoonerCare services and are only eligible for services described in (2) of this subsection until the five year period ends. Afghan special immigrants are considered lawful permanent residents.
- (4) **Iraqi Special Immigrants.** Iraqi special immigrants, as defined in Public Law 110-181, who have special immigration status after January 28, 2008, are exempt from the five year period of ineligibility for SoonerCare services for a time-limited period. The time-limited exemption period for Iraqi special immigrants is eight months from the date of entry into the United States as a special immigrant or the date of conversion to special immigrant status. All other eligibility requirements must be met to qualify for SoonerCare services. If these individuals do not meet one of the categorical relationships, they may apply and be determined eligible for Refugee Medical Assistance. Once the eight month exemption period ends, Iraqi special immigrants are no longer exempt

from the five year bar for SoonerCare services and are only eligible for services described in (2) of this subsection until the five year period ends. Iraqi special immigrants are considered lawful permanent residents.

(5) **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.

(6) **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~~ SoonerCare, 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.

(7) **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

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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~~ SoonerCare 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 ineligible alien status described in (c)(4)(b) 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) **Permanent non-immigrants.** Marshall Islanders and individuals from the Republic of Palau and the Federated States of Micronesia are classified as permanent non-immigrants by BCIS. They are eligible for emergency services only.

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

PART 7. CERTIFICATION, REDETERMINATION AND NOTIFICATION

317:35-6-60. Certification for SoonerCare Health Benefits for pregnant women and families with children

An individual determined eligible for SoonerCare Health Benefits may be certified for a medical service provided on or after the first day of the month of application. The period of certification may not be for retroactive months. ~~The certification period in family cases is assigned for the shortest period of eligibility determined for any individual in the case. However, the~~ The individual who is categorically needy and categorically related to pregnancy-related services retains eligibility for the period covering prenatal, delivery and postpartum periods without regard to eligibility for other certification periods household members in the case.

(1) **Certification as a TANF (cash assistance) recipient.** A categorically needy individual who is determined eligible for TANF is certified effective the first day of the month of TANF eligibility.

(2) **Certification of non-cash assistance individuals categorically needy and categorically related to AFDC.** The certification period for the individual ~~categorically~~ related to AFDC is 12 months. The certification period can be less than 12 months if the individual:

(A) is certified as eligible in a money payment case during the 12-month period;

(B) is certified for long-term care during the 12-month period;

(C) becomes ineligible for ~~medical—assistance~~ SoonerCare after the initial month; or

(D) becomes ineligible as categorically needy.

(i) If an income change after certification causes the case to exceed the categorically needy maximums, the case is closed.

(ii) Individuals, however, who are determined pregnant and eligible as categorically needy continue to be eligible for pregnancy-related services

through the prenatal, delivery and postpartum period, regardless of income changes. A pregnant individual included in a TANF case which closes continues to be eligible for pregnancy related services through the postpartum period.

(3) **Certification of individuals categorically needy and categorically related to pregnancy-related services.** The certification period for the individual categorically related to pregnancy-related services will cover the prenatal, delivery and postpartum periods. The postpartum period is defined as the two months following the month the pregnancy ends. Eligibility as categorically needy is based on the income received in the first month of the certification period. No consideration is given to changes in income after certification.

(4) **Certification of newborn child deemed eligible.**

(A) ~~A Every~~ newborn child is deemed eligible on the date of birth for ~~Medicaid benefits~~ SoonerCare when the child is born to a woman who is eligible for pregnancy-related services as categorically needy. ~~(For purposes of this subparagraph, a newborn child is defined as any child under the age of one year.)~~ The newborn child is deemed eligible through the last day of the month the newborn child attains the age of one year. The newborn child's eligibility is not dependent on the mother's continued eligibility. The mother's coverage may expire at the end of the postpartum period; however, the newborn child is deemed eligible until age one. The newborn child's eligibility is based on the original eligibility determination of the mother for pregnancy-related services, and consideration is not given to any income or resource changes that occur during the deemed eligibility period.

(B) The newborn child is deemed eligible for ~~Medicaid only~~ SoonerCare as long as he/she continues to live in Oklahoma ~~with the mother~~. No other conditions of eligibility are applicable, including social security number enumeration, ~~and child support referral, and citizenship and identity verification~~. However, it is recommended that social security number enumeration be completed as soon as possible after the newborn child's birth. It is also recommended that a child support referral be completed, if needed, as soon as possible and sent to ~~DHS Child Support Enforcement Division (CSED)~~ the Oklahoma Child Support Services (OCSS) division at OKDHS. The referral enables ~~Child Support Services~~ child support services to be initiated.

~~(C) During the original eligibility determination process for pregnancy related services, the worker informs the mother that the newborn child will be deemed eligible on the date of birth. The mother is also advised of the importance of her reporting the newborn child's birth immediately so deeming can be done timely.~~

~~(D) C) When a categorically needy newborn child is deemed eligible for Medicaid SoonerCare, he/she is added for a certification period of 13 months.~~

~~The certification period expires at~~ remains eligible through the end of the month that the newborn child reaches age one. If the child's eligibility is moved from the case where initial eligibility was established, it is required that the newborn receive the full deeming period. The certification period is shortened only in the event the child:

- ~~(i) leaves the mother's home;~~
- ~~(ii) loses Oklahoma residence;~~
- ~~(iii) has medical needs included in another assistance case; or~~
- ~~(iv) expires.~~

~~(E) D) A newborn child cannot be deemed eligible when the mother's only coverage was presumptive eligibility, and continued eligibility was not established.~~

317:35-6-61. Redetermination of eligibility for persons receiving SoonerCare Health Benefits.

A periodic redetermination of eligibility for SoonerCare ~~Health Benefits~~ is required on all categorically needy cases ~~categorically~~ related to AFDC. The redetermination is made prior to the end of the initial certification period and each 12 months thereafter. A deemed newborn is eligible through the last day of the month the newborn child attains the age of one year, without regard to eligibility of other household members in the case.

[OAR Docket #10-70; filed 1-21-10]

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

[OAR Docket #10-73]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 15. Personal Care Services
317:35-15-13.2. [AMENDED]
Subchapter 17. Advantage Waiver Services
317:35-17-22. [AMENDED]
(Reference APA WF # 09-65B)

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 440.180

DATES:

Adoption:
December 10, 2009

Approved by Governor:
January 14, 2010

Effective:
February 1, 2010

Expiration:
Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:
Subchapter 15. Personal Care Services
317:35-15-13.2 [AMENDED]

Emergency Adoptions

Gubernatorial approval:

November 3, 2009

Register Publication:

27 Ok Reg 308

Docket number:

09-1371

(Reference APA WF # 09-50)

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 require that the provision of Case Management and certain other in-home ADvantage services to SoonerCare members be documented using the Interactive Voice Response Authentication (IVRA) time and attendance system. The new electronic IVRA system will replace the current system of manual time documentation and therefore increase the efficiency of processing claims while reducing the error rate caused by duplication of records, resulting in a substantial savings of SoonerCare dollars over time.

ANALYSIS:

Rules are revised to require the use of the new Interactive Voice Response Authentication (IVRA) system to document time and attendance for certain in-home ADvantage services provided to SoonerCare members. In-home services are necessarily provided in the individual homes of persons with physical and cognitive disabilities. The verification of service delivery is typically a paper time sheet signed by the member receiving services with a high potential for errors. A paper based time and attendance system which requires transcription of time units from paper to computer is both inefficient and affords many opportunities for inadvertent errors.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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 FEBRUARY 1, 2010:

SUBCHAPTER 15. PERSONAL CARE SERVICES

317:35-15-13.2. Individual Personal Care contractor; billing, training, and problem resolution

While OHCA is the contractor authorized under federal law, the Oklahoma Department of Human Services (OKDHS) initiates initial contracts with qualified individuals for provision of Personal Care services as defined in OAC 317:35-15-2. The contract renewal for the PCA is the responsibility of the Oklahoma Health Care Authority (OHCA).

