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Mary Fallin, Governor
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Secretary of State
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Notices of Rulemaking Intent

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

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

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

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

[OAR Docket #11-1175]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Operations and Procedures

158:1-3-1. Address [AMENDED]

SUMMARY:

The purpose of the proposed rules is to change the address of the agency in February, 2012, O.S. § Section 1000.2 of Title 59.

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4.

COMMENT PERIOD:

Written and oral comments will be accepted between January 04, 2012 through February 02, 2012, 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 February 08, 2012, at the monthly meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to make public comments 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 Linda McLennan at the above address, before the close of the comment period on February 02, 2012.

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 February 02, 2012.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to February 02, 2012, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Linda McLennan, Liaison Officer, 405.271.2771

[OAR Docket #11-1175; filed 12-9-11]

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

[OAR Docket #11-1176]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:30-1-4. Standard of installation [AMENDED]

Subchapter 3. Procedures of the Committee and Hearing Board

158:30-3-2. Procedures of the Hearing Board [AMENDED]

Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses

158:30-9-1. Examination procedures [AMENDED]

158:30-9-4. Continuing Education [AMENDED]

SUMMARY:

158:30-1-4 Approves code documents adopted by the Oklahoma Uniform Building Code Commission. 158:30-3-2 Appoints a designee to the committee. 158:30-9-1 Changes the requirements needed for examination. 158:30-9-4 Clarifies the continuing education requirements. These rules define a credit hour of education. These rules eliminate the completion of a continuing education evaluation form. These rules add a complaint procedure.

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

Notices of Rulemaking Intent

regarding the establishment of licensing and registration fees at 59 O.S. § 1000.5.

COMMENT PERIOD:

Written and oral comments will be accepted from January 04, 2012 through February 02, 2012 at the following address: 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

The Public Hearing on these proposed rules will be held at 1:30 p.m. on February 08, 2012 at the monthly meeting of the Construction Industries Board at 2401 NW 23rd, Suite 5, Oklahoma City, OK 73107. Anyone who wishes to make public comments must sign in 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 Linda McLennan at the above address, before the close of the comment period on February 02, 2012.

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 February 02, 2012.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to February 02, 2012, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Linda McLennan, Rules Liaison, 405.271.2771

[OAR Docket #11-1176; filed 12-9-11]

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

[OAR Docket #11-1177]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:40-1-2. Definitions [AMENDED]

Subchapter 7. License Classifications

158:40-7-1. Unlimited electrical license [AMENDED]

158:40-7-2. Residential electrical license [AMENDED]

Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals

158:40-9-3. License and registration fees and renewals [AMENDED]

158:40-9-4. Continuing education [AMENDED]

SUMMARY:

158:40-1-2 eliminates military electrical experience. 158:40-7-1 defines the hours of experience and eliminates military electrical experience. 158:40-9-3 corrects the scrivener's error in the renewal contractor license. Has clean-up language on (b) 11 and 12. 158:40-9-4 clarifies the language for continuing education requirements. It also eliminates the continuing education evaluation form. It adds a complaint procedure for the licensee to submit.

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 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 from January 04, 2012 through February 02, 2012 at the following address: 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

The Public Hearing on these proposed rules will be held at 1:30 p.m. on February 08, 2012 at the monthly meeting of the Construction Industries Board at 2401 NW 23rd, Suite 5, Oklahoma City, OK 73107. Anyone who wishes to make public comments must sign in 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 Linda McLennan at the above address, before the close of the comment period on February 02, 2012.

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 February 02, 2012.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to February 02, 2012, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Linda McLennan, Liaison Officer, 405.271.2771

[OAR Docket #11-1177; filed 12-9-11]

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

[OAR Docket #11-1178]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

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

158:50-1-3. License requirement and exemptions [AMENDED]

158:50-1-4. Adopted references and standard of workmanship [AMENDED]

Subchapter 5. License Types, Limitations of Licenses, Contractor Special Requirements and Display of License Number and Firm Name

158:50-5-1. License types [AMENDED]

158:50-5-2. Limitations of licenses [AMENDED]

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

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

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

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

SUMMARY:

158:50-1-2 defines "Credit hour", "Health care facility", "Medical gas piping work", "Medical gas journeyman", for purposes of regulatory compliance. "Mechanical work", "Process piping", "Refrigeration system", and "Variance" have been modified for regulatory clarification. 158:50-1-3(c), (d), (e), (f) and (g) provide uniformity between the Mechanical Licensing Act and the Mechanical Industry Regulations and establish the requirements for the installation, replacement, modification, or repair of mechanical systems. 158:50-1-4 acknowledges code documents approved by the Oklahoma Uniform Building Code Commission as the minimum standard for mechanical work in Oklahoma. 158:50-5-1(b)(9) creates the mechanical license category and license type for medical gas journeyman. 158: 50-5-2(b)(10) clarifies the authorized

activities and limitations of a medical gas journeyman licensee. 158:50-9-1(b)(1)(A)(B)(C) and (D) and 158:50-9-1(b)(2) set forth the qualification requirements for persons applying for a license and require proof of the minimum number of hours of verifiable experience and education necessary to receive a license. 158:50-9-1(c) sets requirements for certification by examination for the Medical Gas license category. 158:50-9-2 is clean up language which corrects a misspellings and typographical errors. 158:50-9-7 is clean up language and clarification of requirements. It also eliminates the course evaluation form and creates a complaint procedure. 158: 50-9-7(l) and (m) eliminate continuing education requirements for ground source piping category licensees and medical gas category licensees.

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. § 1850.3.

COMMENT PERIOD:

Written and oral comments will be accepted from January 04, 2012 through February 02, 2012 at the following address: 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

The Public Hearing on these proposed rules will be held at 1:30 p.m. on February 08, 2012 at the monthly meeting of the Construction Industries Board at 2401 NW 23rd, Suite 5, Oklahoma City, OK 73107. Anyone who wishes to make public comments must sign in 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 Linda McLennan at the above address, before the close of the comment period on February 02, 2012.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23rd, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on February 02, 2012.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to February 02, 2012, and may be obtained from the Construction Industries Board at the above address.

Notices of Rulemaking Intent

CONTACT PERSON:

Linda McLennan, Liaison Officer, 405.271.2771

[OAR Docket #11-1178; filed 12-9-11]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 60. INSPECTORS REGULATIONS

[OAR Docket #11-1179]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:60-1-2. Definitions [AMENDED]

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]

158:60-5-3. License requirements for inspectors [AMENDED]

158:60-5-4. Fees, certification and continuing education for inspectors [AMENDED]

158:60-5-5. Continuing education courses [AMENDED]

SUMMARY:

158:60-1-2 defines "Credit Hour," "OUBCC," and "political subdivision." The revision removes obsolete language in that the "IAPMO" and "ICC" are no longer applicable. The revision adds the OUBCC as the code authority for the State of Oklahoma. The revision to the Residential definition recognizes the Residential code adopted by the OUBCC. 158:60-5-1(a)(5) adds the Energy Code Inspector, both Unlimited and Residential from 158:60-5-2(d). 158:60-5-1(b)(3) clarifies the definition of an inactive Inspector. 158:60-5-2(a) clarifies the approval of the employing political subdivision. 158:60-5-2(c)(1) the certification deletes obsolete certification entities. 158:60-5-2(d) deletes Energy Code Inspector which is moved to 158:60-5-1(a)(5) and adds certifications recognized and approved by the Committee. 158:60-5-2(e) clarifies the language on the provisional licensing requirements. 158:60-5-2(f) removes the requirement to maintain a list of inactive inspectors. 158:60-5-3(e) clarifies the type of inspections that can be made. 158:60-5-4 (1)(2)(3)(4) adds the word "approved" before each CEU class. 158:60-5-4(5) adds the Energy Code Inspector. 158:60-5-5(a) clarifies language for the provider and the instructor. 158:60-5-5(b) eliminates evaluation form and adds that courses must be at

least 2 credit hours. Sets out the perimeters for continuing education courses. 158:60-5-5(c) adds a complaint procedure.

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4 and 1032 of the Oklahoma Inspectors Act. Written and oral comments will be accepted between January 04, 2012 through February 02, 2012, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

COMMENT PERIOD:

Written and oral comments will be accepted from January 04, 2012 through February 02, 2012 at the following address: 2401 N.W. 23rd, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

The Public Hearing on these proposed rules will be held at 1:30 p.m. on February 08, 2012 at the monthly meeting of the Construction Industries Board at 2401 NW 23rd, Suite 5, Oklahoma City, OK 73107. Anyone who wishes to make public comments must sign in 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 Linda McLennan at the above address, before the close of the comment period on February 02, 2012.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 NW 23th, Suite 5, Oklahoma City, OK 73107 before February 02, 2012.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to February 02, 2012, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Linda McLennan, Rules Liaison, (405) 271-2771.

[OAR Docket #11-1179; filed 12-9-11]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 70. HOME INSPECTORS ACT

[OAR Docket #11-1180]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 158:70-1-2. Definitions [AMENDED]
- 158:70-1-3. Standards of workmanship and practice [AMENDED]
- Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, Substantial Compliance and Reciprocity
- 158:70-9-1. Qualifications and examination application [AMENDED]
- 158:70-9-5. Continuing education [AMENDED]
- 158:70-9-6. Denied application appeal [AMENDED]
- Subchapter 11. License Revocation and Suspension and Additional Prohibited Acts
- 158:70-11-3. Sample forms or formats [NEW]

SUMMARY:

158:70-1-2 clarifies "classroom hour." 158:70-1-3 excludes systems and components from the inspection written prior to the inspection and recorded on a signed form. 158:70-9-1 increases the examination requirements from 50 clock hours to 90 credit hours. 158:70-9-5 changes the renewal continuing education hours from 5 (five) clock hours to 8 (eight) credit hours consisting of no more than 2 (two) hours of ancillary systems topics per year and it clarifies the continuing education requirements. It eliminates the course evaluation form and adds a complaint procedure for the licensee to submit. 158:70-9-6 increases the credit hour for committee approval from fifty (50) hours to ninety (90) hours. 158:70-11-3 shows a sample of forms or formats.

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 from January 04, 2012 through February 02, 2012 at the following address: 2401 N.W. 23rd, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

The Public Hearing on these proposed rules will be held at 1:30 p.m. on February 08, 2012 at the monthly meeting of the Construction Industries Board at 2401 NW 23rd, Suite 5, Oklahoma City, OK 73107. Anyone who wishes to make public comments must sign in 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 Linda McLennan at the above address, before the close of the comment period on February 02, 2012.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23rd, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on February 02, 2012.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to February 02, 2012, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Linda McLennan, Liaison Officer, 405.271.2771

[OAR Docket #11-1180; filed 12-9-11]

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

[OAR Docket #11-1192]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Rules of Professional Conduct
- 310:400-5-3 [AMENDED]
- Subchapter 9. Licensure Examinations
- 310:400-9-2 [AMENDED]
- 310:400-9-4 [AMENDED]
- Subchapter 15. Issuance and Maintenance of License
- 310:400-15-3 [AMENDED]
- 310:400-15-4 [AMENDED]
- 310:400-15-9 [REVOKED]

SUMMARY:

The proposed modifications to Oklahoma Administrative Code (OAC) 310:400-5-3 implement Title 59 of the Oklahoma Statutes in Section 1925.5 (A). These proposed rule modifications will govern the competency of the practice of Licensed Marital and Family Therapists (LMFT). The purpose of the proposed modifications in paragraph (n) is to require LMFT and LMFT Candidates, when performing forensic services, to properly notify and give clear information to clients when said forensic services are to be performed. The language removed from paragraph (n) covered activities that were not within the control of the LMFT or LMFT Candidate or the agency, but under the control of the court and handled by court order. These proposed rule modifications for forensic services will resolve issues raised by the regulated community wherein it has been reported that LMFTs and LMFT Candidates find the current language ambiguous and confusing. Additionally, the

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10-day requirement to provide a report many times conflicted with an order of the court requiring the forensic analysis to occur.

The proposed modifications to OAC 310:400, Subchapter 9, pertaining to licensure examinations, implement Title 59 of the Oklahoma Statutes in Sections 1925(B) and 1925.7. These proposed rule modifications allow the Department to administer the LMFT jurisprudence and psychopathology examination in a written format. The proposed rule modification will provide candidates the opportunity to schedule examinations at their convenience and will require less resources of Department representatives to administer the examination.

The proposed amended rule at OAC 310:400-15, pertaining to issuance and maintenance of license, implements Title 59 of the Oklahoma Statutes in Section 1925.8. and 1925.9. The Department proposes to amend OAC 310:400-15-3 to ensure that the renewal application includes information needed to demonstrate compliance with continuing education, information on any changes in the person's criminal history or professional performance, and to ensure that the reapplication requirements will enable online licensure. These proposed rule modifications remove requirements for the issuance of temporary licenses that were not contained in Section 1925.9. The proposed rule modification allows LMFT Advisory Board members to earn continuing education credit for their active service and participation as an advisory board member. Other licensure organizations in the State of Oklahoma, such as the Oklahoma State Board of Examiners of Psychologists, also contain a similar allowance in their continuing education scheme.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. § 1-104; and Title 59 O.S. Section 1925.5(A)

COMMENT PERIOD:

January 5, 2012, through February 8, 2012. Interested persons may informally discuss the proposed rules with Nena West, Director, Professional Counselor Licensing Division, or may, through February 8, 2012, submit written comment to Nena West, Director, Professional Counselor Licensing Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on February 8, 2012, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 11:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

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, the increase in the level of direct costs such as fees, and 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 rule. Business entities may submit this information in writing through February 8, 2012, to Nena West, Director, Professional Counselor Licensing Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to nenaw@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Professional Counselor Licensing Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, via electronic mail request to nenaw@health.ok.gov, or via agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Nena West, Director, Professional Counselor Licensing Division, phone (405) 271-6030, e-mail nenaw@health.ok.gov.

[OAR Docket #11-1192; filed 12-12-11]

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

[OAR Docket #11-1191]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Rules of Professional Conduct
310:405-3-2 [AMENDED]
310:405-3-3.1 [AMENDED]
Subchapter 9. Academic Requirements
310:405-9-2 [AMENDED]
Subchapter 17. Continuing Education Requirements
310:405-17-2 [AMENDED]
310:405-17-3 [AMENDED]
Subchapter 21. License and Specialty Renewal
310:405-21-5 [AMENDED]
Subchapter 27. Licensure by Endorsement
310:405-27-3 [AMENDED]

SUMMARY:

The proposed modifications to Oklahoma Administrative Code (OAC) 310:405-3-2 implement Title 59 of the Oklahoma Statutes in Section 1905 (A). These proposed rule modifications will govern the competency of the practice of a Licensed Professional Counselor (LPC). The purpose of the proposed modifications in paragraphs (a) through new (h) is to align the State of Oklahoma regulations concerning LPCs with the model proposals from the American Counseling Association (ACA). Currently, 17 jurisdictions have adopted the ACA Code of Ethics into their rules and regulations. The purpose of the proposed modifications in paragraph new (i) are to require LPC and LPC Candidates, when performing forensic services, to properly notify and give clear information to clients when said forensic services are to be performed. The language removed from new paragraph (i) covered activities that were not within the control of the LPC or LPC Candidate or the agency, but under the control of the court and handled by court order. These proposed rule modifications for forensic services will resolve issues raised by the regulated community wherein it has been reported that LPC and LPC Candidates find the current language ambiguous and confusing. Additionally, the 10-day requirement to provide a report many times conflicted with an order of the court requiring the forensic analysis to occur.

The proposed modifications to OAC 310:405-3-3.1, pertaining to fees and bartering, as authorized in Title 59 of the Oklahoma Statutes, Section 1905 (A), will address bartering of the practice of a LPC. The purpose of the proposed modifications is to make the practice more effective.

The proposed modifications to OAC 310:405-9-2, pertaining to knowledge required for licensure, as authorized in Title 59 of the Oklahoma Statutes, Section 1906 (C), would increase the number of practicum/internship hours required in a masters degree program from 300 to 600. Currently, forty-eight (48) states require at least 600 practicum/internship hours for licensure. These modifications will only impact those universities that have a counseling program and that do not already require at least 600 practicum/internship hours. The increase in hours will allow those Oklahomans who earn a license in Oklahoma to more easily transfer that license to another jurisdiction. This requirement will not go into effect until 2015 in order to give the schools of higher education, and potential candidates, sufficient time to incorporate this curriculum change.

The proposed modifications to OAC 310:405-17-2 and 310:405-17-3, pertaining to the number of hours required for continuing education and acceptable continuing education respectively, as authorized in Title 59 of the Oklahoma Statutes, Section 1908, recognize the number of hours contributed by the members of the LPC Advisory Board. These proposed rule changes would allow the hours contributed by the LPC Advisory Board Members to be counted for compliance with the continuing education requirements required by both state statute and state regulations. Other licensure organizations in the State of Oklahoma, such as the Oklahoma State Board of

Examiners of Psychologists, also contain a similar allowance in their continuing education scheme.

The proposed new rule at OAC 310:405-21-5, pertaining to requirements for renewal, implements Title 59 of the Oklahoma Statutes in Section 1908. The Department proposes to amend this section to ensure that the renewal application includes information needed to demonstrate compliance with continuing education, information on any changes in the person's criminal history or professional performance, and to ensure that the reapplication requirements will enable online licensure. This proposed rule modification will require the submission of a Continuing Education Roster on an official Department form when a licensee is submitting an application for renewal of his or her license. This proposed rule modification will allow the Department to better utilize its limited resources by expediting the licensure renewal review process.

The proposed rule modifications at OAC 310:405-27-3 implement Title 59 of the Oklahoma Statutes in Section 1909. These proposed rule modifications remove requirements for licensure endorsement that were not contained in Section 1909. The remaining changes specify the requirements for an individual who is licensed in another state to obtain a license from the State of Oklahoma.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. § 1-104; and Title 59 O.S. Section 1905(A)

COMMENT PERIOD:

January 5, 2012, through February 8, 2012. Interested persons may informally discuss the proposed rules with Nena West, Director, Professional Counselor Licensing Division, or may, through February 8, 2012, submit written comment to Nena West, Director, Professional Counselor Licensing Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on February 8, 2012, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 11:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

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, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity

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due to compliance with the proposed rule. Business entities may submit this information in writing through February 8, 2012, to Nena West, Director, Professional Counselor Licensing Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to nenaw@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Professional Counselor Licensing Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, via electronic mail request to nenaw@health.ok.gov, or via agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Nena West, Director, Professional Counselor Licensing Division, phone (405) 271-6030, e-mail nenaw@health.ok.gov.

[OAR Docket #11-1191; filed 12-12-11]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING

[OAR Docket #11-1190]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Disease and Injury Reporting Requirements
310:515-1-3. Diseases to be reported immediately
[AMENDED]
310:515-1-4. Additional diseases, conditions, and injuries
to be reported [AMENDED]
310:515-1-8. Organisms/specimens to be sent to the Public
Health Laboratory [AMENDED]

SUMMARY:

The proposal updates the existing rules in accordance with recommendations from the Council of State and Territorial Epidemiologists (CSTE), the Centers for Disease Control and Prevention, and local public and private health partners pertaining to reportable diseases. The proposal amends the lists of reportable diseases, in order to clarify those conditions and diseases that are required to be reported to the Department. These changes reduce the reporting burden placed upon clinicians and do not adversely affect the public health follow-up or disease prevention activities.

The proposal also refines requirements for reporting negative results in certain conditions, which might involve an unknown organism. The following amendments are proposed to the rules:

The proposal updates the reporting of Vibriosis and submission of *Vibrio* isolates to reflect taxonomic changes that have resulted in some *Vibrio* species being reassigned to new genera. Discussion of the taxonomic changes may be found in the CSTE, "Update to Vibriosis Case Definition," CSTE position statement 11-ID-12, Atlanta: CSTE; 2011. See <http://www.cste.org/ps2011/11-ID-12.pdf>.

Currently all Acid Fast Bacillus (AFB) positive smears are mandated to be reported. Additional testing would exclude some AFBs, that are not needed by the Department, from un-needed reporting. The new language clarifies that only those specimens without further testing or are indicative of *Mycobacterium tuberculosis* Complex need to be reported. Due to the advances in laboratory techniques many times the organism is known the same day the AFB smear is done. When the results are atypical no public health intervention is needed.

The proposal refines requirements for reporting HIV viral load results based on the federal requirement that states receiving Ryan White Part B funding must calculate the Unmet Need for Health Services, defined as the need for HIV-related health services by individuals with HIV who are aware of their HIV status, but are not receiving regular primary health care. Health Resources and Services Administration (HRSA) provides an Unmet Need Framework for this calculation and determines that an individual with HIV or AIDS is considered to have an unmet need for care (or to be out of care) when there is no evidence that s/he received any of the following three components of HIV primary medical care during a defined 12-month time frame: (1) viral load (VL) testing, (2) CD4 count, or (3) provision of anti-retroviral therapy (ART). Additionally, the goal of antiretroviral therapy is to achieve suppressed viral load. Therefore, in order to accurately calculate unmet need in Oklahoma, all HIV viral loads test results must be reported. Discussion of HRSA's requirements pertaining to HIV Viral Load reporting may be found in the "Ryan White CARE Act Title II Manual," published by the U.S. Dept. of Health and Human Services, Health Resources and Services Administration, HIV/AIDS Bureau. See Assessing Unmet Need, Section VIII, Chapter 1: <http://hab.hrsa.gov/tools2/title2/t2SecVIIIChap1.htm#SecVIIIChap1d>.

Pelvic Inflammatory Disease (PID) is removed as a reportable disease based on the emergence of testing methodologies and techniques that are very specific to gonorrhea and Chlamydia infections, therefore, a proxy indicator of these infections is no longer necessary. See "Gonorrhea Laboratory," U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention: <http://www.cdc.gov/std/Gonorrhea/lab/default.htm>. These changes reduce the reporting burden placed upon clinicians and do not adversely affect the public health follow-up or disease prevention activities.

The proposal removes facsimile as a method of reporting diseases to the Department within one business day.

With these changes, the Department will receive information that is more precise and thereby be better equipped

to respond quickly and effectively to disease outbreaks or unusual or uncommon adverse health conditions.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. § 1-104; and Title 63 O.S., §§ 1-502 and 1-503

COMMENT PERIOD:

January 5, 2012, through February 8, 2012. Interested persons may informally discuss the proposed rules with Lauri Smithee, Chief, Acute Disease Service; or may, through February 8, 2012, submit written comment to Lauri Smithee, Chief, Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on February 8, 2012, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 11:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

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, the increase in the level of direct costs such as fees, and 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 rule. Business entities may submit this information in writing through February 8, 2012, to Lauri Smithee, Chief, Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to LauriS@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, via electronic mail request to LauriS@health.ok.gov, or via agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Lauri Smithee, Ph.D., Chief, Acute Disease Service, phone (405) 271-4060, e-mail LauriS@health.ok.gov.

[OAR Docket #11-1190; filed 12-12-11]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 3. ADMINISTRATIVE SERVICES**

[OAR Docket #11-1173]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 11. Risk Management
- Part 1. Drug Policy
- 377:3-11-5. Substance screening [AMENDED]
- 377:3-11-6. Substances to be tested [AMENDED]
- 377:3-11-8. Collection procedures [AMENDED]
- 377:3-11-9. Consequences of refusal [AMENDED]
- 377:3-11-10. Consequences of positive test results [AMENDED]
- 377:3-11-11. Job applicant and employee ~~rights~~opportunities [AMENDED]
- 377:3-11-12. Severability [AMENDED]

SUMMARY:

Proposed rule revisions are the result of substantive changes within the Oklahoma State Statutes, as per House Bill 2033 (2011), pertaining to drug testing of employees and applicants, also known as the "Standards for Workplace Drug and Alcohol Testing Act," 75 O.S., §§ 551-563, effective November 1, 2011. The proposed rules are necessary in order to avoid violation of state law.

AUTHORITY:

The 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).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from January 3, 2012 through February 2, 2012 at: Office of Juvenile Affairs, Attn: J Lynn Hartman, 3812 N. Santa Fe Ave., P.O. Box 268812, Oklahoma City, OK 73126-8812. Email comments may be sent to J Lynn.Hartman@oja.ok.gov. During the same time period, oral comments may be made to J Lynn Hartman at (405) 530-2866 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on February 6, 2012 at the Centennial Building, 3815 N. Santa Fe Ave., Ste. 170, Oklahoma City, OK. Each person must sign in at the door to orally present their comments.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs, indirect

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costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules, to submit this information in writing during the comment period to JLynn Hartman.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Oklahoma City, OK, as well as on the OJA website. Copies may also be obtained by written request mailed to the Office of Juvenile Affairs, Attn: JLynn Hartman, P.O. Box 268812, Oklahoma City, OK 73126-8812.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review on or before January 16, 2012 at the above address for the Office of Juvenile Affairs, as well as on the OJA website.

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, (405) 530-2866.

[OAR Docket #11-1173; filed 12-9-11]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #11-1174]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Contract Programs and Services
Part 3. Contract-Based Residential Care

377:10-7-20. Specialized residential high intensity treatment programs ("Level E") [AMENDED]

SUMMARY:

Proposed rule revisions are to provide for clarifying language and citation references pertaining OJA Level E facilities.

AUTHORITY:

The 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).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from January 3, 2012 through February 2, 2012 at: Office of Juvenile Affairs, Attn: JLynn Hartman, 3812 N. Santa Fe Ave., P.O. Box 268812, Oklahoma City, OK 73126-8812. Email comments may be sent to JLynn.Hartman@oja.ok.gov. During the same time period, oral comments may be made to JLynn Hartman at (405) 530-2866 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on February 6, 2012 at the Centennial Building, 3815 N. Santa Fe Ave., Ste.

170, Oklahoma City, OK. Each person must sign in at the door to orally present their comments.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule, to submit this information in writing during the comment period to JLynn Hartman.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Oklahoma City, OK, as well as on the OJA website. Copies may also be obtained by written request mailed to the Office of Juvenile Affairs, Attn: JLynn Hartman, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is being prepared and will be available for review on or before January 16, 2012 at the above address for the Office of Juvenile Affairs, as well as on the OJA website.

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, (405) 530-2866.

[OAR Docket #11-1174; filed 12-9-11]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS

[OAR Docket #11-1181]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

385:1-1-2 [AMENDED]

385:1-1-4 [AMENDED]

385:1-1-5 [AMENDED]

385:1-1-6 [AMENDED]

385:1-1-11 [AMENDED]

385:1-1-13 [NEW]

SUMMARY:

The proposed rule amendments change reference to Oklahoma Statutes that set forth the duties, responsibilities, and powers of the Commissioners due to the statutes granting such authority having been amended and renumbered. The proposed amendments would change the number of votes required to rescind, annul or substantially amend action taken at a previous meeting of the Commissioners. The proposed amendments would change and rename the divisions of the Land Office. The proposed amendments would remove the

power of the Land Office to lend school funds on mortgages on lands. The proposed amendments would create language establishing the official business residence and website of the Land Office.

AUTHORITY:

The Commissioners of the Land Office; Article 6, Section 32, Constitution of the State of Oklahoma; 64 O.S. Sec. 1, et seq.; Okla. Admin. Code 385:1-1-4

COMMENT PERIOD:

Persons may submit written and oral comments to the Commissioners of the Land Office at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000 during the period from January 3, 2012, to February 2, 2012.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Nancy Connally at (405) 521-4000 no later than 5:00 P.M. on February 2, 2012.

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 Nancy Connally at the above address during the period from January 3, 2012, to February 2, 2012.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of the Commissioners of the Land Office located at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102.

RULE IMPACT STATEMENT:

A rule impact statement will be available on January 3, 2012, in accordance with 75 O.S. Section 303(D). A copy of the statement may be obtained by contacting the Commissioners of the Land Office, Office of the General Counsel, at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000.

CONTACT PERSON:

Nancy Connally, General Counsel,(405)-521-4000

[OAR Docket #11-1181; filed 12-9-11]

**TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE
CHAPTER 15. SALE AND OPERATION OF OIL AND GAS LEASES**

[OAR Docket #11-1186]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 385:15-1-3 [AMENDED]
- 385:15-1-4 [AMENDED]

- 385:15-1-6 [AMENDED]
- 385:15-1-8 [AMENDED]
- 385:15-1-9 [AMENDED]
- 385:15-1-18 [AMENDED]
- 385:15-1-20 [AMENDED]
- 385:15-1-21 [AMENDED]
- 385:15-1-22 [AMENDED]
- 385:15-1-25 [AMENDED]
- 385:15-1-32 [AMENDED]

SUMMARY:

The proposed rule amendments would make certain information available on the website of the Land Office that was not previously accessible via the Internet. The proposed amendments would change reference to the physical address of the Land Office which has since moved. The proposed amendments would change statutory references that have since been amended, repealed or renumbered. The proposed amendments clarify the account in which Performance Fees are deposited. The proposed amendments delete language regarding hard minerals which is contained in 385:1-1-20. The proposed amendments delete language concerning earthen tank restrictions in order to conform to current regulations of the Oklahoma Corporation Commission. The proposed amendments remove the production reporting requirements with respect to certain hard minerals.

AUTHORITY:

The Commissioners of the Land Office; Article 6, Section 32, Constitution of the State of Oklahoma; 64 O.S. Sec. 1, et seq.; Okla. Admin. Code 385:1-1-4

COMMENT PERIOD:

Persons may submit written and oral comments to the Commissioners of the Land Office at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000 during the period from January 3, 2012, to February 2, 2012.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Nancy Connally at (405) 521-4000 no later than 5:00 P.M. on February 2, 2012.

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 Nancy Connally at the above address during the period from January 3, 2012, to February 2, 2012.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of the Commissioners of the Land Office located at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102.

RULE IMPACT STATEMENT:

A rule impact statement will be available on January 3, 2012, in accordance with 75 O.S. Section 303(D). A

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copy of the statement may be obtained by contacting the Commissioners of the Land Office, Office of the General Counsel, at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000

CONTACT PERSON:

Nancy Connally, General Counsel,(405)-521-4000

[OAR Docket #11-1186; filed 12-9-11]

**TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE
CHAPTER 20. SALE AND OPERATION OF COAL AND URANIUM HARD ROCK MINING AND OTHER MINERAL LEASES**

[OAR Docket #11-1182]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

385:20-1-2 [AMENDED]
385:20-1-3 [AMENDED]
385:20-1-6 [REVOKED]
385:20-1-7 [AMENDED]
385:20-1-9 [AMENDED]
385:20-1-10 [AMENDED]
385:20-1-11 [AMENDED]
385:20-1-12 [AMENDED]
385:20-1-13 [AMENDED]
385:20-1-14 [AMENDED]
385:20-1-15 [AMENDED]
385:20-1-16 [AMENDED]
385:20-1-17 [AMENDED]
385:20-1-19 [REVOKED]
385:20-1-20 [AMENDED]
385:20-1-21 [AMENDED]
385:20-1-22 [AMENDED]

SUMMARY:

The proposed rule amendments would strike references within this chapter to "coal and uranium" and replace them with "hard rock mining or other mineral". The proposed amendments would also place certain information on the website of the Land Office that was not previously available via the Internet. The proposed amendments would change the process by which prospecting permits are granted. The proposed amendments remove the requirement that the discovery of valuable minerals be reported to the Secretary of the Commission of the Land. The proposed amendment would change the type of mail the Land Commission is required to use in order to effectuate the termination of prospecting permits. The proposed amendments would change statutory references that have since been amended, repealed or renumbered. The proposed amendments would change the bond amounts required for prospecting lands held by the Land Commission. The proposed amendment would grant the Director of the Minerals Management Division the discretion to offer land not

under lease for lease at the earliest lease sale. The proposed amendments would alter the sealed bid process for hard rock mining or other mineral lease sales. The proposed amendment would change the process by which hard rock or other mineral leases are assigned.

AUTHORITY:

The Commissioners of the Land Office; Article 6, Section 32, Constitution of the State of Oklahoma; 64 O.S. Sec. 1, et seq.; Okla. Admin. Code 385:1-1-4

COMMENT PERIOD:

Persons may submit written and oral comments to the Commissioners of the Land Office at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000 during the period from January 3, 2012, to February 2, 2012.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Nancy Connally at (405) 521-4000 no later than 5:00 P.M. on February 2, 2012.

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 Nancy Connally at the above address during the period from January 3, 2012, to February 2, 2012.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of the Commissioners of the Land Office located at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102.

RULE IMPACT STATEMENT:

A rule impact statement will be available on January 3, 2012, in accordance with 75 O.S. Section 303(D). A copy of the statement may be obtained by contacting the Commissioners of the Land Office, Office of the General Counsel, at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000

CONTACT PERSON:

Nancy Connally, General Counsel,(405)-521-4000

[OAR Docket #11-1182; filed 12-9-11]

**TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE
CHAPTER 25. SURFACE LEASING FOR AGRICULTURAL AND COMMERCIAL PURPOSES**

[OAR Docket #11-1185]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 385:25-1-1 [AMENDED]
- 385:25-1-2 [AMENDED]
- 385:25-1-4 [AMENDED]
- 385:25-1-5 [AMENDED]
- 385:25-1-7 [AMENDED]
- 385:25-1-12 [AMENDED]
- 385:25-1-13 [AMENDED]
- 385:25-1-15 [AMENDED]
- 385:25-1-22 [AMENDED]
- 385:25-1-23 [AMENDED]
- 385:25-1-24 [AMENDED]
- 385:25-1-25 [AMENDED]
- 385:25-1-31 [AMENDED]
- 385:25-1-33 [AMENDED]
- 385:25-1-39 [REVOKED]
- 385:25-1-40 [REVOKED]
- 385:25-1-41 [AMENDED]
- 385:25-1-43 [AMENDED]

SUMMARY:

The proposed rule amendments would change certain statutory references that have since been amended, repealed or renumbered. The proposed amendments would strike redundant phrases and terminology. The proposed amendments would grant the Commissioners greater latitude in accepting bids for surface leases. The proposed amendments would grant the Land Office greater discretion in reserving easements in surface leases. The proposed amendments would grant the Land Office certain rights with respect to property that has been affixed to land by lessees. The proposed amendments would grant designees of the Land Office the authority to advertise public lands to prospective lessees and to grant permits to individuals searching for Treasure Trove. The proposed amendments would work to ensure that land is being leased at fair market value throughout the entire term of the lease.