(1) **Payment for Personal Care.** Payment for Personal Care is generally made for care in the client's member's own home. A rented apartment, room or shelter shared with others is considered "own home". A facility that meets the definition of a nursing facility, room and board, licensed residential care facility, licensed assisted living facility, group home, rest home or a specialized home as set forth in O.S. Title 63, Section 1-819 et seq., Section 1-890.1 et seq., and Section 1-1902 et seq., does not constitute a suitable substitute home. Personal Care may not be approved if the client member lives in the PCA's home except with the interdisciplinary team's written approval. The potential individual PCA must meet

the minimum requirements under (2) of this subsection. With ~~DHS~~ OKDHS area nurse approval, or for ADvantage waiver clients members, with service plan authorization and ADvantage Program Manager approval, Personal Care services may be provided in an educational or employment setting to assist the client member in achieving vocational goals identified on the service plan.

(A) **Reimbursement.** Personal Care payment for a client member is made according to the number of units of service identified in the service plan.

(i) The unit amounts paid to individual contractors is according to the established rates. A service plan will be developed for each eligible individual in the home and units of service assigned to meet the needs of each client member. The service plans will combine units in the most efficient manner to meet the needs of all eligible persons in the household.

(ii) From the total amounts billed by the individual PCA in (i) of this subparagraph, the OHCA (acting as agent for the client employer member-employer) withholds the appropriate percentage of FICA tax and sends it to the Internal Revenue Service as the individual contractor's contribution toward Social Security coverage. To assure that the individual contractor's social security account may be properly credited, it is vital that the individual contractor's social security number be entered correctly on each claim. In order for the OHCA to withhold FICA tax, the LTC nurse must obtain a signed OHCA Form HCA-66, Authorization for Withholding of FICA Tax in Personal Care, from the client member as soon as the area nurse, or designee, has approved Personal Care. A copy of the signed HCA-66 must be in the case record. A signed OHCA-0026, Personal Care Program Individual Contract, must be on file with the OHCA before the individual contractor's first claim can be submitted.

(iii) The contractor payment fee covers all Personal Care services included on the service and care plans developed by the LTC nurse or ADvantage case manager. Payment is made for direct services and care of the eligible client(s) member(s) only. The area nurse, or designee, authorizes the number of units of service the client member receives each month.

(iv) A client member may select more than one individual contractor. This may be necessary as indicated by the service and care plans.

(v) The individual contractor may provide ~~Medicaid~~ SoonerCare Personal Care services for several households during one week, as long as the daily number of paid service units do not exceed eight per day. The total number of hours per week cannot exceed 40.

(B) **Release of wage and/or employment information for individual contractors.** Any inquiry

received by the local office requesting wage and/or employment information for an individual Personal Care contractor will be forwarded to the OHCA, Claims Resolution.

(2) **Client Member selection of individual PCA.** Clients Members and/or family members recruit, interview, conduct reference checks, and select the individual to be considered as an individual contractor. An individual contractor applicant must have a background check performed by the Oklahoma State Bureau of Investigation (OSBI). The results of the background check determine whether a person will be permitted to work as an individual Personal Care contractor. According to Section 1025.2 of Title 56 of the Oklahoma Statutes, before the client member employer makes an offer to employ or contract with a Medicaid SoonerCare Personal Care Assistant applicant to provide Personal Care Services to a person who receives state Medicaid SoonerCare Personal Care Services, the DHS OKDHS LTC nurse, acting for the client member, must check the DHS OKDHS Community Services Worker Registry to determine if the name of the applicant seeking employment or contract has been entered. The DHS OKDHS LTC nurse must also check the Certified Nurse Aid Registry. The DHS OKDHS LTC nurse must affirm that the applicant's name is not contained on either registry. The LTC nurse will notify the OHCA if the applicant is on the registry.

(A) **Persons eligible to serve as individual Personal Care Assistants.** Payment is made for Personal Care Services to an individual who:

- (i) is at least 18 years of age,
- (ii) has no pending notation related to abuse, neglect or exploitation as reported by the Oklahoma State Department of Health Nurse Aide Registry,
- (iii) is not included on the DHS OKDHS Community Services Worker Registry in accordance with Section 1025.2 of Title 56, of Oklahoma Statutes,
- (iv) has not been convicted of a crime as outlined in Title 63 of Oklahoma Statutes, Sections 1-1950 as determined by an OSBI background check,
- (v) demonstrates the ability to understand and carry out assigned tasks,
- (vi) is not a legally responsible family member (spouse, legal guardian, or parent of a minor child) of the client member being served,
- (vii) has a verifiable work history and/or personal references, verifiable identification, and
- (viii) meets any additional requirements as outlined in the contract and certification requirements with the Oklahoma Health Care Authority.

(B) **Persons ineligible to serve as Personal Care Assistants.** Payment from Medicaid SoonerCare funds for Personal Care services may not be made to an individual who is a legally responsible family member (spouse, legal guardian, or parent of a minor

child) of the client member to whom he/she is providing personal care services.

~~(i) The DHS Director may give approval for payment from DHS state funds for Personal Care to a legally responsible family member of the client being served when no other PCA is available, available PCAs are unable to provide care to the client, or the needs of the client are so extensive that the legally responsible family member who provides the care is prohibited from working outside the home due to the client's need for care.~~

~~(ii) Payment cannot be made to a DHS OKDHS or OHCA employee. Payment cannot be made to an immediate family member of a DHS an OKDHS employee who works in the same county without OKDHS/Aging Services Division approval. When a family member relationship exists between a DHS an OKDHS LTC nurse and a PCA in the same county, the LTC nurse cannot manage services for a client member whose individual provider is a family member of the LTC nurse.~~

~~(iii) If it is determined that an employee is interfering in the process of providing Personal Care Services for personal or family benefit, he/she will be subject to disciplinary action.~~

(3) **Orientation of the Personal Care Assistant.** When a client member selects an individual PCA, the LTC nurse contacts the individual to report to the county office to complete the ODH form 805, Uniform Employment Application for Nurse Aide Staff, and the DHS OKDHS form ~~DDS-39 06PE039E~~, Employment Application Supplement, and for a determination of qualifications and orientation. This process is the responsibility of the LTC nurse. The PCA can begin work when:

- (A) he/she has been interviewed by the client member,
- (B) he/she has been oriented by the LTC nurse,
- (C) he/she has executed a contract (OHCA-0026) with the OHCA,
- (D) the effective service date has been established,
- (E) the Community Service Worker Registry has been checked and the PCA's name is not on the Registry,
- (F) the Oklahoma State Department of Health Nurse Aide Registry has been checked and no notations found, and
- (G) the OSBI background check has been completed.

(4) **Training of Personal Care Assistants.** It is the responsibility of the LTC nurse to make sure for each client, that the PCA has the training needed to carry out the plan of care prior to service initiation.

(5) **Problem resolution related to the performance of the Personal Care Assistant.** When it comes to the attention of the LTC nurse or ~~social~~ worker that there is a

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problem related to the performance of the PCA, a counseling conference is held between the ~~client~~—member, LTC nurse and ~~social~~ worker. The LTC nurse will counsel the PCA regarding problems with his/her performance. Counseling is considered when the staff believe that counseling will result in improved performance.

(6) **Termination of the PCA Provider Agreement.**

(A) A recommendation for the termination of a PCA's contract is submitted to the OHCA and the services of the PCA are suspended immediately when:

- (i) a PCA's performance is such that his/her continued participation in the program could pose a threat to the health and safety of the ~~client mem-~~ ber or others; or
- (ii) the PCA failed to comply with the expectations outlined in the PCA Provider Agreement and counseling is not appropriate or has not been effective; or
- (iii) a PCA's name appears on the ~~DHS OKDHS~~ Community Services Worker Registry, even though his/her name may not have appeared on the Registry at the time of application or hiring.

(B) The LTC nurse makes the recommendation for the termination of the PCA to the ~~OHCA Legal Division with a copy to the DHS OKDHS~~ State Office Aging Services Division who then notifies the OHCA Legal Division of the recommendation. When the problem is related to allegations of abuse, neglect, or exploitation, OKDHS Adult Protective Services, State Attorney General's Medicaid Unit, the OHCA, and the Oklahoma State Department of Health are notified by the LTC nurse.

(C) When the problem is related to allegations of abuse, neglect or exploitation, the LTC nurse follows the process as outlined in OAC 340:100-3-39.

SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES

317:35-17-22. Billing procedures for ADvantage services

(a) Billing procedures for long-term care medical services are contained in the OKMMIS Billing and Procedure Manual. Questions regarding billing procedures which cannot be resolved through a study of the manual should be referred to the OHCA.

(b) The OKDHS/ASD approved ADvantage service plan is the basis for the MMIS service prior authorization, specifying:

- (1) service;
- (2) service provider;
- (3) units authorized; and
- (4) begin and end dates of service authorization.

(c) As part of ADvantage quality assurance, provider audits are used to evaluate whether paid claims are consistent with service plan authorizations and documentation of service provision. Evidence of paid claims that are not supported by service plan authorization and/or documentation of service

provision will be turned over to ~~SURS~~ the OHCA Provider Audit Unit for follow-up investigation.

(d) Service time of Personal Care, Case Management, Case Management for transitioning, Nursing, Advanced Supportive/ Restorative Assistance, In-Home Respite, CD-PASS Personal Services Assistance and Advanced Personal Services Assistance is ~~reimbursed~~ documented solely through the Interactive Voice Response Authentication (IVRA) system when provided in the home. Providers are required to use the IVRA system after access to the system is made available by OKDHS. The IVRA system provides alternate backup solutions should the automated system be unavailable. In the event of IVRA backup system failure, the provider will document time in accordance with their agency backup plan. The agency's backup procedures are only permitted when the IVRA system is unavailable.

[OAR Docket #10-73; filed 1-21-10]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #10-85]

RULEMAKING ACTION:

Emergency adoption

RULES:

Subchapter 13. Office of Public Integrity

Part 11. Requirements for Secure Certification Juvenile Facilities [NEW]
377:3-13-120 through 377:3-13-149 [NEW]

AUTHORITY:

Board of Juvenile Affairs, pursuant to 10A O.S., § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. §302(A)(1).

DATES:

Adoption:

December 4, 2009

Approved by Governor:

January 8, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

NA

INCORPORATIONS BY REFERENCE:

NA

FINDING OF EMERGENCY:

A new section of law was added to the Oklahoma Juvenile Code making the Office of Juvenile Affairs the certifying entity for all secure facilities. Title 10A § 2-7-611, 2009 Okla. Sess. Laws, c. 167, § 2, effective November 1, 2009. To be certified, a secure facility shall be required to meet standards for certification promulgated by the Board of Juvenile Affairs. Because no certification standards currently exist, as required by this section of law, effective November 1, 2009, it is imperative that such standards be immediately promulgated in the public interest, which constitutes a compelling public interest, as required by 75 O.S. § 253, for emergency rules.

ANALYSIS:

Subchapter 13 Office of Public Integrity, Part 11. Requirements for Certification of Secure Juvenile Facilities is created to comply with SB595 which became effective November 1, 2009 that requires OJA to adopt standards for certification of secure juvenile facilities.

CONTACT PERSON:

Robert Morey, Operations Supervisor, (405) 530-2820

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

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

SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

PART 11. REQUIREMENTS FOR CERTIFICATION OF SECURE JUVENILE FACILITIES

377:3-13-120. Legal basis

The statutory authorization for the Office of Juvenile Affairs to certify Secure Juvenile Facilities is found in 10A O.S., § 2-7-611. As of November 1, 2009, the Office Of Juvenile Affairs shall certify all secure juvenile facilities.

377:3-13-121. Definitions

The following words or terms, when used in this part, shall have the following meaning, unless the context indicates otherwise:

"Assessment" means an examination, more comprehensive than a screening, performed on each newly admitted juvenile soon after arrival to the secure facility. It usually includes a review of the medical screening, behavior observations, an inquiry into mental health history, and an assessment of suicide potential.

"Juvenile" for the purposes of this part means a person adjudicated by a court of competent jurisdiction and eligible for placement in a secure juvenile facility

"Secure juvenile facility" is defined in 10A O.S., § 2-1-103 (31).

"Screening" means the administration of a tool to identify persons in need of more in-depth evaluation or treatment. A screening instrument (using standard forms and following standard procedures) is used to identify immediate risks - suicide, health, mental health and substance abuse - upon arrival of a newly admitted juvenile to a facility. At a minimum, a screening includes an interview, questions, or testing of a juvenile and review of available records, in accordance with a screening instrument and relevant policies.

377:3-13-122. Requirements for secure juvenile facilities

To be certified, a secure juvenile facility shall be required to meet standards for certification promulgated by the Board of Juvenile Affairs. Each secure facility shall be operated by, or under contract with, a governmental entity and shall maintain ongoing accreditation approved by the Office of Juvenile Affairs. In addition, each facility shall comply with the licensing standards of the Oklahoma Health Department and Oklahoma State Fire Marshal's Office, as well as all local, state, and federal codes and guidelines for the operation of a secure juvenile

facility. Each facility shall ensure juveniles are afforded educational programs as mandated by law and the Oklahoma State Board of Education.

377:3-13-123. Provisional certification

Secure facilities certified by the Department of Human Services as residential childcare facilities prior to November 1, 2009, shall receive provisional certification to operate as a secure juvenile facility for 180 days. Prior to the conclusion of the 180 days, the Office of Juvenile Affairs shall conduct a full certification assessment of the facility to ensure that the facility meets the certification standards promulgated by the Board of Juvenile Affairs for secure juvenile facilities.

377:3-13-124. Purpose

The Office of Juvenile Affairs designates its Office of Public Integrity (OPI) as responsible for the certification of secure juvenile facilities. Each secure juvenile facility shall undergo an annual certification assessment prior to the start of each fiscal year (July 1). As part of the certification assessment, the Office of Public Integrity shall perform a review of the facility's fiscal management process. The Office of Public Integrity shall conduct ongoing unannounced visits as necessary and conduct appropriate investigations as directed by the Office of Juvenile Affairs' Executive Director or designee.

377:3-13-125. Fiscal management

Secure juvenile facilities shall adhere to the OJA Financial Services Division's rules, policies, and procedures. Each facility shall have policies and procedures that address:

- (1) fiscal planning;
- (2) budgeting;
- (3) accounting procedures;
- (4) inventory procedures; and
- (5) a system of regular reviews.

377:3-13-126. Policies and procedures

Each secure juvenile facility shall develop and maintain a written policies and procedures manual that is reviewed/approved initially and annually by the facility's superintendent and changes shall be reviewed/approved by the OJA Institutional Services Division Director or designee. The manual shall outline the purpose of the secure juvenile facility and include, at a minimum, the following:

- (1) Physical plant requirements;
- (2) Fire safety procedures;
- (3) General emergency procedures;
- (4) Intake/Screening criteria;
- (5) Admission procedures;
- (6) Juvenile rights and grievance procedures;
- (7) Visitation procedures;
- (8) Clothing provision;
- (9) Personal hygiene provision;
- (10) Juvenile case records;
- (11) Disciplinary procedures;
- (12) Medical and health care programs;

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- (13) Suicide prevention program/guidelines;
- (14) Treatment programs;
- (15) Educational programs;
- (16) Recreational programs;
- (17) Discharge procedure;
- (18) Security and control;
- (19) Transportation procedures;
- (20) Personnel practices/staff training;
- (21) Abuse/Neglect reporting procedures; and
- (22) Food and nutrition requirements.

377:3-13-127. Physical plant requirements

- (a) The secure juvenile facility shall conform to applicable federal, state and/or local building codes and zoning ordinances.
- (b) The secure juvenile facility shall be clean and sanitary and shall comply with all applicable sanitation and health codes.
- (c) Each juvenile shall have at a minimum a bed, storage space for clothing and access to a writing area.