AUTHORITY:

The Commissioners of the Land Office; Article 6, Section 32, Constitution of the State of Oklahoma; 64 O.S. Sec. 1, et seq.; Okla. Admin. Code 385:1-1-4

COMMENT PERIOD:

Persons may submit written and oral comments to the Commissioners of the Land Office at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000 during the period from January 3, 2012, to February 2, 2012.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Nancy Connally at (405) 521-4000 no later than 5:00 P.M. on February 2, 2012.

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 Nancy Connally at the above address during the period from January 3, 2012, to February 2, 2012.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of the Commissioners of the Land Office located at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102.

RULE IMPACT STATEMENT:

A rule impact statement will be available on January 3, 2012, in accordance with 75 O.S. Section 303(D). A copy of the statement may be obtained by contacting the Commissioners of the Land Office, Office of the General Counsel, at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000

CONTACT PERSON:

Nancy Connally, General Counsel,(405)-521-4000

[OAR Docket #11-1185; filed 12-9-11]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE CHAPTER 30. SALE OF SCHOOL LAND

[OAR Docket #11-1184]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 385:30-1-3 [AMENDED]
- 385:30-1-9 [AMENDED]

SUMMARY:

The proposed rule amendments would clarify certain terms within this chapter. The proposed rule amendments would change certain statutory references that have since been amended, repealed or renumbered.

AUTHORITY:

The Commissioners of the Land Office; Article 6, Section 32, Constitution of the State of Oklahoma; 64 O.S. Sec. 1, et seq.; Okla. Admin. Code 385:1-1-4

COMMENT PERIOD:

Persons may submit written and oral comments to the Commissioners of the Land Office at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000 during the period from January 3, 2012, to February 2, 2012.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Nancy Connally at (405) 521-4000 no later than 5:00 P.M. on February 2, 2012.

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

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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 Nancy Connally at the above address during the period from January 3, 2012, to February 2, 2012.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of the Commissioners of the Land Office located at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102.

RULE IMPACT STATEMENT:

A rule impact statement will be available on January 3, 2012, in accordance with 75 O.S. Section 303(D). A copy of the statement may be obtained by contacting the Commissioners of the Land Office, Office of the General Counsel, at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000

CONTACT PERSON:

Nancy Connally, General Counsel,(405)-521-4000

[OAR Docket #11-1184; filed 12-9-11]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE CHAPTER 35. LOAN OF ABSTRACTORS [REVOKED]

[OAR Docket #11-1183]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

385:35-1-1 [REVOKED]

385:35-1-2 [REVOKED]

385:35-1-3 [REVOKED]

385:35-1-4 [REVOKED]

SUMMARY:

The proposed rule amendments would revoke the ability of the Land Commission to lend out abstracts.

AUTHORITY:

The Commissioners of the Land Office; Article 6, Section 32, Constitution of the State of Oklahoma; 64 O.S. Sec. 1, et seq.; Okla. Admin. Code 385:1-1-4

COMMENT PERIOD:

Persons may submit written and oral comments to the Commissioners of the Land Office at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000 during the period from January 3, 2012, to February 2, 2012.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), 'persons may demand a hearing' by contacting Nancy Connally at (405) 521-4000 no later than 5:00 P.M. on February 2, 2012.

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 Nancy Connally at the above address during the period from January 3, 2012, to February 2, 2012.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of the Commissioners of the Land Office located at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102.

RULE IMPACT STATEMENT:

A rule impact statement will be available on January 3, 2012, in accordance with 75 O.S. Section 303(D). A copy of the statement may be obtained by contacting the Commissioners of the Land Office, Office of the General Counsel, at 120 N. Robinson, Suite 1000W, Oklahoma City, OK 73102, Telephone (405)521-4000

CONTACT PERSON:

Nancy Connally, General Counsel,(405)-521-4000

[OAR Docket #11-1183; filed 12-9-11]

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

[OAR Docket #11-1187]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Collections and Disbursements

550:1-7-2.2 [AMENDED]

SUMMARY:

The proposed new rule OAC 550:1-7-2.2 clarifies 11 O.S. Sections 50-112 in that members must file an application for refund following termination.

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., February 13th, 2012, 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 9:00 a.m., on Wednesday, February 15th, 2012, 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 January 4th, 2012.

CONTACT PERSON:

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

[OAR Docket #11-1187; filed 12-9-11]

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

[OAR Docket #11-1188]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Petition Procedures
550:1-5-2 [AMENDED]

SUMMARY:

The proposed amendment to OAC 550:1-5-2 clarifies the record of hearing to be a digital recording.

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., February 13th, 2012, 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 9:00 a.m., on Wednesday, February 15th, 2012, 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 January 4th, 2012.

CONTACT PERSON:

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

[OAR Docket #11-1188; filed 12-09-11]

**TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #11-1156]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Administrative Components of the Department
612:1-3-2.1. The Chief of Staff of Rehabilitation Services [AMENDED]
Subchapter 11. Compliance with the Americans with Disabilities Act of 1990
Part 1. Purpose and Legal Basis
612:1-11-4. DRS and the Americans with Disabilities Act [AMENDED]
Part 3. Reasonable Accommodation
612:1-11-15. Overview of reasonable accommodation [AMENDED]
Part 9. Medical and other Considerations
612:1-11-55. Medical documentation [AMENDED]
Subchapter 13. Civil Rights and Nondiscrimination on Basis of Race, Color, National Origin, Sex, Age or Disability
612:1-13-7. Composition of planning and policymaking bodies [AMENDED]
612:1-13-9. Complaint rules and procedures [AMENDED]

SUMMARY:

Changes to Chapter 1 include updating language as well as aligning policy with state and federal law regarding Americans

Notices of Rulemaking Intent

with Disabilities Act, Reasonable Accommodations, and Civil Rights and Non-discrimination.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 03, 2012 through February 8, 2012 during regular business hours by contacting Ray Leard, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3406.

PUBLIC HEARING:

Monday, February 6, 2012,
4:00 P.M. - 6:00 P.M.,
Department of Rehabilitation Services
2nd Floor Conference Room,
3535 N.W. 58th
Oklahoma City, Oklahoma
Tuesday, February 7, 2012,
1:00 P.M. - 3:00 P.M.,
Total Source for Hearing-loss and Access
8740 E. 11th St., Conference room
Tulsa, Oklahoma
Wednesday, February 8, 2012,
1:00 P.M. - 3:00 P.M.,
Great Plains Technology Center
4500 W. Lee Blvd., Bldg. 300, Room 301A
Lawton, Oklahoma

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from: the DRS Web Site www.okdrs.gov by e-mail policycomment@okdrs.gov by letter to the Policy Development Unit, attention Ray Leard, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112 or by calling (405) 951-3406 - Toll free 1-800-845-8476.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 03, 2012, at the Department of Rehabilitation Services office at the above address.

CONTACT PERSON:

Ray Leard, Rulemaking Liaison, (405) 951-3406

[OAR Docket #11-1156; filed 12-1-11]

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

[OAR Docket #11-1157]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
612:10-1-2. Definitions [AMENDED]
612:10-1-7. Purchase of services and goods for individuals with disabilities [AMENDED]
Subchapter 7. Vocational Rehabilitation and Visual Services
Part 3. Case Processing Requirements
612:10-7-24.1. Basic eligibility requirements for vocational rehabilitation services [AMENDED]
612:10-7-25.1. Order of selection [AMENDED]
Part 9. Actions Requiring Review and Approval
612:10-7-87. Actions requiring supervisor's approval [AMENDED]
Part 11. Physical and Mental Restoration Services
612:10-7-98. General guidelines for physical and mental restoration services [AMENDED]
Part 23. Self-Employment Programs and Other Services
612:10-7-230.4. Agency financial contribution to self-employment/purchasing [AMENDED]
Subchapter 13. Special Services for the Deaf and Hard of Hearing
Part 1. Service Programs
612:10-13-4. Special services and devices for individuals who are deaf, hard of hearing, deaf-blind or have communicative disorders [REVOKED]

SUMMARY:

Changes to Chapter 10 align policy with state law removing arbitrary limits on services by permitting exceptions with supervisory approval, clarification of terms, and updating language to reflect existing and new policies.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 03, 2012 through February 8, 2012 during regular business hours by contacting Ray Leard, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3406.

PUBLIC HEARING:

Monday, February 6, 2012,
4:00 P.M. - 6:00 P.M.,
Department of Rehabilitation Services
2nd Floor Conference Room,
3535 N.W. 58th
Oklahoma City, Oklahoma
Tuesday, February 7, 2012,

1:00 P.M. - 3:00 P.M.,
Total Source for Hearing-loss and Access
8740 E. 11th St., Conference room
Tulsa, Oklahoma
Wednesday, February 8, 2012,
1:00 P.M. - 3:00 P.M.,
Great Plains Technology Center
4500 W. Lee Blvd., Bldg. 300, Room 301A
Lawton, Oklahoma

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from: the DRS Web Site www.okdrs.gov by e-mail policycomment@okdrs.gov by letter to the Policy Development Unit, attention Ray Leard, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112 or by calling (405) 951-3406 - Toll free 1-800-845-8476.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 03, 2012, at the Department of Rehabilitation Services office at the above address.

CONTACT PERSON:

Ray Leard, Rulemaking Liaison, (405) 951-3406

[OAR Docket #11-1157; filed 12-1-11]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 20. SPECIAL SCHOOLS

[OAR Docket #11-1158]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 2. Contracted Instructional Personnel
- 612:20-2-5. Contracted instructional personnel [AMENDED]
- 612:20-2-13. Dismissal/Nonreemployment Hearing [AMENDED]
- 612:20-2-17. Full-time administrators; Appeal of dismissal or nonreemployment [AMENDED]
- Subchapter 9. Special Services [NEW]

612:20-9-1. Special services and devices for individuals who are deaf, hard of hearing, deaf-blind or have communicative disorders [NEW]

SUMMARY:

Changes to Chapter 20 align policy with state law removing teacher's and administrator's right to trial de novo, and placing a program's policy in the correct area.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 03, 2012 through February 8, 2012 during regular business hours by contacting Ray Leard, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3406.

PUBLIC HEARING:

Monday, February 6, 2012,
4:00 P.M. - 6:00 P.M.,
Department of Rehabilitation Services
2nd Floor Conference Room,
3535 N.W. 58th
Oklahoma City, Oklahoma
Tuesday, February 7, 2012,
1:00 P.M. - 3:00 P.M.,
Total Source for Hearing-loss and Access
8740 E. 11th St., Conference room
Tulsa, Oklahoma
Wednesday, February 8, 2012,
1:00 P.M. - 3:00 P.M.,
Great Plains Technology Center
4500 W. Lee Blvd., Bldg. 300, Room 301A
Lawton, Oklahoma

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from: the DRS Web Site www.okdrs.gov by e-mail policycomment@okdrs.gov by letter to the Policy Development Unit, attention Ray Leard, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112 or by calling (405) 951-3406 - Toll free 1-800-845-8476.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 03, 2012, at the Department of Rehabilitation Services office at the above address.

Notices of Rulemaking Intent

CONTACT PERSON:

Ray Leard, Rulemaking Liaison, (405) 951-3406

[OAR Docket #11-1158; filed 12-1-11]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 25. BUSINESS ENTERPRISE PROGRAM

[OAR Docket #11-1159]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 2. General Provisions

612:25-2-5. Definitions [AMENDED]

612:25-2-6. Promulgation of Business Enterprise Program policies [REVOKED]

612:25-2-9. Conflict of interest [NEW]

Subchapter 4. The State Licensing Agency

Part 1. Organization and General Operation Standards

612:25-4-1. Organization of the State Licensing Agency

612:25-4-3. Guidelines for communication [REVOKED]

612:25-4-4. Management services provided by the State Licensing Agency [AMENDED]

Part 3. Business Enterprise Program Training

612:25-4-14. Training for new or potential licensed managers [AMENDED]

612:25-4-15. Training for present licensed managers [AMENDED]

612:25-4-16. Training for Business Enterprise Program staff [NEW]

Part 5. State Licensing Agency Responsibility for Business Enterprise Operations

612:25-4-25. Management of BEP equipment and fixtures [AMENDED]

612:25-4-26. Maintenance and replacement of business enterprise equipment [AMENDED]

612:25-4-27. Initial inventory and supplies [AMENDED]

612:25-4-28. Method of payment for initial stock [REVOKED]

612:25-4-29. Failure of licensed manager to repay loan [REVOKED]

612:25-4-30. Second merchandise loan [REVOKED]

Part 9. Assignment and Transfer of Licensed Managers

612:25-4-53. ~~Promotion~~ Assignment, promotion and transfer policy [AMENDED]

612:25-4-54. Business enterprise vacancy announcement [AMENDED]

612:25-4-55. Qualifications [AMENDED]

612:25-4-56. Applications [AMENDED]

612:25-4-57. Applicant Selection Committee [AMENDED]

612:25-4-58. Annual Evaluation [AMENDED]

612:25-4-59. Interview, Selection Process and Scoring [AMENDED]

612:25-4-60. Ninety day replacement [AMENDED]

612:25-4-61. Satellite/remote business enterprise locations [AMENDED]

612:25-4-62. Vending machine income [AMENDED]

Part 11. Business Enterprise Program Auditing and Due Process

612:25-4-73. Due process [AMENDED]

612:25-4-74. Probation [REVOKED]

Subchapter 6. Licensed Managers and Business Enterprise Operation

Part 1. Licensed Managers

612:25-6-1. Licensing requirements for managing a business enterprise [AMENDED]

612:25-6-2. Standards for licensed managers [AMENDED]

612:25-6-2.1. Probation [NEW]

612:25-6-3. Grounds for suspension or termination of a license [AMENDED]

612:25-6-5. Motor vehicle operation [AMENDED]

Part 3. Business Enterprises

612:25-6-15. Setting aside of funds [AMENDED]

612:25-6-16. Criteria to establish a business enterprise [AMENDED]

612:25-6-18. Establishing new licensed managers in business enterprises [AMENDED]

612:25-6-19. Employees of the licensed manager [AMENDED]

612:25-6-20. Closing a business enterprise [AMENDED]

612:25-6-21. Business expenses [AMENDED]

612:25-6-22. Monthly reports [AMENDED]

Part 5. The Elected Committee of Licensed Managers

612:25-6-32. The Elected Committee of Licensed Managers [AMENDED]

612:25-6-33. Organization and operation of the Elected Committee of Licensed Managers [AMENDED]

SUMMARY:

Changes to Chapter 25 align policy with state law, clarify language to indicate current usage, updating language to reflect new and existing policies, removing duplicate sections, and following state auditor's recommendations for adopting a conflict of interest/ethics policy and their recommendation of modifying manager training policies.

AUTHORITY:

Commission for Rehabilitation Services; 74 O.S. § 166.2 and 20 USC 107d(4) Randolph-Shepard Act.

COMMENT PERIOD:

Written and oral comments will be accepted January 03, 2012 through February 8, 2012 during regular business hours by contacting Ray Leard, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3406.

PUBLIC HEARING:

Monday, February 6, 2012,
4:00 P.M. - 6:00 P.M.,

Department of Rehabilitation Services
2nd Floor Conference Room,
3535 N.W. 58th
Oklahoma City, Oklahoma
Tuesday, February 7, 2012,
1:00 P.M. - 3:00 P.M.,
Total Source for Hearing-loss and Access
8740 E. 11th St., Conference room
Tulsa, Oklahoma
Wednesday, February 8, 2012,
1:00 P.M. - 3:00 P.M.,
Great Plains Technology Center
4500 W. Lee Blvd., Bldg. 300, Room 301A
Lawton, Oklahoma

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from: the DRS Web Site www.okdrs.gov by e-mail policycomment@okdrs.gov by letter to the Policy Development Unit, attention Ray Leard, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112 or by calling (405) 951-3406 - Toll free 1-800-845-8476.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 03, 2012, at the Department of Rehabilitation Services office at the above address.

CONTACT PERSON:

Ray Leard, Rulemaking Liaison, (405) 951-3406

[OAR Docket #11-1159; filed 12-1-11]

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

[OAR Docket #11-1169]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, proposed amendments to the existing Administration Operations rules have been made.

Section 710:1-1-2 has been amended to change the title of the administrator of the Tax Commission.

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

AUTHORITY:

68 O.S. § 203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 6, 2012, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Emmily Hood at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, date and place of the hearing are as follows: **February 7, 2012, 10:00 a.m.** in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Emmily Hood at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

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

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard,

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Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.tax.ok.gov.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 18, 2012, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@tax.ok.gov

[OAR Docket #11-1169; filed 12-9-11]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 50. INCOME

[OAR Docket #11-1170]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 50. Income [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, proposed amendments to the existing Income rules have been made.