377:3-13-128. Fire safety procedures

- (a) All secure juvenile facilities shall fully comply with:
 - (1) the applicable Life Safety Codes of the National Fire Protection Association;
 - (2) the applicable standards pertaining to fire safety; and
 - (3) any successor fire safety codes or standards.
- (b) Each secure juvenile facility shall establish procedures to ensure:
 - (1) an adequate fire protection service is maintained;
 - (2) a system of fire inspections and testing of equipment is conducted at least quarterly by a qualified person;
 - (3) an annual inspection is conducted by the State Fire Marshal's Office;
 - (4) adequate fire protection equipment is maintained throughout the secure juvenile facility at locations designated by the State Fire Marshal's Office;
 - (5) a qualified fire and safety officer is responsible for periodic inspections;
 - (6) flammable, toxic and caustic materials are controlled, labeled, handled, stored and disposed of properly; and
 - (7) at least two fire drills are conducted per quarter during the year.

377:3-13-129. General emergency procedures

- (a) Temporary unit closure shall be a programmed response to significant unit/facility disorders and may also be utilized in other types of emergencies;
- (b) Emergency evacuation plans are posted in prominent locations on all floors of every building and include the locations of primary and secondary exits;
- (c) A minimum of one seasonal (April-June) tornado drill per fiscal year shall be conducted;

- (d) There shall be an established system for immediate emergency notification of secure facility juveniles and employees, as well as emergency responders;
- (e) Power generators and/or alternate emergency power sources shall be inspected weekly and load tested quarterly.

377:3-13-130. Intake/Screening criteria

- (a) A staff member shall be assigned the responsibility for ensuring a newly arrived juvenile successfully completes the admission process, from arrival at the facility to introduction to staff at the assigned unit.
- (b) The court order of commitment and a placement worksheet for a new juvenile admission shall be reviewed to determine if the documents are complete and the juvenile is properly admitted to the facility.
- (c) All new juvenile admissions shall receive a health/medical screening, mental health screening and a suicide screening by a qualified person within one (1) hour of admission.

377:3-13-131. Admission procedures

- (a) A juvenile body disrobement search by gender appropriate staff and a complete search of the juvenile's property shall be conducted for contraband and facility prohibited items (FPI).
- (b) A nurse shall interview the juvenile, review immunization records, complete routine lab work, obtain medical consent signatures and fill out a nursing assessment form.
- (c) Staff shall make initial phone contact with the juvenile's family/guardian and the juvenile shall be allowed to speak with the contacted family member/guardian.
- (d) Pictures of the juvenile shall be taken and basic personal data verified for the establishment of the juvenile's file.
- (e) The juvenile shall be provided an orientation session that includes the issuance of the facility's juvenile handbook, with written receipt for the handbook retained in the juvenile's file.
- (f) The juvenile shall be issued appropriate clothing and personal hygiene items and allowed to shower, if necessary.
- (g) Upon completion of the admission process, an admission letter shall be sent to the juvenile's parents/guardian to acquaint them with the following secure facility information:
 - (1) The facility address and phone number;
 - (2) Directions to the facility;
 - (3) Visitation days/hours/rules/procedures;
 - (4) Telephone and mail rules/procedures.
- (h) The juvenile shall have a health/medical assessment and a dental assessment, with x-rays and cleaning, conducted within fourteen (14) days of admission, unless there is documentation of a health/medical assessment within the previous ninety (90) days.
- (i) Within thirty (30) days of admission juveniles shall have a speech and hearing evaluation conducted, as well as a psychiatric evaluation for those juveniles taking psychotropic medications. The psychiatrist shall issue orders regarding the administration of psychotropic medications until the juvenile is psychiatrically evaluated.

(j) All juveniles shall receive written health/medical clearance prior to participation in any physical training/recreational activities.

377:3-13-132. Juvenile rights and grievance procedures

- (a) Juvenile rights shall be consistent with Oklahoma Administrative Code (O.A.C.) 377:35-9-1, where applicable.
(b) Juvenile grievance procedures shall conform to the provisions contained in O.A.C. 377:3-1-27 and 377:3-1-28.
(c) Juvenile rights and grievance procedures shall be included in the juvenile handbook issued to new juvenile admissions during orientation.

377:3-13-133. Visitation procedures

- (a) Written policy and procedure shall:
- (1) Specify how many visitors the juvenile can receive;
 - (2) Specify how often visitation is available;
 - (3) Require the maintenance of a log of persons allowed to visit; and
 - (4) Designate the length of the visitation.
- (b) Written policy and procedures shall also address the following:
- (1) Visits may be limited by the facility's schedule, space, and personnel constraints or where there are other substantial reasons to justify limiting visitations.
 - (2) Juveniles have the right to refuse visitation.
 - (3) A juvenile's legal counsel, or counsel's authorized representative, may visit the juvenile at any reasonable time a request is made.
 - (4) All visitors are subject to searches.
 - (5) A written record shall be maintained of visitation restrictions and the subsequent review of those restrictions.

377:3-13-134. Clothing provision

- (a) A standard seasonable uniform that shall be issued to all juveniles. The facility shall provide a list of clothing items issued to the juvenile and document the issuance of the clothing items with a written receipt.
(b) The repair, replacement and cleaning of facility issued clothing items shall be provided.
(c) The facility shall restrict inappropriate clothing items (i.e. pictures, slogans references, logos regarding gangs, drugs or sex).

377:3-13-135. Personal hygiene provision

- (a) Juveniles shall have daily access to proper bathroom/shower facilities and personal hygiene supplies.
(b) The staff shall issue and supervise the use of facility-approved hygiene products.
(c) The hygiene products shall be securely stored and maintained separately from all other types of chemical supplies.

377:3-13-136. Juvenile case records

- (a) The facility staff shall establish and maintain a confidential record on each juvenile admitted to the facility and ensure it is safeguarded from unauthorized and improper disclosure. The record includes, at a minimum, the following demographic information, if applicable:
- (1) Name, nicknames, gender, race/nationality, date and place of birth, a copy of the birth certificate to establish legal citizenship;
 - (2) A copy of the driver's license, social security number, Medicaid number;
 - (3) Identifying marks, scars, tattoos;
 - (4) Education status and last school attended;
 - (5) Religious preference;
 - (6) Last known address and name of the person the juvenile resided with prior to admission;
 - (7) Name and relationship of the parent(s), guardian, legal custodian of the juvenile;
 - (8) Name, address and phone number of the emergency contact person;
 - (9) Name of the juvenile's attorney; and
 - (10) Signature of staff recording the juvenile's demographic information.
- (b) In addition, each juvenile's record shall include, at a minimum, the following confidential information:
- (1) Documented legal authority to accept the juvenile;
 - (2) County of commitment and legal transportation order;
 - (3) Date and time of admission;
 - (4) Inventory of personal property with the juvenile's signature on a receipt;
 - (5) Signed release of information forms for requested/distributed records;
 - (6) Signed statement(s) by the juvenile acknowledging participation in an orientation that includes the presentation of juvenile rights, program rules, grievance procedures, disciplinary processes and the issuance of the juvenile handbook;
 - (7) Reports of accidents and/or injuries involving the juvenile occurring while at the facility;
 - (8) Names of the juvenile's probation and/or parole officer and assigned caseworker;
 - (9) Grievances and disciplinary records;
 - (10) Final discharge or transfer report; and
 - (11) Signature of staff recording the juvenile's confidential information.

377:3-13-137. Disciplinary procedures

Secure facility staff members shall protect the safety and constitutional rights of juveniles and seek a balance between expression of individual rights and preservation of facility order. The facility's disciplinary process shall include:

- (1) A list of prohibited acts and sanctions constituting minor rule violations and the following procedural safeguards:
 - (A) The procedure for addressing minor rule violations that is initiated by a staff report of an incident that includes the proper offense citation;

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- (B) A maximum time frame of five (5) days, excluding weekends and holidays, from the discovery of the offense to final disposition; and
- (C) The list of minor rule violations that is included in the juvenile handbook issued to all juveniles during orientation.
- (2) A list of prohibited acts and sanctions constituting major rule violations and the following procedural safeguards:
- (A) The procedure for addressing major rule violations that is initiated by a staff report of an incident that includes the proper offense citation;
- (B) Juveniles charged with major rule violations are scheduled for a hearing as soon as practicable, but no later than seven (7) days, excluding weekends and holidays, after being charged with a violation. Juveniles are notified of the time and place of the hearing at least 24 hours in advance of the hearing.
- (C) The list of major rule violations that is included in the juvenile handbook issued to all juveniles during orientation.
- (D) A juvenile charged with a major violation of facility rules shall be given a written copy of the report containing the alleged rule violation(s) within 24 hours of the incident or within 24 hours of the facility staff's discovery of a violation. A hearing may be held within 24 hours of the violation notification providing the juvenile can prepare for the hearing with assistance, if needed, and furnishes written consent.
- (E) A hearing is conducted with an opportunity to present evidence;
- (F) The hearing officer shall issue a written decision within three (3) days excluding weekends and holidays; and
- (G) An opportunity to appeal shall be provided.