Section 710:50-15-53 has been amended to reflect current Commission policy regarding the procedure to elect to forego the NOL carryback period and conform to recent statutory changes. **[68:2358(A)(3)]**

Sections 710:50-17-51 has been amended to conform to recent statutory changes. **[68:2358(A)(3)]**

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

AUTHORITY:

68 O.S. §§?? 203 and 2358; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 6, 2012, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Emmily Hood at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, date and place of the hearing are as follows: **February 7, 2012, 1:00 p.m.** in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the

building, those wishing to appear should contact Emmily Hood at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

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

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.tax.ok.gov.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 18, 2012, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@tax.ok.gov

[OAR Docket #11-1170; filed 12-9-11]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 70. TOBACCO, TOBACCO PRODUCTS, AND CIGARETTES

[OAR Docket #11-1172]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Subchapter 5. Excise on Tobacco Products
710:70-5-5 [AMENDED]

SUMMARY:

Section **710:70-5-5** has been amended to change the due date for the reporting and remitting of tobacco products tax levied pursuant to 68 O.S. § 401 et seq.

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

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. §§ 203 & 403.1

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 6, 2012, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Emmily Hood at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, date and place of the hearing are as follows: **February 7, 2012, 2:00 p.m.** in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Emmily Hood at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

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

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.tax.ok.gov.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 18, 2012, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@tax.ok.gov

[OAR Docket #11-1172; filed 12-9-11]

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

[OAR Docket #11-1171]

AND ADMINISTRATIVE AUTHORITY

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Subchapter 5. ~~Waste~~ Used Tire Recycling [AMENDED]

Subchapter 17. Prepaid Wireless Fee [AMENDED]

Subchapter 19. Business Activity Tax [AMENDED]

Subchapter 21. Quality Events [NEW]

SUMMARY:

The 2010-2011 Legislative Session enacted statutory changes which require additions, revocations, and amendments to the existing rules in the following areas.

Subchapter 5 has been amended to conform to the provisions of House Bill 1939[2011] which renamed the Waste Tire Recycling Act the Used Tire Recycling Act, provided for a definition of used tires and increased the \$1.00 recycling fee for all tires with rim diameters of seventeen and one half inches or less to \$2.50. This Subchapter has also been amended to reflect Commission policy regarding the due date for remittance of the used tire recycling fee that falls on a weekend day, holiday or day that the Federal Reserve banks are closed.

Subchapter 17 has been amended to reflect Commission policy regarding the due date for remittance of the prepaid wireless fee that falls on a weekend day, holiday, or day that the Federal Reserve banks are closed and has also been amended to clarify the treatment for purposes of the prepaid wireless 911 fee of retail transactions of prepaid calling cards providing access only to long distance telephone services, and not the right to utilize mobile service or other non-telecommunications services.

Subchapter 19 has been amended to clarify policy regarding the \$25 tax credit for the Business Activity Tax.

New Subchapter 21, and the new sections contained therein have been added to implement the provisions of SB 1284 [2010] which enacts the Oklahoma Quality Events Incentive Act.

Notices of Rulemaking Intent

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

AUTHORITY:

Oklahoma Tax Commission; 27A O.S. § 2-11-401.6; 68 O.S. §§ 203 and 1221

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 6, 2012, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Emmily Hood at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, date and place of the hearing are as follows: **February 7, 2012, 10:30 a.m.** in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Emmily Hood at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

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

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.tax.ok.gov.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 18, 2012, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@tax.ok.gov

[OAR Docket #11-1171; filed 12-9-11]

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

[OAR Docket #11-1151]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 8. Camping and Day Use

725:30-8-1 [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 [AMENDED]

725:30-12-5 [AMENDED]

Subchapter 26. Vehicles and Traffic Safety

725:30-26-15 [NEW]

SUMMARY:

The proposed rule amendments to 725:30-8-1 changes the definition of reserved/assigned camping which identifies a type of camping area to a definition of what a reserved campsite is. The definition of non-reserved camping is clarified.

The proposed rule amendments to 725:30-12-1 provides two new definitions, one for portal fee and one for reservation fee. The portal fee covers the cost of the web service and the reservation fee covers the cost to the park for securing and managing the reservation at the site.

The proposed rule amendments to 725:30-12-5 includes provisions for an online reservation system Manager discretion regarding minimum stays is addressed. Deposit requirement are described for holiday versus non-holiday periods and other dates. A description of reservation confirmation is provided. The requirement of cancelling a reservation are noted along with limitation on the number of reservations that can be made per online session. Late arrivals, early departures and site location changes are discussed.

725:30-26-15 describes the permitted use of golf carts and utility vehicles in certain parks or areas within State Parks and the requirements associated with that use.

AUTHORITY:

Title 74, O.S. 2204 (6) 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 p.m. on February 13, 2012 at the following address: Claudia Conner, Oklahoma Tourism and

Recreation Department, 120 N. Robinson Avenue, Suite 600, Oklahoma City, OK 73102, 405-230-8304.

PUBLIC HEARING

A Public Hearing will be held at 10:00 a.m. on Tuesday, February 14, 2012 at the Oklahoma Tourism and Recreation Department, 120 N. Robinson Avenue, Suite 600, Oklahoma City, OK 73102. Anyone who wishes to speak must sign in at the door by 10:00 a.m.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Tourism and Recreation Department, 120 N. Robinson Avenue, 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.

REASON FOR RULE:

725:30-8-1; 425:30-12-1; and 725:30-12-5 to allow customers to reserve individual campsites at Oklahoma State Parks.

725:30-26-15 permits use of golf carts and utility vehicles for safety and convenience of park customers.

FEE INCREASE:

No.

AFFECTS POLITICAL SUBDIVISION:

No.

CONTACT PERSON:

The contact person is Claudia Conner, Deputy Director and General Counsel of the Oklahoma Tourism and Recreation Department. Ms. Conner can be reached at Claudia.conner@OklaTourism.gov, 405-230-8304 (phone) or 405-230-8504 (fax). The Oklahoma Tourism and Recreation Department is located at 120 N. Robinson, Suite 600, Oklahoma City, Oklahoma 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 #11-1151; filed 11-29-11]

**TITLE 730. DEPARTMENT OF TRANSPORTATION
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #11-1160]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Transportation Commission
730:1-3-4. [AMENDED]

SUMMARY:

The proposed rule amendments refers to the long range transportation plan to serve as a reference in developing

the Eight Year Construction Work Plan from serving as a framework for developing Statewide Five Year Construction Program.

AUTHORITY:

69 O.S. §§ 101, 301, 302, 303, 304, 306, 4002, 4006, and 4007.

COMMENT PERIOD:

Persons may submit written and oral comments to Mike Patterson, Deputy Director, at 200 NE 21st Street, Oklahoma City, OK 73105-3204 during the period from January 3, 2012 to February 3, 2012.

PUBLIC HEARING:

A public hearing will be held at 3:00pm on Friday, February 10, 2012 at the Oklahoma Department of Transportation Commission Room, 200 NE 21st Street, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 3:05pm.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Comments from business entities may be sent to: Oklahoma Department of Transportation, Attn: Brian Bigbie, 200 NE 21st Street, Room 1B7, Oklahoma City, OK 73105 or sent electronically by sending requests to bbigbie@odot.org

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to January 3, 2012 and may be obtained at the same location listed above for obtaining copies.

CONTACT PERSON:

Brian Bigbie (405)522-6002

[OAR Docket #11-1160; filed 12-1-11]

**TITLE 730. DEPARTMENT OF TRANSPORTATION
CHAPTER 10. DEPARTMENT PROGRAMS**

[OAR Docket #11-1161]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Construction Program
- 730:10-1-1. [AMENDED]
- 730:10-1-2. ~~Adoption of long range program~~ Adoption of the Eight Year Construction Work Plan [AMENDED]
- 730:10-1-3. ~~Engineering needs studies~~ Eight Year Construction Work Plan Budgetary Projections [AMENDED]
- 730:10-1-4. ~~Prioritization of needs~~ Eight Year Construction Work Plan Balancing Process [AMENDED]

Notices of Rulemaking Intent

730:10-1-5. ~~Department recommendations Eight Year Construction Work Plan Management Process~~ [AMENDED]

730:10-1-6. [REVOKED]

730:10-1-7. [AMENDED]

730:10-1-8. [REVOKED]

730:10-1-9. ~~Applicability of law and rules; 'non-chargeable' program items~~ Applicability of law and rules [AMENDED]

730:10-1-11. [AMENDED]

Subchapter 15. Project Development Procedures

730:10-15-1. [AMENDED]

730:10-15-2. ~~Project scoping and development system~~ Project development process [AMENDED]

Appendix A. Ideal Scoping Process Within Current Structure [REVOKED]

Appendix A. Eight Year Construction Work Plan Management Process [NEW]

SUMMARY:

The proposed rule amendments establish a blueprint for the development and delivery of transportation projects statewide in accordance with the Department of Transportation's Eight Year Construction Work Plan. The proposed amendments refers to the Department's transportation long range programs as the Eight Year Construction Work Plan. The proposed amended rules also address agency budgetary projections and the balancing and management processes for the implementation of the Department's Eight Year Construction Work Plan.

AUTHORITY:

23U.S.C. 101 et seq.; 69 O.S. §§ 101, 301, 303, 304, 312, 317, 403 through 412, 502, 636.3, 656, 659, 661, 689, 701, 1502 and 4002.

COMMENT PERIOD:

Persons may submit written and oral comments to Mike Patterson, Deputy Director, at 200 NE 21st Street, Oklahoma City, OK 73105-3204 during the period from January 3, 2012 to February 3, 2012.

PUBLIC HEARING:

A public hearing will be held at 3:00pm on Friday, February 10, 2012 at the Oklahoma Department of Transportation Commission Room, 200 NE 21st Street, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 3:05pm.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Comments from business entities may be sent to: Oklahoma Department of Transportation, Attn: Brian Bigbie, 200 NE 21st Street, Room 1B7, Oklahoma City, OK 73105 or sent electronically by sending requests to bbigbie@odot.org

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to January 3, 2012 and may be obtained at the same location listed above for obtaining copies.

CONTACT PERSON:

Brian Bigbie (405)522-6002

[OAR Docket #11-1161; filed 12-1-11]

TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 15. HIGHWAY PLANNING

[OAR Docket #11-1163]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Process [NEW]

730:15-1-9. Dedications and commendations [REVOKED]

Subchapter 3. Highway and Bridge Signage [NEW]

730:15-3-1. Commission dedications and commendations [NEW]

730:15-3-2. Transfer Costs of Memorial Signs [NEW]

SUMMARY:

The proposed rule amendments and new rules modify the Department of Transportation's procedures for the production and placement of memorial signs naming roads and bridges in the state. The proposed rule amendments and new rules are part of a legislative directive, stated in HB 1666, requiring the Department to establish a procedure to assess and collect the cost of memorial signs honoring individuals who are not members of the U.S. Armed Forces that were killed in action.

AUTHORITY:

49 O.S. § 3117; 69 O.S. §§ 101, 301, 303, 501, 504, 1600 and 4002; HB1666, 2011 O.S.L. c.8 § 1.

COMMENT PERIOD:

Persons may submit written and oral comments to Mike Patterson, Deputy Director, at 200 NE 21st Street, Oklahoma City, OK 73105-3204 during the period from January 3, 2012 to February 3, 2012.

PUBLIC HEARING:

A public hearing will be held at 3:00pm on Friday, February 10, 2012 at the Oklahoma Department of Transportation Commission Room, 200 NE 21st Street, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 3:05pm.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Comments from business entities may be sent to: Oklahoma Department of Transportation, Attn: Brian Bigbie, 200 NE 21st Street, Room 1B7, Oklahoma City, OK 73105 or sent electronically by sending requests to bbigbie@odot.org

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to January 3, 2012 and may be obtained at the same location listed above for obtaining copies.

CONTACT PERSON:

Brian Bigbie (405)522-6002

[OAR Docket #11-1163; filed 12-1-11]

**TITLE 730. DEPARTMENT OF
TRANSPORTATION
CHAPTER 30. HIGHWAY DESIGN**

[OAR Docket #11-1162]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Consulting Engineer Services
730:30-5-2. [AMENDED]

SUMMARY:

The proposed rule amendment revises non-substantive language to reflect what is stated in the Department's Eight Year Construction Work Plan. The proposed rule amendment redacts language pertaining to prequalified consultant lists.

AUTHORITY:

61 O.S. §§ 60 et seq.; 69 O.S. §§ 101, 301, 303, 701, 1401 et seq., and 4006.; 23 U.S.C 101

COMMENT PERIOD:

Persons may submit written and oral comments to Mike Patterson, Deputy Director, at 200 NE 21st Street, Oklahoma City, OK 73105-3204 during the period from January 3, 2012 to February 3, 2012.

PUBLIC HEARING:

A public hearing will be held at 3:00pm on Friday, February 10, 2012 at the Oklahoma Department of Transportation Commission Room, 200 NE 21st Street, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 3:05pm.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Comments from business entities may be sent to: Oklahoma Department of Transportation, Attn: Brian Bigbie, 200 NE 21st Street, Room 1B7, Oklahoma City, OK 73105 or sent electronically by sending requests to bbigbie@odot.org

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to January 3, 2012

[OAR Docket #11-1162; filed 12-1-11]

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

[OAR Docket #11-1166]

RULEMAKING ACTION:

Notice of cancelled hearing and comment period

PROPOSED RULES:

Part 7. Water Quality Division Tiers and Time Lines

252:4-7-73. [AMENDED]

252:4-7-74. [AMENDED]

REGISTER PUBLICATION OF NOTICE:

December 1, 2011

CANCELLED COMMENT PERIOD:

December 1, 2011 through January 3, 2012; at the Water Quality Management Advisory Council meeting on January 10, 2012 and at the Environmental Quality Board meeting on February 24, 2012.

These cancellations do not affect the proposed changes to other rules also contained in Subchapter 4. The hearing and comment periods for those proposed changes are not affected by this notice.

ADDITIONAL INFORMATION:

The contact person is Saba Tahmassebi, Ph.D., P.E. He can be reached at Saba.Tahmassebi@deq.ok.gov (email), (405) 702-5100 (phone) or (405) 702-5101 (fax). The DEQ is located at 707 North Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

[OAR Docket #11-1166; filed 12-8-11]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 652. UNDERGROUND INJECTION CONTROL

[OAR Docket #11-1165]

RULEMAKING ACTION:

Notice of cancelled hearing and comment period

PROPOSED RULES:

Subchapter 1. General Provisions

252:652-1-3. AMENDED]

252:652-1-5. [AMENDED]

252:652-1-6. [AMENDED]

Subchapter 3. Exclusionary Siting Criteria for Class I Wells

252:652-3-1. [AMENDED]

Subchapter 5. Application Content Requirements

252:652-5-1. [AMENDED]

252:652-5-4. [NEW]

Subchapter 7. Construction Requirements

252:652-7-4. [NEW]

REGISTER PUBLICATION OF NOTICE:

December 1, 2011

CANCELLED HEARINGS AND COMMENT PERIOD:

December 1, 2011, through January 3, 2012; at the Water Quality Management Advisory Council meeting on January 10, 2012, and at the Environmental Quality Board meeting on February 24, 2012.

ADDITIONAL INFORMATION:

The contact person is Saba Tahmassebi, Ph.D., P.E. He can be reached at Saba.Tahmassebi@deq.ok.gov (email), (405) 702-5100 (phone) or (405) 702-5101 (fax). The DEQ is located at 707 North Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

[OAR Docket #11-1165; filed 12-8-11]

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 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 30. OCCUPATIONAL
THERAPISTS AND ASSISTANTS**

[OAR Docket #11-1189]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

PROPOSED RULES:

435:30-1-2. Definitions [AMENDED]

435:30-1-16. Responsible supervision [AMENDED]

GUBERNATORIAL APPROVAL:

December 5, 2011

[OAR Docket #11-1189; filed 12-12-11]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 65. SALES AND USE TAX**

[OAR Docket #11-1168]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

PROPOSED RULES:

Subchapter 18. Sourcing Pursuant to the Streamlined Sales
and Use Tax Administration Act

710:65-18-6 [AMENDED]

GUBERNATORIAL APPROVAL:

December 5, 2011

[OAR Docket #11-1168; filed 12-9-11]

Emergency Adoptions

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

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

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

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

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 2. GRIEVANCE PROCEDURES AND PROCESS

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

[OAR Docket #11-1152]

SUBCHAPTER 1. RULES

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

317:2-1-2. [AMENDED]

317:2-1-15. [NEW]

(Reference APA WF # 11-18B)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Sections 3241.1 through 3241.6 of Title 63 of the Oklahoma Statutes.

DATES:

Adoption:

October 13, 2011

Approved by Governor:

November 22, 2011

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2012, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rules to create guidelines for and implement the Supplemental Hospital Offset Payment Program (SHOPP) in order to avoid violation of 63 Okla. Stat. §§ 3241.1 through 3241.6.

ANALYSIS:

Rules are revised to establish guidelines for and implement the Supplemental Hospital Offset Payment Program (SHOPP) as authorized by 63 Okla. Stat. §§ 3241.1 through 3241.6. OHCA is required by the SHOPP Act to assess all in-state hospitals, unless specifically exempted, an assessment fee of 2.5%. Funds derived from the assessment will be used to garner federal matching funds which will be used to maintain SoonerCare provider reimbursement rates as well as pay participating hospitals a quarterly access payment.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

317:2-1-2. Appeals

(a) Member Process Overview.

(1) The appeals process allows a member to appeal a decision which adversely affects their rights. Examples are decisions involving medical services, prior authorizations for medical services, or discrimination complaints.

(2) In order to file an appeal, the member files a LD-1 form within 20 days of the triggering event. The triggering event occurs at the time when the Appellant (Appellant is the person who files a grievance) knew or should have known of such condition or circumstance for appeal.

(3) If the LD-1 form is not received within 20 days of the triggering event, OHCA sends the Appellant a letter stating the appeal will not be heard because it is untimely. In the case of tax warrant intercept appeals, if the LD-1 form is not received within 30 days of written notice sent by OHCA according to Title 68 ~~O.S.~~ Okla. Stat. § 205.2, OHCA sends the Appellant a letter stating the appeal will not be heard because it is untimely.

(4) If the LD-1 form is not completely filled out and necessary documentation not included, then the appeal will not be heard.

(5) The staff advises the Appellant that if there is a need for assistance in reading or completing the grievance form that arrangements will be made.

(6) Upon receipt of the member's appeal, a fair hearing before the Administrative Law Judge (ALJ) will be scheduled. The member will be notified in writing of the date and time for this procedure. The member must appear at this hearing and it is conducted according to 317:2-1-5. The ALJ's decision may be appealed to the Chief Executive Officer of the OHCA, which is a record review at which the parties do not appear (317:2-1-13).

(7) Member appeals are ordinarily decided within 90 days from the date OHCA receives the member's timely request for a fair hearing unless the member waives this requirement. [Title 42 C.F.R. Section 431.244(f)]

Emergency Adoptions

- (8) Tax warrant intercept appeals will be heard directly by the ALJ. A decision is normally rendered by the ALJ within 20 days of the hearing before the ALJ.
- (b) **Provider Process Overview.**
- (1) The proceedings as described in this Section contain the hearing process for those appeals filed by providers. These appeals encompass all subject matter cases contained in 317:2-1-2(c)(2).
- (2) All provider appeals are initially heard by the OHCA Administrative Law Judge under 317:2-1-2(c)(2).
- (A) The Appellant (Appellant is the provider who files a grievance) files an LD form requesting a grievance hearing within 20 days of the triggering event. The triggering event occurs at the time when the Appellant knew or should have known of such condition or circumstance for appeal. (LD-2 forms are for provider grievances and LD-3 forms are for nursing home wage enhancement grievances.)
- (B) If the LD form is not received within 20 days of the triggering event, OHCA sends the Appellant a letter stating the appeal will not be heard because it is untimely.
- (C) The staff advises the Appellant that if there is a need for assistance in reading or completing the grievance form that arrangements will be made.
- (D) A decision will be rendered by the ALJ ordinarily within 45 days of the close of all evidence in the case.
- (E) Unless an exception is provided in 317:2-1-13, the Administrative Law Judge's decision is appealable to OHCA's CEO under 317:2-1-13.
- (c) **ALJ jurisdiction.** The administrative law judge has jurisdiction of the following matters:
- (1) Member Appeals:
- (A) Discrimination complaints regarding the SoonerCare program;
- (B) Appeals which relate to the scope of services, covered services, complaints regarding service or care, enrollment, disenrollment, and reenrollment in the SoonerCare Program;
- (C) Fee for Service appeals regarding the furnishing of services, including prior authorizations;
- (D) Appeals which relate to the tax warrant intercept system through the Oklahoma Health Care Authority. Tax warrant intercept appeals will be heard directly by the ALJ. A decision will be rendered by the Administrative Law Judge within 20 days of the hearing before the ALJ;
- (E) Complaints regarding the possible violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- (F) Proposed administrative sanction appeals pursuant to 317:35-13-7. Proposed administrative sanction appeals will be heard directly by the ALJ. A decision by the ALJ will ordinarily be rendered within 20 days of the hearing before the ALJ. This is the final and only appeals process for proposed administrative sanctions;
- (G) Appeals which relate to eligibility determinations made by OHCA;
- (H) Appeals of insureds participating in Insure Oklahoma which are authorized by 317:45-9-8(a); and
- (2) Provider Appeals:
- (A) Whether Pre-admission Screening and Resident Review (PASRR) was completed as required by law;
- (B) Denial of request to disenroll member from provider's SoonerCare Choice panel;
- (C) Appeals by Long Term Care facilities for non-payment of wage enhancements, determinations of overpayment or underpayment of wage enhancements, and administrative penalty determinations as a result of findings made under 317:30-5-131.2(b)(5), (e)(8), and (e)(12);
- (D) Petitions for Rulemaking;
- (E) Appeals to the decision made by the Contracts manager related to reports of supplier non-compliance to the Central Purchasing Division, Oklahoma Department of Central Services and other appeal rights granted by contract;
- (F) Drug rebate appeals;
- (G) Nursing home contracts which are terminated, denied, or non-renewed;
- (H) Proposed administrative sanction appeals pursuant to 317:30-3-19. Proposed administrative sanction appeals will be heard directly by the ALJ. A decision will normally be rendered by the ALJ within 20 days of the hearing before the ALJ. This is the final and only appeals process for proposed administrative sanctions;
- (I) Contract award appeals;
- (J) Provider appeals of OHCA audit findings pursuant to 317:2-1-7. This is the final and only appeals process for appeals of OHCA audits; and
- (K) Oklahoma Electronic Health Records Incentive program appeals related only to incentive payments, incentive payment amounts, provider eligibility determinations, and demonstration of adopting, implementing, upgrading, and meaningful use eligibility for incentives.
- (L) Supplemental Hospital Offset Payment Program (SHOPP) annual assessment, Supplemental Payment, fees or penalties as specifically provided in OAC 317:2-1-15.
- 317:2-1-15. Supplemental Hospital Offset Payment Program (SHOPP) Appeals**
- (a) In accordance with Title 63 of the Oklahoma Statutes Section 3241.4 OHCA is authorized to promulgate rules for appeals of annual assessments, fees and penalties to hospitals as defined by the statute. The rules in this Section describe those appeals rights.
- (1) OAC 317:30-5-58 subsections (a) through (e) describe the SHOPP Assessments, fees and the penalties for non-payment of the fee or failure to file a cost report, as set out in 63 Okla. Stat. §§ 3241.3 and 3241.4

(2) Appeals filed under this Section are heard by an Administrative Law Judge (ALJ).

(3) To file an appeal, the provider hospital must file an LD-2 form within thirty (30) days of receipt of the notification from OHCA assessing the annual SHOPP Assessment, a fee or penalty. The penalty, fee or assessment is deducted from the hospital's payment if the assessment is unpaid at the time the appeal is filed. If the hospital prevails in the appeal the amount assessed will be returned to the hospital with their payment.

(4) The hearing will be conducted in accordance with OAC 317:2-1-5.

(b) An individual hospital may appeal an individual assessment at the time of its annual assessment. As provided for above in subsection (3), the appeal must be filed within thirty (30) days of receipt of the notification of assessment by OHCA to the hospital. If the hospital challenges the computation of the hospital's net patient revenue, the assessment rate, or assessment amount then the appeal will proceed in accordance with subsection(4)above.

(c) Individual hospitals that appeal the quarterly assessment are limited to calculation errors in dividing the annual assessment into four parts. Appeals must be filed within thirty 30 days of receipt of the notice of assessment by OHCA to the hospital. The appeal will proceed in accordance with subsection (4) above.

(d) If OHCA determines an overpayment of SHOPP payments has been made to an individual hospital, then the hospital may file an appeal within thirty (30) days of the notice of overpayment. Overpayments are deducted from the hospital's payment. The appeal will proceed in accordance with subsection (4) above.

(e) OHCA recognizes that some individual hospital's claims regarding an inappropriate assessment or overpayment may involve aggregate data. For example an appeal may involve one of the following issues:

- (1) total hospitals in the entire SHOPP pool;
- (2) total hospitals that are exempt from SHOPP;
- (3) total hospitals classified as critical access hospitals;
- (4) total net revenue from all hospitals in the pool;
- (5) the total amount of monies allocated to each pool in the SHOPP; or
- (6) the pro-rata distribution in a pool(s).

(f) If an individual hospital brings an aggregate appeals claim, there are two (2) elements of proof to be met. The ALJ must determine that the hospital can demonstrate by a preponderance of evidence:

- (1) that data was made available before the hospital submitted the appeal; and
- (2) a specific calculation error has been made statewide that can be shown by the hospital.

(g) The "Upper Payment Limit" and the "Upper Payment limit Gap" are not appealable in the administrative process.

[OAR Docket #11-1152; filed 11-30-11]

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

[OAR Docket #11-1155]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 5. Individual Providers and Specialties
Part 3. Hospitals
317:30-5-58. [NEW]
(Reference APA WF # 11-18A)

AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Sections 3241.1 through 3241.6 of Title 63 of the Oklahoma Statute and 42 CFR 433.68.

DATES:

Adoption:
October 13, 2011

Approved by Governor:
November 22, 2011

Effective:
Immediately upon Governor's approval

Expiration:
Effective through July 14, 2012, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

FINDING OF EMERGENCY:
The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rules to create guidelines for and implement the Supplemental Hospital Offset Payment Program (SHOPP) in order to avoid violation of 63 Okla. Stat. §§ 3241.1 through 3241.6.

ANALYSIS:
Rules are revised to establish guidelines for and implement the Supplemental Hospital Offset Payment Program (SHOPP) as authorized by 63 Okla. Stat. §§ 3241.1 through 3241.6. OHCA is required by the SHOPP Act to assess all in-state hospitals, unless specifically exempted, an assessment fee of 2.5%. Funds derived from the assessment will be used to garner federal matching funds which will be used to maintain SoonerCare provider reimbursement rates as well as pay participating hospitals a quarterly access payment.

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 5. INDIVIDUAL PROVIDERS
AND SPECIALTIES**

PART 3. HOSPITALS

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317:30-5-58. Supplemental Hospital Offset Payment Program

(a) **Purpose.** The Supplemental Hospital Offset Payment Program (SHOPP) is a hospital assessment fee that is eligible for federal matching funds when used to reimburse SoonerCare services in accordance with Section 3241.1 of Title 63 of the Oklahoma Statutes.

(b) **Definitions.** The following words and terms, when used in this Section have the following meaning, unless the context clearly indicates otherwise:

(1) **"Base Year"** means a hospital's fiscal year ending in 2009, as reported in the Medicare Cost Report or as determined by the Oklahoma Health Care Authority (OHCA) if the hospital's data is not included in a Medicare Cost Report.

(2) **"Fee"** means supplemental hospital offset assessment pursuant to Section 3241.1 of Title 63 of the Oklahoma Statutes.

(3) **"Hospital"** means an institution licensed by the State Department of Health as a hospital pursuant to Section 1-701.1 of Title 63 of the Oklahoma Statutes maintained primarily for the diagnosis, treatment, or care of patients;

(4) **"Hospital Advisory Committee"** means the Committee established for the purposes of advising the OHCA and recommending provisions within and approval of any state plan amendment or waiver affecting the Supplemental Hospital Offset Payment Program.

(5) **"Medicare Cost Report"** means form CMS-2552-96, the Hospital Cost Report, as it existed on January 1, 2011;

(6) **"NET hospital patient revenue"** means the gross hospital revenue as reported on Worksheet G-2 (Columns 1 and 2, Lines 16, 17 and 18) of the Medicare Cost Report, multiplied by hospital's ratio of total net to gross revenue, as reported on Worksheet G-3 (Column 1, Line 3) and Worksheet G-2 (Part I, Column 3, Line 25);

(7) **"Upper payment limit"** means the maximum ceiling imposed by 42 C.F.R. §§ 447.272 and 447.321 on hospital Medicaid reimbursement for inpatient and outpatient services, other than to hospitals owned or operated by state government; and

(8) **"Upper payment limit gap"** means the difference between the upper payment limit and SoonerCare payments not financed using hospital assessments.

(c) **Supplemental Hospital Offset Payment Program.**

(1) Pursuant to 63 Okla. Stat. §§ 3241.1 through 3241.6 the Oklahoma Health Care Authority (OHCA) was mandated to assess hospitals licensed in Oklahoma, unless exempted under (c)(2) of this Section, a supplemental hospital offset payment fee.

(2) The following hospitals are exempt from the SHOPP fee:

(A) a hospital that is owned or operated by the state or a state agency, or the federal government, as determined by OHCA, using most recent Medicare cost report worksheet S-2, column 1, line 18 or other line that indicates ownership, or by a federally recognized

Indian tribe or Indian Health Services, as determined by OHCA, using the most recent IHS/Tribal facility list for Oklahoma as updated by the Indian Health Service Office of Resource Access and Partnerships in Partnership with the Centers for Medicaid and State operations.

(B) a hospital that provides more than fifty percent (50%) of its inpatient days under a contract with a state agency other than the OHCA, as determined by OHCA, using data provided by the hospital;

(C) a hospital for which the majority of its inpatient days are for any one of the following services, as determined by OHCA, using the Inpatient Discharge Data File published by the Oklahoma State Department of Health, or in the case of a hospital not included in the Inpatient Discharge Data File, Using substantially equivalent data provided by the hospital:

(i) treatment of a neurological injury;

(ii) treatment of cancer;

(iii) treatment of cardiovascular disease;

(iv) obstetrical or childbirth services; or

(v) surgical care except that this exemption will not apply to any hospital located in a city of less than five hundred thousand (500,000) population and for which the majority of inpatient days are for back, neck, or spine surgery.

(D) a hospital that is certified by the Centers for Medicare and Medicaid Services (CMS) as a long term acute hospital, according to the most recent list of LTCH's published on the CMS <http://www.cms.gov/LongTermCareHospitalPPS/08download.asp> or as a children's hospital; and

(E) a hospital that is certified by CMS as a critical access hospital, according to the most recent list published by Flex Monitoring Team for Critical Access Hospital (CAH) Information at <http://www.flexmonitoring.org/cahlistRA.cgi>, which is based on CMS quarterly reports, augmented by information provided by state Flex Coordinators.

(d) **The Supplemental Hospital Offset Payment Program Assessment.**

(1) The SHOPP assessment is imposed on each hospital, except those exempted under (c)(2) of this Section, for each calendar year in an amount calculated as a percentage of each hospital's net hospital patient revenue. The assessment rate until December 31, 2012, is two and one-half percent (2.5%). At no time in subsequent years will the assessment rate exceed four percent (4%).

(2) OHCA will review and determine the amount of annual assessment in December of each year.

(3) A hospital may not charge any patient for any portion of the SHOPP assessment.

(4) The method of collection is as follows:

(A) The OHCA will send a notice of assessment to each hospital informing the hospital of the assessment rate, the hospital's net hospital patient revenue

calculation, and the assessment amount owed by the hospital for the applicable year.

(B) The hospital has thirty (30) days from the date of its receipt of a notice of assessment to review and verify the assessment rate, the hospital's net patient revenue calculation, and the assessment amount.

(C) New hospitals will only be added at the beginning of each calendar year.

(D) The annual assessment imposed is due and payable on a quarterly basis. Each quarterly installment payment is due and payable by the fifteenth day of the first month of the applicable quarter (i.e. January 15th, April 15th, etc.)

(E) Failure to pay the amount by the 15th or failure to have the payment mailing postmarked by the 13th will result in a debt to the State of Oklahoma and is subject to penalties of 5% of the amount and interest of 1.25% per month. The SHOPP assessment must be received by OHCA no later than the 15th of the month. If the 15th falls upon a holiday or weekend (Saturday-Sunday), the assessment is due by 5 p.m. (Central Standard Time) of the following business day (Monday-Friday).

(F) If a hospital fails to timely pay the full amount of a quarterly assessment, OHCA will add to the assessment:

(i) a penalty assessment equal to five percent (5%) of the quarterly amount not paid on or before the due date; and

(ii) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under section (i) of this paragraph are paid in full, an additional five percent (5%) penalty assessment on any unpaid quarterly and unpaid penalty assessment amounts.

(iii) the quarterly assessment including applicable penalties and interest must be paid regardless of any appeals action requested by the facility. If a provider fails to pay the OHCA the assessment within the time frames noted on the invoice to the provider, the assessment, applicable penalty, and interest will be deducted from the facility's payment. Any change in payment amount resulting from an appeals decision will be adjusted in future payments. In accordance with OAC 317:2-1-15 SHOPP appeals.

(G) The SHOPP assessments excluding penalties and interest are an allowable cost for cost reporting purposes.

(e) Supplemental Hospital Offset Payment Program Cost Reports.

(1) The report referenced in paragraph (b)(6) must be signed by the preparer and by the Owner, authorized Corporate Officer or Administrator of the facility for verification and attestation that the reports were compiled in accordance with this section.