377:3-13-138. Medical and health care programs

- (a) Each facility shall have written health care policies approved by a designated physician, which includes the following:
- (1) The arrival of a new juvenile admission shall require a medical screening by a qualified health care professional or health-trained personnel;
- (2) All medical screening findings shall be recorded on a form approved by the physician;
- (3) All medication and first aid supplies shall be accounted for during the receiving, storing, dispensing, administering and distributing process;
- (4) Medical and dental instruments and supplies (i.e. syringes, needles, scalpel blades, and other sharps) shall be under maximum secure storage, controlled, and perpetually inventoried under the supervision of on-duty secure facility staff.
- (b) Current credentials/licensures and job descriptions for health care providers shall be maintained at the facility.
- (c) The facility shall prohibit the use of juveniles for medical, pharmaceutical or cosmetic experiments.

- (d) The facility shall have a designated physician as a health care authority.
- (e) The health care authority shall be authorized to make and shall be responsible for making decisions about the deployment of health resources and the day-to-day operations of the health care services program.
- (f) Upon arrival at the secure facility, all juveniles shall receive health care services information as contained in the juvenile handbook issued during orientation.
- (g) No member of the secure facility staff shall impede a juvenile's requests for access to health care services.
- (h) A medical/health care assessment shall be conducted within fourteen (14) days of admission unless there is documentation of a medical/health assessment within the previous ninety (90) days.
- (i) Upon discharge/release the facility's designated physician shall sign a medical summary that is included in the juvenile's medical file.
- (j) The juvenile's medical and health care shall be provided in accordance with O.A.C. 377: 35-7-1, where not inconsistent with this rule.
- (k) Medication is administered by a qualified nurse or by a staff member who has received approved medication administration training.
- (l) The use of medication for punishment, control or program management shall be prohibited.
- (m) Any medication administered to juveniles shall conform to the Medication Administration Recording System (MARS) standard for record keeping.
- (n) When prescription medications are used, the juvenile, parent/guardian/ custodian, and appropriate staff members shall be made aware of the side effects of the medication and proof of said notification shall be maintained in writing.
- (o) Psychotropic medication(s) administered to juveniles shall comply with applicable laws and regulations of the jurisdiction.
- (p) Each facility shall have a written program addressing the management of communicable and infectious diseases in juveniles, to include tuberculosis, hepatitis, HIV, and Methicillin-resistant Staphylococcus aureus (MRSA).
- (q) All medical/health care records are confidential and shall be maintained in a separate secure file.

377:3-13-139. Suicide prevention program/guidelines

There shall be a written suicide-prevention program approved by the designated health and mental health authority and reviewed by the facility superintendent. The program shall include specific procedure and documentation for performing intake, screening, identifying, and supervising juveniles exhibiting suicidal behavior. The program shall include management review of suicidal incidents, suicide precautions, death of a juvenile or staff member, and staff and juvenile critical-incident debriefing. All direct care staff shall be trained annually in suicide prevention.

377:3-13-140. Treatment programs

(a) Each secure facility shall provide professional services necessary to meet the identified needs of juveniles. At a minimum services shall include:

- (1) individual, group and family counseling;
- (2) family planning and parent education; and
- (3) programs for juveniles with drug and alcohol problems.

(b) An initial treatment plan for each juvenile shall be completed within seven (7) days of admission to the secure facility.

(c) A final treatment plan shall be completed for each juvenile within thirty (30) days of admission to the secure facility.

(d) The facility shall document resident and parent/custodian participation in the development of the treatment plan.

(e) Treatment plan reviews shall be completed and documented on a monthly basis.

377:3-13-141. Educational programs

A secure juvenile facility shall maintain an educational program in accordance with state laws and the policies and procedures of the Oklahoma Department of Education. The secure facility shall verify there is a current teaching certificate on file for each educational instructor and that each instructor is teaching the course for which they are qualified.

377:3-13-142. Recreational programs

A secure facility shall provide a daily written schedule of recreational and physical exercise activities that includes at least one hour of large muscle activity and may include one hour of structured leisure activity.

377:3-13-143. Discharge procedures

(a) All juveniles released from a secure facility shall have a completed discharge summary placed in the case record and the case record shall be maintained in a confidential manner.

(b) The juvenile's case record shall be disposed of in accordance with state and federal law.

377:3-13-144. Security and control

(a) Juvenile count.

(1) At least one daily uninterrupted juvenile population count shall be conducted on each shift;

(2) The results of the population count shall be transmitted to central control where it is documented and available at all times;

(3) No movement of juveniles shall be permitted during the population count.

(b) Mail security.

(1) Juveniles may send and receive mail in accordance with state law and rules promulgated by the Board of Juvenile Affairs; and

(2) All juveniles' mail shall be processed in accordance with O.A.C. 377:35-11-5.

(c) Control of contraband and Facility Prohibited Item (FPI).

(1) Contraband is defined as any item introduced or found in the secure facility, the mere presence or possession of which shall constitute a violation of criminal law. Contraband discovery procedures require:

(A) Confiscation by staff with the completion of a report prior to the end of the shift;

(B) A log entry by staff containing the contraband description and names of involved person(s);

(C) Placement of the contraband into secure storage;

(D) A notification to the facility administration for the initiation of a criminal investigation;

(E) The establishment of a timeline and procedures for storing and disposing of contraband;

(2) A Facility Prohibited Item (FPI) is defined as an item in an individual's possession or control, which is a violation of facility, or unit rules, but does not constitute a violation of criminal law. FPI discovery procedures require:

(A) The confiscation of the FPI by staff with the completion of a report prior to the end of the shift;

(B) A log entry by staff containing the FPI description and the names of involved person(s);

(C) Non-perishable FPI confiscated from a juvenile shall be entered on the juvenile's personal property inventory and, if appropriate, returned upon the juvenile's release;

(D) All other non-perishable FPI confiscated from staff visitors or others shall be inventoried and properly disposed of when no longer administratively necessary;

(E) All perishable FPI shall be photographed, if necessary, and immediately disposed of in an appropriate manner; and

(F) The opportunity for juveniles to challenge the confiscation of FPI through the established grievance procedure.

(d) Searches.

(1) General area search is defined as a random search of all areas of the secure facility for the security and safety of the juveniles and staff.

(A) The superintendent shall authorize the procedures through the distribution of a post order.

(B) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.

(C) The use of a canine may be authorized, if appropriate and available.

(D) Dates and times for the searches shall be at the discretion of the secure facility's superintendent.

(E) The objective of the searches shall be to discover and confiscate contraband and/or FPI.

(F) The completion of staff reports shall be required before the end of shift.

(2) Specific area search is defined as a search limited to a certain time and area involving juveniles' personal property in one or more juvenile living quarters.