(2) The Owner or authorized Corporate Officer of the facility must retain full accountability for the report's accuracy and completeness regardless of report submission method.

(3) Penalties for false statements or misrepresentation made by or on behalf of the provider are provided at 42 U.S.C. Section 1320a-7b which states, in part, "Whoever... (2) at any time knowingly and willfully makes or causes to be made any false statement of a material fact for use in determining rights to such benefits or payment... shall (i) in the case of such statement, representation, failure, or conversion by any person in connection with furnishing (by the person) of items or services for which payment is or may be under this title (42 U.S.C. § 1320 et seq.), be guilty of a felony and upon conviction thereof fined not more than \$25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than \$10,000 or imprisoned for not more than one year, or both."

(4) Net hospital patient revenue is determined using the data from each hospital's fiscal year 2009 Medicare Cost Report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file.

(5) If a hospital's fiscal year 2009 Medicare Cost Report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file dated December 31, 2010, the hospital will submit a copy of the hospital's 2009 Medicare Cost Report to the Oklahoma Health Care Authority (OHCA) in order to allow the OHCA to determine the hospital's net hospital patient revenue for the base year.

(6) If a hospital commenced operations after the due date for a 2009 Medicare Cost Report, the hospital will submit its initial Medicare Cost Report to Oklahoma Health Care Authority (OHCA) in order to allow the OHCA to determine the hospital's net patient revenue for the base year.

(7) Partial year reports may be prorated for an annual basis. Hospitals whose assessments were based on partial year cost reports will be reassessed the following year using a cost report that contains a full year of operational data.

(8) In the event that a hospital does not file a uniform cost report under 42 U.S.C., Section 1396a(a)(40), the OHCA will provide a data collection sheet for such facility.

(f) Closure, merger and new hospitals.

(1) If a hospital ceases to operate as a hospital or for any reason ceases to be subject to the fee, the assessment for the year in which the cessation occurs is adjusted by multiplying the annual assessment by a fraction, the numerator of which is the number of days in the year during which the hospital is subject to the assessment and denominator of which is 365. Within 30 days of ceasing to operate as a

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hospital, or otherwise ceasing to be subject to the assessment, the hospital will pay the assessment for the year as so adjusted, to the extent not previously paid.

(2) Cost reports required under (e)(5), (e)(6), or (e)(8) of this subsection for assessment calculation must be submitted to OHCA by November 1, 2011 for the 2012 assessment, and for subsequent years' assessment calculation by September 30 of the preceding year.

(g) **Disbursement of payment to hospitals.**

(1) All in-state inpatient hospitals are eligible for hospital access payments each year as set forth in this subsection except for those listed in OAC 317:30-5-58 (c)(2):

(A) In addition to any other funds paid to inpatient critical access hospital for services provided to SoonerCare members, each critical access hospital will receive hospital access payments equal to the amount by which the payment for these services was less than one hundred one percent (101%) of the hospital's cost of providing these services.

(B) In addition to any other funds paid to hospitals for inpatient hospital services to SoonerCare members, each eligible hospital will receive inpatient hospital access payments each year equal to the hospital's pro rata share of the inpatient supplemental payment pool as reduced by payments distributed in paragraph (1)(A) of this Section. The pro rata share will be based upon the hospital's SoonerCare payment for inpatient services divided by the total SoonerCare payments for inpatient services of all eligible hospitals within each class of hospital; not to exceed the UPL for the class.

(2) All in-state outpatient hospitals are eligible for hospital access payments each year as set forth in this subsection except for those listed in OAC 317:30-5-58 (c)(2):

(A) In addition to any other funds paid to outpatient critical access hospital for services provided to SoonerCare members, each critical access hospital will receive hospital access payments equal to the amount by which the payment for these services was less than one hundred one percent (101%) of the hospital's cost of providing these services.

(B) In addition to any other funds paid to hospitals for outpatient hospital services to SoonerCare members, each eligible hospital will receive outpatient hospital access payments each year equal to the hospital's pro rata share of the outpatient supplemental payment pool as reduced by payments distributed in paragraph (2)(A) of this Section. The pro rata share will be based upon the hospital's SoonerCare payment for outpatient services divided by the total SoonerCare payments for outpatient services of all eligible hospitals within each class of hospital; not to exceed the UPL for the class.

(3) If any retrospective audit determines that a class of hospitals has exceeded the inpatient and/or outpatient UPL, the overpayment will be recouped and redistributed. If the overpayment cannot be redistributed due to all classes

being paid at their UPL, the overpayment will be deposited in to the SHOPP fund.

[OAR Docket #11-1155; filed 11-30-11]

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

[OAR Docket #11-1153]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties
Part 85. ADvantage Waiver Program Services
317:30-5-763. [AMENDED]
(Reference APA WF # 11-11A)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1915(C) of the Social Security Act pertaining to Home and Community Based Services waivers as approved by the Centers for Medicare and Medicaid Services

DATES:

Adoption:

October 13, 2011

Approved by Governor:

November 22, 2011

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2012, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rules to remove certain covered benefits from the ADvantage Waiver Program in order to comply with the revisions in operational procedures currently approved by the Centers for Medicare and Medicaid Services (CMS) in Oklahoma's 1915(c) Home and Community Based Services Waiver. Failure to make these changes would put the Agency's rules out of compliance with current Federal approvals thereby placing the member's Federal Financial Participation (FFP) for ADvantage Waiver Services at risk.

ANALYSIS:

OHCA rules for the ADvantage Waiver are revised to remove respiratory therapy as an allowable service within the waiver and remove Hospice when the member is in a nursing facility receiving ADvantage Facility Based Extended Respite. Both services are removed due to lack of utilization. Additionally, rules are revised to remove language allowing for reimbursement to providers of case management transition services when the member fails to transition into the ADvantage waiver program. The revisions are necessary to align OHCA policy with revised operational procedures as approved by the Centers for Medicare and Medicaid Services.

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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 85. ADVANTAGE PROGRAM WAIVER
SERVICES**

317:30-5-763. Description of services

Services included in the ADvantage Program are as follows:

(1) **Case Management.**

(A) Case Management services are services that assist a member in gaining access to medical, social, educational or other services, regardless of payment source of services, that may benefit the member in maintaining health and safety. Case managers initiate and oversee necessary assessments and reassessments to establish or reestablish waiver program eligibility. Case managers develop the member's comprehensive plan of care, listing only services which are necessary to prevent institutionalization of the member, as determined through assessments. Case managers initiate the addition of necessary services or deletion of unnecessary services, as dictated by the member's condition and available support. Case managers monitor the member's condition to ensure delivery and appropriateness of services and initiate plan of care reviews. If a member requires hospital or nursing facility services, the case manager assists the member in accessing institutional care and, as appropriate, periodically monitors the member's progress during the institutional stay and helps the member transition from institution to home by updating the service plan and preparing services to start on the date the member is discharged from the institution. Case Managers must meet ADvantage Program minimum requirements for qualification and training prior to providing services to ADvantage members. Prior to providing services to members receiving Consumer-Directed Personal Assistance Services and Supports (CD-PASS), Case Managers are required to receive training and demonstrate knowledge regarding CD-PASS service delivery model, "Independent Living Philosophy" and demonstrate competency in Person-centered planning.

(B) Providers may only claim time for billable Case Management activities described as follows:

(i) A billable case management activity is any task or function defined under OAC 317:30-5-763(1)(A) that only an ADvantage case manager because of skill, training or authority, can perform on behalf of a member;

(ii) Ancillary activities such as clerical tasks like mailing, copying, filing, faxing, drive time or supervisory/administrative activities are not billable case management activities, although the administrative cost of these activities and other normal and customary business overhead costs

have been included in the reimbursement rate for billable activities.

(C) Case Management services are prior authorized and billed per 15-minute unit of service using the rate associated with the location of residence of the member served.

(i) **Standard Rate:** Case Management services are billed using a Standard rate for reimbursement for billable service activities provided to a member who resides in a county with population density greater than 25 persons per square mile.

(ii) **Very Rural/Difficult Service Area Rate:** Case Management services are billed using a Very Rural/Difficult Service Area rate for billable service activities provided to a member who resides in a county with population density equal to or less than 25 persons per square mile. An exception would be services to members that reside in Oklahoma Department of Human Services/Aging Services Division (OKDHS/ASD) identified zip codes in Osage County adjacent to metropolitan areas of Tulsa and Washington Counties. Services to these members are prior authorized and billed using the Standard rate.

(iii) The latest United States Census, Oklahoma Counties population data is the source for determination of whether a member resides in a county with a population density equal to or less than 25 persons per square mile, or resides in a county with a population density greater than 25 persons per square mile.

(2) **Respite.**

(A) Respite services are provided to members who are unable to care for themselves. They are provided on a short-term basis because of the absence or need for relief of the primary caregiver. Payment for respite care does not include room and board costs unless more than seven hours are provided in a nursing facility. Respite care will only be utilized when other sources of care and support have been exhausted. Respite care will only be listed on the plan of care when it is necessary to prevent institutionalization of the member. Units of services are limited to the number of units approved on the plan of care.

(B) **In-Home Respite** services are billed per 15-minute unit service. Within any one-day period, a minimum of eight units must be provided with a maximum of 28 units provided. The service is provided in the member's home.

(C) **Facility-Based Extended Respite** is filed for a per diem rate, if provided in Nursing Facility. Extended Respite must be at least eight hours in duration.

(D) **In-Home Extended Respite** is filed for a per diem rate. A minimum of eight hours must be provided in the member's home.

(3) **Adult Day Health Care.**

(A) Adult Day Health Care is furnished on a regularly scheduled basis for one or more days per week

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in an outpatient setting. It provides both health and social services which are necessary to ensure the optimal functioning of the member. Physical, occupational, ~~respiratory~~ and/or speech therapies may only be provided as an enhancement to the basic Adult Day Health Care service when authorized by the plan of care and billed as a separate procedure. Meals provided as part of this service do not constitute a full nutritional regimen. Transportation between the member's residence and the service setting is provided as a part of Adult Day Health Care. Personal Care service enhancement in Adult Day Health Care is assistance in bathing and/or hair washing authorized by the plan of care and billed as a separate procedure. Most assistance with activities of daily living, such as eating, mobility, toileting and nail care, are services that are integral to the Adult Day Health Care service and are covered by the Adult Day Health Care basic reimbursement rate. Assistance with bathing and/or hair care is not a usual and customary adult day health care service. Enhanced personal care in adult day health care for assistance with bathing and/or hair washing will be authorized when an Advantage waiver member who uses adult day health care requires assistance with bathing and/or hair washing to maintain health and safety.

(B) Adult Day Health Care is a 15-minute unit. No more than 6 hours are authorized per day. The number of units of service a member may receive is limited to the number of units approved on the member's approved plan of care.

(C) Adult Day Health Care Therapy Enhancement is a maximum one session per day unit of service.

(D) Adult Day Health Personal Care Enhancement is a maximum one per day unit of bathing and/or hair washing service.

(4) **Environmental Modifications.**

(A) Environmental Modifications are physical adaptations to the home, required by the member's plan of care, which are necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the home and without which, the member would require institutionalization. Adaptations or improvements to the home which are not of direct medical or remedial benefit to the waiver member are excluded.

(B) All services require prior authorization.

(5) **Specialized Medical Equipment and Supplies.**

(A) Specialized Medical Equipment and Supplies are devices, controls, or appliances specified in the plan of care, which enable members to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live. Also included are items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid state plan. This service

excludes any equipment and/or supply items which are not of direct medical or remedial benefit to the waiver member. This service is necessary to prevent institutionalization.

(B) Specialized Medical Equipment and Supplies are billed using the appropriate HCPC procedure code. Reoccurring supplies which are shipped to the member are compensable only when the member remains eligible for waiver services, continues to reside in the home and is not institutionalized in a hospital, skilled nursing facility or nursing home. It is the provider's responsibility to verify the member's status prior to shipping these items. Payment for medical supplies is limited to the Medicare rate, or the SoonerCare rate, or actual acquisition cost plus 30 percent. All services must be prior authorized.

(6) **Advanced Supportive/Restorative Assistance.**

(A) Advanced Supportive/Restorative Assistance services are maintenance services to assist a member who has a chronic, yet stable, condition. These services assist with activities of daily living which require devices and procedures related to altered body functions. This service is for maintenance only and is not utilized as a treatment service.

(B) Advanced Supportive/Restorative Assistance service is billed per 15-minute unit of service. The number of units of this service a member may receive is limited to the number of units approved on the plan of care.

(7) **Nursing.**

(A) Nursing services are services listed in the plan of care which are within the scope of the Oklahoma Nursing Practice Act and are provided by a registered professional nurse, or licensed practical or vocational nurse under the supervision of a registered nurse, licensed to practice in the State. Nursing services includes skilled nursing and/or private duty nursing. Skilled nursing is provided on an intermittent or part-time basis. Private duty nursing is individual and continuous care provided to a participant at home by licensed nurses. The provision of the nursing service will work to prevent or postpone the institutionalization of the member.

(B) Nursing services are services of a maintenance or preventive nature provided to members with stable, chronic conditions. These services are not intended to treat an acute health condition and may not include services which would be reimbursable under either Medicaid or Medicare's Home Health Program. This service primarily provides nurse supervision to the Personal Care Assistant or to the Advanced Supportive/Restorative Assistance Aide and assesses the member's health and prescribed medical services to ensure that they meet the member's needs as specified in the plan of care. A skilled nursing assessment/evaluation on-site visit is made to each member for whom Advanced Supportive/Restorative Assistance services are authorized to evaluate the condition of the

member and medical appropriateness of services. An assessment/evaluation visit report will be made to the ADvantage Program case manager in accordance with review schedule determined in consultation between the Case Manager and the Skilled Nurse, to report the member's condition or other significant information concerning each advanced supportive/restorative care member.

(i) The ADvantage Program case manager may recommend authorization of Skilled Nursing services as part of the interdisciplinary team planning for the member's service plan and/or assessment/evaluation of:

(I) the member's general health, functional ability and needs and/or

(II) the adequacy of personal care and/or advanced supportive/restorative assistance services to meet the member's needs including providing on-the-job training and competency testing for personal care or advanced supportive/restorative care aides in accordance with rules and regulations for delegation of nursing tasks as established by the Oklahoma Board of Nursing.

(ii) In addition to assessment/evaluation, the ADvantage Program case manager may recommend authorization of Skilled Nursing services for the following:

(I) preparing a one-week supply of insulin syringes for a blind diabetic who can safely self-inject the medication but cannot fill his/her own syringe. This service would include monitoring the member's continued ability to self-administer the insulin;

(II) preparing oral medications in divided daily compartments for a member who self-administers prescribed medications but needs assistance and monitoring due to a minimal level of disorientation or confusion;

(III) monitoring a member's skin condition when a member is at risk for skin breakdown due to immobility or incontinence, or the member has a chronic stage II decubitus ulcer requiring maintenance care and monitoring;

(IV) providing nail care for the diabetic member or member with circulatory or neurological compromise;

(V) providing consultation and education to the member, member's family and/or other informal caregivers identified in the service plan, regarding the nature of the member's chronic condition. Provide skills training (including return skills demonstration to establish competency) to the member, family and/or other informal caregivers as specified in the service plan for preventive and rehabilitative care procedures.

(C) Nursing service can be billed for service plan development and/or assessment/evaluation services or, for other services within the scope of the Oklahoma Nursing Practice Act including private duty nursing. Nursing services are billed per 15-minute unit of service. A specific procedure code is used to bill for assessment/evaluation/service plan development skilled nursing services and other procedure codes are used to bill for all other authorized nursing services. A maximum of eight units per day of skilled nursing for assessment/evaluation and/or service plan development are allowed. An agreement by a provider to perform a nurse evaluation is also an agreement, to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted. Reimbursement for a nurse evaluation is denied if the provider that produced the nurse evaluation fails to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted.

(8) **Home Delivered Meals.**

(A) Home Delivered Meals provide one meal per day. A home delivered meal is a meal prepared in advance and brought to the member's home. Each meal must have a nutritional content equal to at least one third of the Recommended Daily Allowance as established by the Food and Nutrition Board of the National Academy of Sciences. Meals are only provided to members who are unable to prepare meals and lack an informal provider to do meal preparation.

(B) Home Delivered Meals are billed per meal, with one meal equaling one unit of service. The limit of the number of units a member is allowed to receive is limited on the member's plan of care. The provider must obtain a signature from the member or the member's representative at the time the meals are delivered. In the event that the member is temporarily unavailable (i.e., doctor's appointment, etc.) and the meal is left, the provider must document the reason a signature is not obtained. The signature logs must be available for review.