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- (A) The search shall be based on reasonable suspicion that a juvenile(s) is in possession of contraband and/or FPI or without reasonable suspicion upon the routine transfer of a juvenile from one living area to another.
- (B) A facility administrator shall authorize a search based upon reasonable suspicion while a shift supervisor or above shall authorize a search based on a routine transfer.
- (C) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.
- (D) The use of a canine may be authorized, if appropriate and available.
- (E) The date and time for the search shall be specific to the event establishing reasonable suspicion or to the date, time and location of the routine juvenile transfer.
- (F) The search objective shall be to discover and confiscate contraband and/or FPI and/or recover missing property and/or injurious item(s).
- (G) The completion of staff reports shall be required prior to the end of shift.
- (3) **Juvenile body search** is defined as observing and touching the body to discover contraband and/or FPI and is described from the least intrusive to the most intrusive types of search:
- (A) **Pat search** is considered to be a routine search and the least intrusive type of search.
- (i) It shall be routinely conducted based on suspicion of contraband and/or FPI on the juvenile's person.
- (ii) It shall be routinely conducted:
- (I) Upon the completion of work assignments (i.e. kitchen, maintenance, etc.); or
- (II) At the conclusion of visitation;
- (II) After returning from recreation or from school; or
- (IV) Following a restraint.
- (iii) The search shall be conducted by a minimum of two staff members trained in searches, one of whom shall be the same gender as the juvenile, except in an emergency situation.
- (iv) Procedures for conducting the search include:
- (I) The use of hands to pat the outside clothing covering the body;
- (II) The back of the hands shall be used to pat the genitals, buttocks (males and females) and breasts (female); and
- (III) The search may include the removal of coat, hat, gloves, shoes and socks.
- (v) A written report shall be required by the end of the shift only when an illegal and/or prohibited item(s) is found.
- (B) **Disrobement search** is considered intrusive and involves the complete removal of all clothing items from the body.
- (i) This search requires reasonable suspicion that a juvenile(s) is in possession of contraband and/or injurious item(s) and shall be conducted pursuant to verbal or written authorization from the superintendent or designee.
- (ii) The search shall be routinely conducted:
- (I) During admission to the secure facility; or
- (II) During discharge from the secure facility; or
- (III) Upon return from a pass; or
- (IV) Upon return from any appointment, court appearance, event or activity outside the perimeter fence of the secure facility.
- (iii) The search shall be accomplished under the direction of a security shift supervisor by a minimum of two staff members trained in searches, both of whom are the same gender as the juvenile.
- (iv) The search shall be conducted in a professional manner in an area that prevents observation by other staff and/or other juveniles and not covered by surveillance cameras.
- (v) A written report is required by the end of the shift whether or not an illegal and/or prohibited item(s) is found.
- (C) **Cavity search** is defined as non-routine and intrusive and involves medical personnel in searching the internal areas of body orifices.
- (i) The search requires prior written authorization by the facility's superintendent or designee based on written facts that would lead a reasonable person to believe a juvenile is carrying contraband and/or injurious item(s) in a body cavity.
- (ii) The search shall only be conducted by a secure facility physician or by medical personnel at a local hospital.
- (iii) A written report shall be required by the end of the shift documenting the search, including the names of the medical personnel involved, whether or not an illegal and/or prohibited item(s) is found.
- (4) Each facility shall maintain a stationary and mobile magnetometer in good working order. All juveniles, staff, and visitors shall be required to pass through the facility's magnetometer (metal detector), and hand-wand if necessary, prior to entry into the facility.
- (e) **Staff ratios.**
- (1) The ratio of staff to juveniles on a unit shall not be less than 1 to 10 during waking hours and 1 to 12 during sleeping hours. For units composed entirely of secure individual sleeping rooms the ratio shall not be less than 1 to 10 during waking hours and 1 to 14 during sleeping hours.
- (2) At least one staff member of the same gender as the juveniles shall be on duty within the facility on each shift.
- (3) Juveniles shall be supervised at all times. Each secure facility shall maintain a plan that details the frequency of visual checks of juveniles made by the staff.
- (f) **Surveillance plan.**

- (1) The secure facility shall have a plan for surveillance of all areas of the facility's perimeter. Outside lighting must be sufficient to provide visibility under all conditions with no blind spots.
- (2) The facility shall maintain a camera system that is in working condition and monitored by staff in real time with recording capabilities to maintain a minimum of ninety (90) days of video.
- (g) **Door security.**
 - (1) All perimeter security doors to the living units shall be locked and doors to vacant or unoccupied living units and storage rooms shall remain locked when not in use.
 - (2) The facility shall maintain a backup release system that allows for the immediate release of juveniles from locked areas in the event of an emergency.
- (h) **Key control.**
 - (1) The facility's key control system shall include:
 - (A) The maintenance of a log of all keys with lock locations and names of employees possessing keys;
 - (B) Key storage that permits easy determination of the presence or absence of keys;
 - (C) The maintenance of at least one duplicate key for each lock in the facility;
 - (D) A central area from which keys are issued; and
 - (E) The labeling of all keys to include color-coding and touch identification of emergency keys.
 - (F) No keys shall be taken off the premises except as authorized by the superintendent.
- (i) **Physical force.**
 - (1) Physical force is never used as punishment or retaliation.
 - (2) Use of force is limited to:
 - (A) Self-protection;
 - (B) Separate juveniles who are fighting;
 - (C) Restrain juveniles in danger of inflicting harm to themselves or other; and
 - (D) Restrain juveniles who have escaped or are in the process of escaping.
 - (3) Use of physical force requires a medical evaluation and photo(s) of the juvenile(s) immediately following the incident.
 - (4) A written report is required prior to the end of shift following all uses of physical force.
- (j) **Mechanical restraints.**
 - (1) Mechanical restraints are applied according to facility procedures and are limited to incidents involving:
 - (A) Self-protection;
 - (B) Separate juveniles who are fighting;
 - (C) Restraint of juveniles in danger of inflicting harm to themselves or other;
 - (D) Escort/transfer of juveniles to crisis management or solitary confinement; and
 - (E) The restraint of juveniles who have escaped or are in the process of escaping.
 - (2) Mechanical restraints shall only be used by trained staff members.
 - (3) Juveniles shall not be restrained to immovable objects nor shall the juvenile's hands be restrained to the feet.
 - (4) Juveniles shall not be left unattended while in mechanical restraints.
 - (5) A written report is required following every use of mechanical restraints.
 - (6) Mechanical restraints shall never be used as punishment or retaliation.
- (k) **Firearms and tools.**
 - (1) Firearms shall not be permitted in the secure facility except for law enforcement officers during emergency situations.
 - (2) All tools and kitchen utensils shall be classified, controlled and stored based on their level of risk for death or serious injury.
- (l) **Confinement and seclusion.**
 - (1) The use of confinement and seclusion as a method of intervention with juveniles shall be limited to the following:
 - (A) For self-protection;
 - (B) For separating juveniles who are fighting;
 - (C) For juveniles in danger of inflicting harm to themselves or others;
 - (D) For juveniles who have escaped or who are in the process of escaping;
 - (E) For juvenile's whose behavior incites other juveniles to jeopardize the safety of staff and/or juveniles; and
 - (F) For juveniles who request to be placed in protective care.
 - (2) A facility shall establish procedures for confinement and seclusion that include:
 - (A) A log of events to include date, time, location and rationale;
 - (B) Staff visual observation of juvenile behavior as documented every fifteen (15) minute period the juvenile is in confinement or seclusion;
 - (C) Reauthorization by the facility superintendent after every twenty-four (24) hour period of time the juvenile has been in confinement or seclusion.
 - (3) Juveniles are afforded living conditions and privileges based on their behavior.
 - (4) The juvenile placed in confinement or seclusion shall be released as soon as the juvenile demonstrates he/she is under control of his/her behavior and no longer a threat to self or others.
 - (5) The establishment of a cool down period, time out period and temporary seclusion as appropriate types of interventions for inappropriate juvenile behaviors.
- (m) **Escape.** The facility shall develop procedures for apprehension of juveniles who escape from the facility to include notification of law enforcement agencies and OJA criminal investigators.

377:3-13-145. Transportation procedures

- (a) The Superintendent or designee shall assign responsibility for transportation of juveniles to a specific staff member. At least one employee of the same sex shall accompany any transported juvenile.

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(b) Facility policy shall outline written requirements specific to vehicle use and maintenance, staff responsibilities and oversight, establishment of a transportation log and vehicle insurance.