(9) **Occupational Therapy services Services.**

(A) Occupational Therapy services are those services that increase functional independence by enhancing the development of adaptive skills and performance capacities of members with physical disabilities and related psychological and cognitive impairments. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves the therapeutic use of self-care, work and play activities and may include modification of the tasks or environment to enable the member to achieve maximum independence, prevent further disability, and maintain health. Under a physician's order, a licensed occupational therapist evaluates the member's rehabilitation potential and

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develops an appropriate written therapeutic regimen. The regimen utilizes paraprofessional occupational therapy assistant services, within the limits of their practice, working under the supervision of the licensed occupational therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Occupational Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

(10) **Physical Therapy ~~services~~ Services.**

(A) Physical Therapy services are those services that prevent physical disability through the evaluation and rehabilitation of members disabled by pain, disease or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves use of physical therapeutic means such as massage, manipulation, therapeutic exercise, cold or heat therapy, hydrotherapy, electrical stimulation and light therapy. Under a physician's order, a licensed physical therapist evaluates the member's rehabilitation potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional physical therapy assistant services, within the limits of their practice, working under the supervision of the licensed physical therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Physical Therapy services are billed per 15-minute units of service. Payment is not allowed solely for written reports or record documentation.

(11) **Speech and Language Therapy Services.**

(A) Speech/Language Therapy services are those that prevent speech and language communication disability through the evaluation and rehabilitation of members disabled by pain, disease or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Services involve use of therapeutic means such as evaluation, specialized treatment, and/or development and oversight of a therapeutic maintenance program. Under a physician's order, a licensed Speech/Language Pathologist evaluates the member's rehabilitation

potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional therapy assistant services within the limits of their practice, working under the supervision of the licensed Speech/Language Pathologist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The Pathologist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Speech/Language Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

~~(12)~~ **Respiratory Therapy Services.**

~~(A) Respiratory therapy services are provided for a member who, but for the availability of in-home respiratory services, would require respiratory care as an inpatient in a hospital or nursing facility. Services are provided in the member's home under the care of a physician who is familiar with the technical and medical components of home ventilator support and the physician must determine medically that in-home respiratory care is safe and feasible for the member. Treatment involved use of therapeutic means such as: evaluation, respiratory treatments, chest physiotherapy, and/or development and oversight of a therapeutic maintenance program. Under a physician's order, a registered respiratory therapist evaluates the member and develops an appropriate, written therapeutic regimen. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.~~

~~(B) Respiratory Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.~~

~~(13)~~ **12) Hospice Services.**

(A) Hospice is palliative and/or comfort care provided to the member and his/her family when a physician certifies that the member has a terminal illness and has six months or less to live and orders hospice care. ADvantage Hospice Care is authorized for a six month period and requires a physician certification of a terminal illness and orders of hospice care. If the member requires more than six months of hospice care, a physician or nurse practitioner must have a face-to-face visit with the member thirty days prior to the initial hospice authorization end date and re-certify that the member has a terminal illness and has six months or less to live and orders additional hospice care. After the initial authorization period,

additional periods of ADvantage Hospice may be authorized for a maximum of 60 day increments with physician certification that the member has a terminal illness and has six months or less to live. A member's service plan that includes hospice care must comply with waiver requirements to be within total service plan cost limits.

(B) A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. The member signs a statement choosing hospice care instead of routine medical care that has the objective to treat and cure the member's illness. Once the member has elected hospice care, the hospice medical team assumes responsibility for the member's medical care for the terminal illness in the home environment. Hospice care services include nursing care, physician services, medical equipment and supplies, drugs for symptom control and pain relief, home health aide and personal care services, physical, occupational and/or speech therapy, medical social services, dietary counseling and grief and bereavement counseling to the member and/or family. A Hospice plan of care must be developed by the hospice team in conjunction with the member's ADvantage case manager before hospice services are provided. The hospice services must be related to the palliation or management of the member's terminal illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills. ~~ADvantage Hospice may be provided to the member in a Nursing Facility (NF) only when the member is placed in the NF for ADvantage Facility Based Extended Respite. Hospice provided as part of Facility Based Extended Respite may not be reimbursed for more than five days during any 30 day period.~~ A member that is eligible for Medicare Hospice provided as a Medicare Part A benefit, is not eligible to receive ADvantage Hospice services.

(C) Hospice services are billed per diem of service for days covered by a Hospice plan of care and during which the hospice provider is responsible for providing hospice services as needed by the member or member's family.

(14) 13) ADvantage Personal Care.

(A) ADvantage Personal Care is assistance to a member in carrying out activities of daily living such as bathing, grooming and toileting, or in carrying out instrumental activities of daily living, such as preparing meals and doing laundry, to assure personal health and safety of the individual or to prevent or minimize physical health regression or deterioration. Personal Care services do not include service provision of a technical nature, i.e. tracheal suctioning, bladder catheterization, colostomy irrigation, and

operation/maintenance of equipment of a technical nature.

(B) ADvantage Home Care Agency Skilled Nursing staff working in coordination with an ADvantage Case Manager are responsible for development and monitoring of the member's Personal Care plan.

(C) ADvantage Personal Care services are prior authorized and billed per 15-minute unit of service with units of service limited to the number of units on the ADvantage approved plan of care.

(15) 14) Personal Emergency Response System.

(A) Personal Emergency Response System (PERS) is an electronic device which enables certain individuals at high risk of institutionalization to secure help in an emergency. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the person's phone and programmed to signal, in accordance with member preference, a friend, a relative or a response center once a "help" button is activated. The response center is staffed by trained professionals. For an ADvantage Program member to be eligible to receive PERS service, the member must meet all of the following service criteria:

- (i) a recent history of falls as a result of an existing medical condition that prevents the individual from getting up from a fall unassisted;
- (ii) lives alone and has no regular caregiver, paid or unpaid, and therefore is left alone for long periods of time;
- (iii) demonstrates capability to comprehend the purpose of and activate the PERS;
- (iv) has a health and safety plan detailing the interventions beyond the PERS to assure the member's health and safety in his/her home;
- (v) has a disease management plan to implement medical and health interventions that reduce the possibility of falls by managing the member's underlying medical condition causing the falls; and,
- (vi) the service avoids premature or unnecessary institutionalization of the member.

(B) PERS services are billed using the appropriate HCPC procedure code for installation, monthly service or purchase of PERS. All services are prior authorized in accordance with the ADvantage approved plan of care.

(16) 15) Consumer-Directed Personal Assistance Services and Support (CD-PASS).

(A) Consumer-Directed Personal Assistance Services and Supports are Personal Services Assistance and Advanced Personal Services Assistance that enable an individual in need of assistance to reside in their home and in the community of their choosing rather than in an institution and to carry out functions of daily living, self care, and mobility. CD-PASS services are delivered as authorized on the service

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plan. The member employs the Personal Services Assistant (PSA) and/or the Advanced Personal Services Assistant (APSA) and is responsible, with assistance from ADvantage Program Administrative Financial Management Services (FMS), for ensuring that the employment complies with State and Federal Labor Law requirements. The member may designate an adult family member or friend, an individual who is not a PSA or APSA to the member, as an "authorized representative" to assist in executing these employer functions. The member:

- (i) recruits, hires and, as necessary, discharges the PSA or APSA;
 - (ii) provides instruction and training to the PSA or APSA on tasks to be done and works with the Consumer Directed Agent/Case Manager to obtain ADvantage skilled nursing services assistance with training when necessary. Prior to performing an Advanced Personal Services Assistance task for the first time, the APSA must demonstrate competency in the tasks in an on-the-job training session conducted by the member and the member must document the attendant's competency in performing each task in the ASPA's personnel file;
 - (iii) determines where and how the PSA or APSA works, hours of work, what is to be accomplished and, within Individual Budget Allocation limits, wages to be paid for the work;
 - (iv) supervises and documents employee work time; and,
 - (v) provides tools and materials for work to be accomplished.
- (B) The service Personal Services Assistance may include:
- (i) assistance with mobility and with transfer in and out of bed, wheelchair or motor vehicle, or both;
 - (ii) assistance with routine bodily functions that may include:
 - (I) bathing and personal hygiene;
 - (II) dressing and grooming;
 - (III) eating including meal preparation and cleanup;
 - (iii) assistance with homemaker type services that may include shopping, laundry, cleaning and seasonal chores;
 - (iv) companion type assistance that may include letter writing, reading mail and providing escort or transportation to participate in approved activities or events. "Approved activities or events" means community civic participation guaranteed to all citizens including but not limited to, exercise of religion, voting or participation in daily life activities in which exercise of choice and decision making is important to the member that may include shopping for food, clothing or other necessities, or for participation in other activities or

events that are specifically approved on the service plan.

(C) Advanced Personal Services Assistance are maintenance services provided to assist a member with a stable, chronic condition with activities of daily living when such assistance requires devices and procedures related to altered body function if such activities, in the opinion of the attending physician or licensed nurse, may be performed if the individual were physically capable, and the procedure may be safely performed in the home. Advanced Personal Services Assistance is a maintenance service and should never be used as a therapeutic treatment. Members who develop medical complications requiring skilled nursing services while receiving Advanced Personal Services Assistance should be referred to their attending physician who may, if appropriate, order home health services. The service of Advanced Personal Services Assistance includes assistance with health maintenance activities that may include:

- (i) routine personal care for persons with ostomies (including tracheotomies, gastrostomies and colostomies with well-healed stoma) and external, indwelling, and suprapubic catheters which includes changing bags and soap and water hygiene around ostomy or catheter site;
- (ii) remove external catheters, inspect skin and reapplication of same;
- (iii) administer prescribed bowel program including use of suppositories and sphincter stimulation, and enemas (Pre-packaged only) with members without contraindicating rectal or intestinal conditions;
- (iv) apply medicated (prescription) lotions or ointments, and dry, non-sterile dressings to unbroken skin;
- (v) use lift for transfers;
- (vi) manually assist with oral medications;
- (vii) provide passive range of motion (non-resistive flexion of joint) delivered in accordance with the plan of care, unless contraindicated by underlying joint pathology;
- (viii) apply non-sterile dressings to superficial skin breaks or abrasions; and
- (ix) use Universal precautions as defined by the Center for Disease Control.

(D) The service Financial Management Services are program administrative services provided to participating CD-PASS employer/members by the OKDHS/ASD. Financial Management Services are employer related assistance that provides Internal Revenue Service (IRS) fiscal reporting agent and other financial management tasks and functions including, but not limited to:

- (i) employer payroll, at a minimum of semi monthly, and associated withholding for taxes, or for other payroll withholdings performed on behalf of the member as employer of the PSA or APSA;

- (ii) other employer related payment disbursements as agreed to with the member and in accordance with the member's Individual Budget Allocation;
- (iii) responsibility for obtaining criminal and abuse registry background checks, on behalf of the member, on prospective hires for PSAs or APSAs;
- (iv) providing to the member, as needed, assistance with employer related cognitive tasks, decision-making and specialized skills that may include assistance with Individual Budget Allocation planning and support for making decisions including training and providing reference material and consultation regarding employee management tasks such as recruiting, hiring, training and supervising the member's Personal Services Assistant or Advanced Personal Services Assistant; and
- (v) for making available Hepatitis B vaccine and vaccination series to PSA and APSA employees in compliance with OSHA standards.

(E) The service of Personal Services Assistance is billed per 15-minute unit of service. The number of units of PSA a member may receive is limited to the number of units approved on the Service Plan.

(F) The service of Advanced Personal Services Assistance is billed per 15-minute unit of service. The number of units of APSA a member may receive is limited to the number of units approved on the Service Plan.

(17) 16) Institution Transition Services.

(A) Institution Transition Services are those services that are necessary to enable an individual to leave the institution and receive necessary support through ADvantage waiver services in their home and/or in the community.

(B) Institution Transition Case Management Services are services as described in OAC 317:30-5-763(1) required by the individual's plan of care, which are necessary to ensure the health, welfare and safety of the individual, or to enable the individual to function with greater independence in the home, and without which, the individual would continue to require institutionalization. ADvantage Transition Case Management Services assist institutionalized individuals that are eligible to receive ADvantage services in gaining access to needed waiver and other State plan services, as well as needed medical, social, educational and other services to assist in the transition, regardless of the funding source for the services to which access is gained. Transition Case Management Services may be authorized for periodic monitoring of an ADvantage member's progress during an institutional stay, and for assisting the member transition from institution to home by updating the service plan, including necessary Institution Transition Services to prepare services and supports to be in place or to start on the date the member is discharged from the institution. Transition Case Management

Services may be authorized to assist individuals that have not previously received ADvantage services but have been referred by the OKDHS/ASD to the Case Management Provider for assistance in transitioning from the institution to the community with ADvantage services support.

(i) Institution Transition Case Management services are prior authorized and billed per 15-minute unit of service using the appropriate HCPC and modifier associated with the location of residence of the member served as described in OAC 317:30-5-763(1)(C).

(ii) A unique modifier code is used to distinguish Institution Transition Case Management services from regular Case Management services.

(C) Institutional Transition Services may be authorized and reimbursed under the following conditions:

- (i) The service is necessary to enable the individual to move from the institution to their home;
- (ii) The individual is eligible to receive ADvantage services outside the institutional setting;
- (iii) Institutional Transition Services are provided to the individual within 180 days of discharge from the institution;
- (iv) Transition Services provided while the individual is in the institution are to be claimed as delivered on the day of discharge from the institution.

(D) If the member has received Institution Transition Services but fails to enter the waiver, any Institution Transition Services authorized and provided are ~~reimbursed as "Medicaid administrative" costs and providers follow special procedures specified by the OKDHS/ASD to bill for services provided not reimbursable.~~

(18) 17) Assisted Living Services.

(A) Assisted Living Services are personal care and supportive services that are furnished to waiver members who reside in a homelike, non-institutional setting that includes 24-hour on-site response capability to meet scheduled or unpredictable resident needs and to provide supervision, safety and security. Services also include social and recreational programming and medication assistance (to the extent permitted under State law). The assisted living services provider is responsible for coordinating services provided by third parties to ADvantage members in the assisted living center. Nursing services are incidental rather than integral to the provision of assisted living services. ADvantage reimbursement for Assisted Living Services includes services of personal care, housekeeping, laundry, meal preparation, periodic nursing evaluations, nursing supervision during nursing intervention, intermittent or unscheduled nursing care, medication administration, assistance with cognitive orientation, assistance with transfer and ambulation, planned programs for socialization,

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activities and exercise and for arranging or coordinating transportation to and from medical appointments. Services, except for planned programs for socialization, activities and exercise, are to meet specific needs of the participant as determined through individualized assessment and documented on the participant's service plan.

(B) The ADvantage Assisted Living Services philosophy of service delivery promotes service member choice, and to the greatest extent possible, service member control. Members have control over their living space and choice of personal amenities, furnishing and activities in their residence. The Assisted Living Service provider's documented operating philosophy, including policies and procedures, must reflect and support the principles and values associated with the ADvantage assisted living philosophy and approach to service delivery that emphasizes member dignity, privacy, individuality, and independence.

(C) ADvantage Assisted Living required policies for Admission/Termination of services and definitions.

(i) ADvantage-certified Assisted Living Centers (ALCs) are required to accept all eligible ADvantage members who choose to receive services through the ALC subject only to issues relating to:

- (I) unit availability;
- (II) the compatibility of the participant with other residents; and
- (III) the center's ability to accommodate residents who have behavior problems, wander, or have needs that exceed the services the center provides.

(ii) The ALC may specify the number of units the provider is making available to service ADvantage participants.

(iii) Mild or moderate cognitive impairment of the applicant is not a justifiable reason to deny ALC admission. Centers are required to specify whether they are able to accommodate individuals who have behavior problems or wander. Denial of admission due to a determination of incompatibility must be approved by the case manager and the ADvantage Administration (AA). Appropriateness of placement is not a unilateral determination by the ALC. The ADvantage Case Manager, the member and/or member's designated representative and the ALC in consultation determine the appropriateness of placement.

(iv) The ALC is responsible for meeting the member's needs for privacy and dignity. Inability to meet those needs will not be recognized as a reason for determining that an ADvantage participant's placement is inappropriate. The ALC agrees to provide or arrange and coordinate all of the services listed in the description of assisted living

center services in the Oklahoma State Department of Health regulations (OAC 310:663-3-3) except for specialized services.

(v) In addition, the ADvantage participating ALC agrees to provide or coordinate the following services:

- (I) Provide an emergency call system for each participating ADvantage member;
- (II) Provide up to three meals per day plus snacks sufficient to meet nutritional requirements, including modified special diets, appropriate to members' needs and choices; and
- (III) Arrange or coordinate transportation to and from medical appointments.

(vi) The provider may offer any specialized service or unit for residents with Alzheimer's disease and related dementias, physical disabilities or other special needs that the facility intends to market.

(vii) If the provider arranges and coordinates services for members, the provider is obligated to assure the provision of those services.

(viii) Under OAC 310:663-1-2, "personal care" is defined as "assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person". For ADvantage Assisted Living Services, assistance with "other personal needs" in this definition includes assistance with toileting, grooming and transferring and the term "assistance" is clarified to mean hands-on help in addition to supervision.

(ix) The specific Assisted Living Services assistance provided along with amount and duration of each type of assistance is based upon the individual member's assessed need for service assistance and is specified in the ALC's service plan which is incorporated as supplemental detail into the ADvantage comprehensive service plan. The ADvantage Case Manager in cooperation with the Assisted Living Center professional staff develops the service plan to meet member needs. As member needs change, the service plan is amended consistent with the assessed, documented need for change in services.