377:3-13-146. Staff training

(a) All new direct care workers and professional specialist staff shall receive 120 hours of orientation training during their first year of employment and 40 hours of training each subsequent year of employment. At a minimum, the training shall cover:

- (1) security procedures;
- (2) supervision of juveniles;
- (3) suicide intervention/prevention;
- (4) use-of-force;
- (5) juvenile rules and regulations;
- (6) safety procedures;
- (7) key control;
- (8) interpersonal relations;
- (9) communication skills;
- (10) cultural awareness;
- (11) sexual abuse/assault; and
- (12) ethics training.

(b) Medical Training Requirements

(1) The facilities shall establish an orientation and training program that includes:

- (A) The recognition of signs and symptoms of illness or injury and knowledge of action required in potential emergency situations;
- (B) The administration of first aid and cardiopulmonary resuscitation (CPR);
- (C) The establishment of methods of obtaining assistance;
- (D) The signs and symptoms of mental illness, retardation and drug and alcohol abuse; and
- (E) The procedures for transfer to appropriate medical facilities or health care providers.

(c) New direct care staff and professional care staff who work with juvenile shall receive orientation training before assignment as the only staff responsible for juveniles.

377:3-13-147. Personnel practices

(a) The facility shall comply with state law requirements for each applicant for employment. The facility shall not employ or retain any person for whom there is documented evidence that the employee would endanger the health, safety, and/or well-being of juveniles.

(b) The criminal background check shall be maintained separately from the employee's personnel file.

(c) All personnel shall be selected, retained, and promoted on the basis of merit and specified qualifications should be examined by individuals from outside the facility to ensure the system is open and fair.

(d) Equal employment opportunities shall exist for all positions.

(e) All professional specialists shall be qualified in their fields as determined by their job description.

(f) Employees who have direct contact with juveniles shall receive a physical examination prior to a job assignment. Employees receive reexaminations according to a defined need or schedule.

(g) All employees shall be provided annual performance reviews.

(h) The facility personnel manual shall be accessible to employees through hard copy or electronic means.

(i) The facility shall establish a grievance process available to all employees.

(j) The facility shall maintain a current, accurate and confidential personnel record on each employee.

(k) A separate confidential medical file shall be established for each employee.

(l) A training file shall be established for each employee.

377:3-13-148. Abuse/Neglect reporting procedures

Facility policy shall outline reporting requirements for staff in accordance with Title 10A O.S., § 1-2-101, 10A O.S., § 1-9-112 and O.A.C. 377:3-1-25.

377:3-13-149. Food and nutrition requirements

(a) All facilities shall comply with regulations promulgated by Oklahoma State Department of Health Rules and Regulations pertaining to food service establishments.

(b) A qualified nutritionist or dietician shall review and approve the facility's dietary menus at least annually to ensure nationally recommended, age-appropriate, daily allowances for basic nutrition are met. Food service supervisory staff shall verify adherence to the established basic daily servings and shall conduct menu evaluations at least quarterly.

(c) Therapeutic diets shall be prepared and served by written orders of a physician pursuant to federal and state law.

[OAR Docket #10-85; filed 1-22-10]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 70. TOBACCO, TOBACCO PRODUCTS, AND CIGARETTES

[OAR Docket #10-66]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 7. Cigarette and Tobacco Products Sales by Federally Recognized Indian Tribes and Nations
710:70-7-10 [NEW]

AUTHORITY:

68 O.S. §§ 203, 322 and 349.1; Oklahoma Tax Commission

DATES:

Adoption:

December 10, 2009 (Commission Order No. 2009-12-10-02)

Approved by Governor:

January 11, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproval by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Compelling public interest exists in the need for emergency promulgation of this rule to implement the provisions of Senate Bill 608 (52nd Legislature, 1st Regular Session, 2009) which is effective January 1, 2010.

ANALYSIS:

This rulemaking action is undertaken to provide the procedure necessary for the calculation of probable demand for Native American tax-free stamps.

CONTACT PERSON:

Lisa Haws, OBA #12695, Tax Policy Analyst; (405) 521-3133

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

SUBCHAPTER 7. CIGARETTE AND TOBACCO PRODUCTS SALES BY FEDERALLY RECOGNIZED INDIAN TRIBES AND NATIONS

710:70-7-10. Procedures relating to noncompacting federally recognized Indian tribes or nations

(a) Purpose of rule: The purpose of this rule is to provide the procedure necessary for the implementation of calculation of probable demand for Native American tax free stamps for each noncompacting tribe or nation resident in Oklahoma for cigarettes and other tobacco products, pursuant to 68 O.S. § 349.1., effective January 1, 2010.

(b) Calculation of probable demand: Probable demand shall be calculated in conformity with the requirements of 68 O.S. § 349.1.

(c) Service of preliminary calculation of probable demand upon affected noncompacting tribes and nations: Not less than seventy-five (75) calendar days prior to the first calendar day of each calendar year, the preliminary calculation of probable demand for cigarette and other tobacco products shall be served upon the governing authorities or other designated agent of each and every noncompacting tribe and nation, together with a copy of this Section. Service shall be deemed complete upon the date of placing said preliminary calculation in the first class mail, postage prepaid, addressed to the governing authorities or other designated agent of each and every noncompacting tribe or nation.

(d) Service of objections/dispute of preliminary calculation of probable demand by affected noncompacting tribes and nations: Within thirty (30) calendar days from the date of service of the preliminary calculation of probable demand, affected noncompacting tribes and nations may serve upon the Office of the General Counsel, Oklahoma Tax Commission, 120 North Robinson, Suite 2000 W, Oklahoma City, OK 73102-7801, any objections/dispute of the preliminary calculation of probable demand, together with

any verifiable information in its possession regarding such probable demand, including, but not limited to, a verifiable record of previous sales to tribal members or other statistical evidence. Service shall be deemed complete upon placing of objections/dispute of the preliminary calculation of probable demand, together with supporting verifiable evidence in the first class mail, postage prepaid, addressed to the Office of the General Counsel, Oklahoma Tax Commission at the above address.

(e) Failure to file objection/dispute of preliminary calculation of probable demand. If, within thirty (30) calendar days from the date of service of the preliminary calculation of probable demand upon an affected tribe or nation, that tribe or nation has failed to file its objection/dispute to the preliminary calculation served upon it, that preliminary calculation shall become the final calculation, final and nonappealable.

(f) Final calculation of probable demand. If an affected tribe or nation timely files its objection/dispute to the preliminary calculation of probable demand for that affected tribe or nation and furnishes supporting verifiable information pursuant to (d) of this Section, said objection/dispute, together with supporting verifiable evidence shall be considered, and a final calculation of probable demand issued and served within fifteen (15) calendar days from the date of service of said objection/dispute. Service shall be deemed complete upon the date of placing said final calculation in the first class mail, postage prepaid, addressed to the governing authorities or other designated agent of each and every noncompacting tribe or nation.

(g) Timely filing of objections/dispute of final calculation of probable demand. If, within fifteen (15) calendar days from the date of service of the final calculation of probable demand upon an affected tribe or nation, that tribe or nation has timely filed its objection/dispute to the final calculation served upon it, the matter of the final calculation of probable demand shall proceed as a protested matter, pursuant to the provisions of the OAC 710:1-5-21 through OAC 710:1-5-48.

(h) Final calculation of probable demand to be used while any timely protest and appeal of the final calculation of probable demand is pending. If an affected tribe or nation files a timely objection/dispute to the final calculation served on it, cigarettes and other tobacco products may be obtained, on a monthly basis, with entitlement based upon 1/12th of the final calculated probable demand for cigarettes and other tobacco products. Provided, however, at the option of the affected tribe or nation, it may obtain cigarettes and other tobacco products each month, based upon 1/12th of the final calculated probable demand, plus not more than an additional twenty five percent (25%) of 1/12th of the final calculated probable demand for cigarettes and other tobacco products. In the event an affected tribe or nation elects to obtain such an additional amount of untaxed cigarettes and other tobacco products, entitlement to request those additional amounts shall cease when the total of cigarettes and other tobacco products obtained in a calendar year equals the final calculation of probable demand for that calendar year.

(i) Final determinations of the final calculated probable demand appealable pursuant to 68 O.S. § 225. Final orders of the Oklahoma Tax Commission pursuant to 68 O.S. § 349.1

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and this Section shall be appealable to the Oklahoma Supreme Court, as a matter of right, pursuant to 68 O.S. § 225.A.

[OAR Docket #10-66; filed 1-21-10]

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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

1:2010-5.

EXECUTIVE ORDER 2010-5

I, Brad Henry, Governor of the State of Oklahoma, by the authority vested in me pursuant to Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby direct and order as follows:

I. Creation of the Oklahoma Race to the Top Commission

In order to meet and exceed the requirements of Race to the Top, ensure an efficient, productive and transparent use of taxpayer dollars, and maximize the benefits to the State of Oklahoma, I hereby create and appoint the Oklahoma Race to the Top Commission (the "Commission") to manage, coordinate, monitor and report on the State of Oklahoma's efforts to implement Race to the Top.

II. Duties of the Oklahoma Race to the Top Commission

The duties of the Commission shall include, but shall not be limited to, the following responsibilities with respect to the implementation of Race to the Top:

- a. Work closely with members of the executive cabinet, the State Board of Education, executives of state agencies, and legislative leaders to determine the requirements imposed on and opportunities afforded to the State of Oklahoma, as well as the most efficient and productive use of Race to the Top funding;
- b. Rigorously monitor the flow of funds through state government to the end destination to ensure compliance with all requirements of the law and transparency in the process;
- c. Work closely with members of the executive cabinet, executives of state agencies, and legislative leaders to identify grant and other financing opportunities and requirements;
- d. Ensure that adequate reporting and compliance mechanisms and safeguards are in place;
- e. Ensure full, thorough and easily-accessible public disclosure of the use of all funds received under Race to the Top; and

In addition, the Commission shall monitor progress to results in areas described in the state plan, including:

- a. Raising student achievement overall and by subgroup and closing gaps in achievement;
- b. Adopting common high-quality standards;
- c. Supporting the transition to enhanced standards and high-quality assessments;
- d. Accessing and using state education data;
- e. Using data to improve instruction;
- f. Providing high-quality pathways for aspiring teachers and principals;
- g. Development of effectiveness measures for teachers and principals
- h. Improving teacher and principal effectiveness based on performance;
- i. Ensuring equitable distribution of effective teachers and principals;
- j. Improving the effectiveness of teacher and principal preparation programs;
- k. Providing effective support to teachers and principals;
- l. Turning around the lowest-achieving schools; and
- m. Ensuring successful conditions for high-performing charter schools and other innovative schools.

III. Members of the Oklahoma Race to the Top Commission

The Commission shall consist of no more than 13 members who shall be appointed by and serve at the pleasure of the Governor. Each member shall serve a four-year term beginning March 15, 2010. At least one member shall be selected from each of the following:

- a. The Oklahoma State Superintendent of Public Instruction;
- b. the Oklahoma State Auditor and Inspector
- c. a representative from the Office of the Governor or the executive cabinet;
- d. a representative from an education union;
- e. a school administrator or a representative from a state school administrator association;
- f. a member of a school board or a representative from a state school board association;
- g. a representative from Career and Technology education;
- h. a representative from Higher Education;

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- i. a representative from a philanthropic organization involved in education;
- j. a representative from Science Technology Engineering and Math (STEM);
- k. a member of the state legislature;
- l. a parent member of a Parent Teacher Association; and
- m. a member from the business community.

The Commission shall meet at such times and places as it deems appropriate. Members shall serve without compensation. Commission members employed by a state agency shall be reimbursed travel expenses related to their service on the Commission as authorized by state law by their respective state agency. Legislative members of the Commission shall be reimbursed as authorized by state law by their respective houses for necessary travel expenses incurred in the performance of their duties. Remaining Commission members shall be reimbursed travel expenses related to their service on the Council by the Oklahoma State Department of Education.

Administrative support for the Commission, including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Council, shall be provided by the Oklahoma State Department of Education. The State Superintendent of Public Instruction shall serve as chair, and the Commission shall select a vice-chair from its membership.

The Commission shall issue a report annually by December 31. The Council shall provide a copy of its report to the Governor, the President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives.

This Executive Order shall be forwarded to the Oklahoma State Superintendent of Public Instruction who shall cause the provisions of this order to be implemented.

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 15th day of January, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #10-64; filed 1-20-10]

1:2010-6.

EXECUTIVE ORDER 2010-06

I, Brad Henry, Governor of the State of Oklahoma, by the authority vested in me pursuant to Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby direct and order as follows:

Text messaging causes drivers to take their eyes off the road and at least one hand off the steering wheel, endangering both the driver and others. A state-wide prohibition on the use of text-messaging while driving on official state business or while using government-supplied equipment will help save lives, reduce injuries, and set an example for State and local governments, private employers and individual drivers.

State employees shall not engage in text messaging or texting (1) when driving government vehicles or when driving private vehicles on government business or (2) when using electronic equipment supplied by the State while driving.

"Texting" or "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

"Driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

The Administrator of the Office of Personnel Management in coordination with the Director of the Department of Central Services shall provide guidance to executive branch agency heads in developing and implementing procedures necessary to carry out the provisions of this Executive Order. These procedures should encourage voluntary compliance with the State's text messaging policy while off duty.

Agency heads may exempt from the requirements of this Executive Order, in whole or in part, certain employees, devices, or vehicles in their respective agencies that are engaged in or used for protective, law enforcement responsibilities or on the basis of other emergency conditions.

This Executive Order shall be distributed to all members of the Governor's Executive Cabinet and the chief executives of all appropriate and affected state agencies, who shall cause the provisions of this order to be implemented by all appropriate officials and agencies of state government. This executive order shall become effective February 1, 2010.

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 21st day of January, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #10-94; filed 1-25-10]

1:2010-7.

EXECUTIVE ORDER 2010-7

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution and 63 O.S. §§683.1 et seq., hereby declare the following:

1. All of the 77 counties in Oklahoma are currently under a severe winter weather warning for freezing rain, ice, snow, and possible flooding due to ice clogged waterways effective today, January 27, 2010, and continuing. The entire State is being 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 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.

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 27th day of January, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #10-148; filed 2-1-10]

1:2010-8.

EXECUTIVE ORDER 2010-8

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Sections 2 of Article VI of the Oklahoma Constitution, 63 O.S. §§683.1 et seq., and pursuant to Title 49 CFR Part 390.23 hereby declare that because there is a state of emergency continuing 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 oversized vehicles under Title 47;
2. The requirements for special permits for use of overweight vehicles operating off the interstate highway system under Title 47;
3. The requirements for licensing/operating authority as required by the Oklahoma Corporation Commission;
4. The requirements for licensing/registration as required by the Oklahoma Tax Commission and the Oklahoma Corporation Commission;
5. Exemption from Parts 390 through 399 of Title 49 of the Federal Motor Carrier Safety Regulations.

This Executive Order provides relief for 30 days from Sections 390 through 399 of the Federal Motor Carrier Safety regulations for those interstate and intrastate carriers who are providing direct assistance for the immediate restoration of essential services (such as electrical, sewer, water, and telecommunications) or essential supplies (such as food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine

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commercial deliveries after the initial threat to life and property has passed. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate or intrastate commerce to transport cargo not destined for the emergency relief effort, or when a motor carrier dispatches such driver or vehicle to a location outside the relief area.

Nothing contained in this Executive Order shall be construed as an exemption from the Controlled Substance and Alcohol Use and Testing requirements (49 CFR Part 382), the Commercial Driver License requirements (49 CFR Part 383), the Financial Responsibility requirements (49 CFR Part 387), or any other portion of the regulations not specifically identified herein. Motor carriers that have an Out-Of-Service Order in effect cannot take advantage of the relief from regulation that this declaration provides.

Consistent with Title 49 CFR Part 390.23 this Executive Order will remain in effect for 30 days, beginning January 27, 2010 and ending February 25, 2010.

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.

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 27th day of January, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #10-149; filed 2-1-10]