(x) Definition of Inappropriate ALC Placement. Placement or continued placement of an ADvantage member in an ALC is inappropriate if any one or more of the following conditions exist:

- (I) The member's needs exceed the level of services the center provides. Documentation must support ALC efforts to provide or arrange for the required services to accommodate participant needs;
- (II) The member exhibits behavior or actions that repeatedly and substantially interferes with the rights or well being of other residents and the ALC has documented efforts to resolve

- behavior problems including medical interventions, behavioral interventions and increased staffing interventions. Documentation must support that ALC attempted interventions to resolve behavior problems;
- (III) The member has a medical condition that is complex, unstable or unpredictable and treatment cannot be appropriately developed and implemented in the assisted living environment. Documentation must support that ALC attempted to obtain appropriate care for the member; or
- (IV) The member fails to pay room and board charges and/or the OKDHS determined vendor payment obligation.
- (xi) Termination of residence when inappropriately placed. Once a determination is made that a member is inappropriately placed, the assisted living center must inform the member and/or the member's representative, if any, and the member's ADvantage Case Manager. The ALC must develop a discharge plan in consultation with the member, the member's support network and the ADvantage Case Manager. The ALC and Case Manager must ensure that the discharge plan includes strategies for providing increased services, when appropriate to minimize risk and meet the higher care needs of members awaiting a move out of the ALC, if reason for discharge is inability to meet member needs. If voluntary termination of residency is not arranged, the ALC must provide written notice to the member and to the member's representative, with a copy to the member's ADvantage Case Manager, giving the member 30 days notice of the ALC's intent to terminate the residency agreement and move the member to a more appropriate care provider. The 30 day requirement shall not apply when emergency termination of the residency agreement is mandated by the member's immediate health needs or when termination of the residency agreement is necessary for the physical safety of the member or other residents of the ALC. The written notice of involuntary termination of residency for reasons of inappropriate placement must include:
- (I) a full explanation of the reasons for the termination of residency;
 - (II) the date of the notice;
 - (III) the date notice was given to the member and the member's representative;
 - (IV) the date by which the member must leave the ALC; and
 - (V) notification of appeal rights and process for submitting appeal of termination of Medicaid Assisted Living services to the OHCA.
- (D) ADvantage Assisted Living Services provider standards in addition to licensure standards.
- (i) Physical environment
- (I) The ALC must provide lockable doors on the entry door of each unit and a lockable compartment within each member unit for valuables. Member residents must have exclusive rights to their units with lockable doors at the entrance of their individual and/or shared unit except in the case of documented contraindication. Units may be shared only if a request to do so is initiated by the member resident.
 - (II) The ALC must provide each unit with a means for each member resident to control the temperature in the individual living unit through the use of a damper, register, thermostat, or other reasonable means that is under the control of the resident and that preserves resident privacy, independence and safety, provided that the Oklahoma State Department of Health may approve an alternate means based on documentation that the design of the temperature control is appropriate to the special needs of each member who has an alternate temperature control.
 - (III) For ALCS built prior to January 1, 2008, each ALC individual residential unit must have a minimum total living space (including closets and storage area) of 250 square feet; for ALCs built after December 31, 2007, each ALC individual residential unit must have a minimum total living space (including closets and storage area) of 360 square feet.
 - (IV) The ALC shall provide a private bathroom for each living unit which must be equipped with one lavatory, one toilet, and one bathtub or shower stall.
 - (V) The ALC must provide at a minimum a kitchenette, defined as a space containing a refrigerator, cooking appliance (microwave is acceptable), and adequate storage space for utensils.
 - (VI) The member is responsible for furnishing their rental unit. If a member is unable to supply basic furnishings defined as a bed, dresser, nightstand, chairs, table, trash can and lamp, or if the member supplied furnishings pose a health or safety risk, the member's Case Manager in coordination with the ALC must assist the member in obtaining basic furnishings for the unit.
 - (VII) The ALC must meet the requirements of all applicable federal and state laws and regulations including, but not limited to, the state and local sanitary codes, state building and fire safety codes and laws and regulations governing use and access by persons with disabilities.
 - (VIII) The ALC must ensure the design of common areas accommodates the special needs

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- of their resident population and that the residential unit accommodates the special needs of the individual in compliance with ADA Accessibility Guidelines (28 CFR Part 36 Appendix A).
- (IX) The ALC must provide adequate and appropriate social and recreational space for residents and the common space must be proportionate to the number of residents and appropriate for the resident population.
- (X) The ALC must provide appropriately monitored outdoor space for resident use.
- (ii) Sanitation
- (I) The ALC must maintain the facility, including its individual units, that is clean, safe, sanitary, insect and rodent free, odorless, and in good repair at all times.
- (II) The ALC must maintain buildings and grounds in a good state of repair and in a safe and sanitary condition, and in compliance with the requirements of applicable regulations, by-laws and codes.
- (III) The ALC stores clean laundry in a manner that prevents contamination and changes linens at time intervals necessary to avoid health issues.
- (IV) The ALC must provide housekeeping in member units that maintains a safe, clean and sanitary environment.
- (V) The ALC must have policies and procedures for members' pets.
- (iii) Health and Safety
- (I) The ALC must provide building security that protects residents from intruders with security measures appropriate to building design, environment risk factors and the resident population.
- (II) The ALC must respond immediately and appropriately to missing residents, accidents, medical emergencies or deaths.
- (III) The ALC must have a plan in place to prevent, contain and report any diseases that are considered to be infectious and/or are listed as diseases that must be reported to the Oklahoma State Department of Health.
- (IV) The ALC must adopt policies for prevention of abuse, neglect and exploitation that include screening, training, prevention, investigation, protection during investigation and reporting.
- (V) The ALC must provide services and facilities that accommodate the needs of resident to safely evacuate in the event of fires or other emergencies.
- (VI) The ALC must ensure that staff are trained to respond appropriately to emergencies.
- (VII) The ALC staff must ensure that fire safety requirements are met.
- (VIII) The ALC must offer meals that provide balanced and adequate nutrition for residents.
- (IX) The ALC must adopt safe practices for the preparation and delivery of meals;
- (X) The ALC must provide a 24-hour response to personal emergencies that is appropriate to the needs of the resident population.
- (XI) The ALC must provide safe transportation to and from ALC sponsored social/recreational outings.
- (iv) Staff to resident ratios
- (I) The ALC must ensure that a sufficient number of trained staff be on duty, awake, and present at all times, 24 hours a day, seven days a week, to meet the needs of residents and to carry out all the processes listed in the ALC's written emergency and disaster preparedness plan for fires and other natural disasters.
- (II) The ALC must ensure that staffing is sufficient to meet the needs of the ADvantage Program residents in accordance with each individual's ADvantage Service Plan.
- (III) The ALC must have plans in place to address situations where there is a disruption to the ALC's regular work force.
- (v) Staff training and qualifications
- (I) The ALC must ensure that all staff have qualifications consistent with their job responsibilities.
- (II) All staff assisting in, or responsible for, food service must have attended a food service training program offered or approved by the Oklahoma Department of Health;
- (III) The ALC must provide staff orientation and ongoing training to develop and maintain the knowledge and skills of staff. All direct care and activity staff receive at least eight hours of orientation and initial training within the first month of their employment and at least four hours annually thereafter. Staff providing direct care on a dementia unit must receive four additional hours of dementia specific training. Annual first aid and CPR certification do not count towards the four hours of annual training.
- (vi) Staff supervision
- (I) The ALC must ensure delegation of tasks to non-licensed staff must be consistent and in compliance with all applicable State regulations including, but not limited to, the Oklahoma Nurse Practice Act and the OSDH Nurse Aide Certification rules.
- (II) The ALC must ensure that, where the monitoring of food intake or therapeutic diets is provided at the prescribed services level, a registered dietitian monitors the member's health and nutritional status.
- (vii) Resident rights

- (I) The ALC must provide to each member and member's representative, at the time of admission, a copy of the resident statutory rights listed in O.S. 63-1-1918 amended to include additional rights and clarification of rights as listed in the ADvantage Consumer Assurances. A copy of the resident rights must be posted in an easily accessible, conspicuous place in the facility. The facility must ensure that its staff is familiar with, and observes, the resident rights.
- (II) The ALC must conspicuously post for display in an area accessible to residents, employees and visitors, the assisted living center's complaint procedures and the name, address and telephone number of a person authorized to receive complaints. A copy of the complaint procedure must also be given to each resident, the resident's representative, or where appropriate, the court appointed guardian. The ALC must ensure that all employees comply with the ALC's complaint procedure.
- (III) The ALC must provide to each member and member's representative, at the time of admission, information about Medicaid grievance/appeal rights including a description of the process for submitting a grievance/appeal of any decision that decreases Medicaid services to the member.
- (viii) Incident reporting
- (I) The ALC must maintain a record of incidents that occur and report incidents to the member's ADvantage Case Manager, to the ADvantage Program AA and to other entities as required by law or regulation.
- (II) Incidents requiring report by licensed Assisted Living Centers are those defined by the Oklahoma State Department of Health (OSDH) in OAC 310:663-19-1.
- (III) Reports of incidents must be made to the member's ADvantage Case Manager via facsimile or by telephone within one business day of the reportable incident's discovery. A follow-up report of the incident must be submitted via facsimile or mail to the member's ADvantage Case Manager within five business days after the incident. The final report must be filed with the member's ADvantage Case Manager and to the ADvantage Administration when the full investigation is complete not to exceed ten business days after the incident.
- (IV) Each ALC having reasonable cause to believe that a member is suffering from abuse, neglect, exploitation, or misappropriation of member property must make a report to either the Oklahoma Department of Human Services, the office of the district attorney in the county in which the suspected abuse, neglect, exploitation, or property misappropriation occurred or the local municipal police department or sheriff's department as soon as the person is aware of the situation, in accordance with Section 10-104.A of Title 43A of Oklahoma Statutes. Reports should also be made to the OSDH, as appropriate, in accordance with the ALC's licensure rules.
- (V) The preliminary incident report must at the minimum include who, what, when and where and the measures taken to protect the resident(s) during the investigation. The follow-up report must at the minimum include preliminary information, the extent of the injury or damage, if any, and preliminary findings of the investigation. The final report at the minimum includes preliminary and follow-up information, a summary of investigative actions representing a thorough investigation, investigative findings and conclusions based on findings; and corrective measures to prevent future occurrences. If necessary to omit items, the final report must include why items were omitted and when they will be provided.
- (ix) Provision of or arrangement for necessary health services
- (I) The ALC must arrange or coordinate transportation for members to and from medical appointments.
- (II) The ALC must provide or coordinate with the member and the member's ADvantage Case Manager for delivery of necessary health services. The ADvantage Case Manager is responsible for monitoring that all health-related services required by the member as identified through assessment and documented on the service plan are provided in an appropriate and timely manner.
- (E) Assisted Living Services are billed per diem of service for days covered by the ADvantage member's service plan and during which the Assisted Living Services provider is responsible for providing Assisted Living serviced as needed by the member. The per diem rate for the ADvantage assisted living services for a member will be one of three per diem rate levels based upon individual member's need for service - type intensity and frequency to address member ADL/IADL and health care needs. The rate level is based upon UCAT assessment by the member's ADvantage Case Manager employed by a Case Management agency that is independent of the Assisted Living Services provider.

[OAR Docket #11-1153; filed 11-30-11]

Emergency Adoptions

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

[OAR Docket #11-1154]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 17. Advantage Waiver Services

317:35-17-3. [AMENDED]

(Reference APA WF #11-11B)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1915(C) of the Social Security Act pertaining to Home and Community Based Services waivers as approved by the Centers for Medicare and Medicaid Services

DATES:

Adoption:

October 13, 2011

Approved by Governor:

November 22, 2011

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2012, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rules to remove certain covered benefits from the Advantage Waiver Program in order to comply with the revisions in operational procedures currently approved by the Centers for Medicare and Medicaid Services (CMS) in Oklahoma's 1915(c) Home and Community Based Services Waiver. Failure to make these changes would put the Agency's rules out of compliance with current Federal approvals thereby placing the Agency's Federal Financial Participation (FFP) for Advantage Waiver Services at risk.

ANALYSIS:

The Advantage waiver is a program designed to provide services to SoonerCare eligible individuals with physical disabilities and the elderly in their home rather than an institutional setting. The waiver must be renewed every five years by the Centers for Medicare and Medicaid Services (CMS). Upon the most recent renewal, effective July 1, 2011, respiratory therapy was removed as an allowable waiver service. In order to maintain compliance with conditions of waiver renewal as set forth by CMS, the Advantage rules are revised to remove respiratory therapy.

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 17. ADVANTAGE WAIVER SERVICES

317:35-17-3. Advantage program services

(a) The Advantage program is a Medicaid Home and Community Based Waiver used to finance noninstitutional

long-term care services for elderly and a targeted group of physically disabled adults when there is a reasonable expectation that within a 30 day period, the person's health, due to disease process or disability, would, without appropriate services, deteriorate and require nursing facility care to arrest the deterioration. Advantage program members must be SoonerCare eligible and must not reside in an institution, room and board, licensed residential care facility, or licensed assisted living facility, unless the facility is an Advantage Assisted Living Center. The number of individuals who may receive Advantage services is limited.

(1) To receive Advantage services, individuals must meet one of the following categories:

(A) be age 65 years or older, or

(B) be age 21 or older if physically disabled and not developmentally disabled or if the person has a clinically documented, progressive degenerative disease process that responds to treatment and previously has required hospital or nursing facility (NF) level of care services for treatment related to the condition and requires Advantage services to maintain the treatment regimen to prevent health deterioration, or

(C) if developmentally disabled and between the ages of 21 and 65, not have mental retardation or a cognitive impairment related to the developmental disability.

(2) In addition, the individual must meet the following criteria:

(A) require nursing facility level of care [see OAC 317:35-17-2];

(B) meet service eligibility criteria [see OAC 317:35-17-3(d)]; and

(C) meet program eligibility criteria [see OAC 317:35-17-3(e)].

(b) Home and Community Based Waiver Services are outside the scope of Medicaid State Plan services. The Medicaid waiver allows the OHCA to offer certain Home and Community Based services to an annually capped number of persons who are categorically needy (refer to OKDHS form 08AX001E (Appendix C-1), Schedule VIII. B. 1.) and without such services would be institutionalized. The estimated cost of providing an individual's care outside the nursing facility cannot exceed the annual cost of caring for that individual in a nursing facility. When determining the Advantage service plan cost cap for an individual, the comparable SoonerCare cost to serve that individual in a nursing facility is estimated. If the individual has Acquired Immune Deficiency Syndrome (AIDS) or if the individual requires ventilator care, the appropriate SoonerCare enhanced nursing facility rate to serve the individual is used to estimate the Advantage cost cap.

(c) Services provided through the Advantage waiver are:

(1) case management;

(2) respite;

(3) adult day health care;

(4) environmental modifications;

(5) specialized medical equipment and supplies;

(6) physical therapy/occupational therapy/~~respiratory therapy~~/speech therapy or consultation;

- (7) advanced supportive/restorative assistance;
 - (8) skilled nursing;
 - (9) home delivered meals;
 - (10) hospice care;
 - (11) medically necessary prescription drugs within the limits of the waiver;
 - (12) personal care (state plan) or ADvantage personal care;
 - (13) Personal Emergency Response System (PERS);
 - (14) Consumer-Directed Personal Assistance Services and Supports (CD-PASS);
 - (15) Institution Transition Services;
 - (16) assisted living; and
 - (17) SoonerCare medical services for individuals age 21 and over within the scope of the State Plan.
- (d) The OKDHS area nurse or nurse designee makes a determination of service eligibility prior to evaluating the UCAT assessment for nursing facility level of care. The following criteria are used to make the service eligibility determination:
- (1) an open ADvantage Program waiver slot, as authorized by the waiver document approved by the Centers for Medicare and Medicaid Services (CMS), is available to assure federal participation in payment for services to the individual. If the OKDHS/ASD determines all ADvantage waiver slots are filled, the individual cannot be certified on the OKDHS computer system as eligible for ADvantage services and the individual's name is placed on a waiting list for entry as an open slot becomes available. ADvantage waiver slots and corresponding waiting lists, if necessary, are maintained for persons that have a developmental disability and those that do not have a developmental disability.
 - (2) the individual is in the ADvantage targeted service group. The target group is an individual who is frail and 65 years of age or older or age 21 or older with a physical disability and who does not have mental retardation or a cognitive impairment.
 - (3) the individual does not pose a physical threat to self or others as supported by professional documentation.
 - (4) members of the household or persons who routinely visit the household, as supported by professional documentation, do not pose a threat of harm or injury to the individual or other household visitors.
- (e) The OKDHS/ASD determines ADvantage program eligibility through the service plan approval process. The

following criteria are used to make the ADvantage program eligibility determination that an individual is not eligible:

- (1) if the individual's needs as identified by UCAT and other professional assessments cannot be met through ADvantage program services, Medicaid State Plan services and other formal or informal services. The State, as part of the waiver program approval authorization, assures CMS that each waiver individual's health, safety, or welfare can be maintained in their home. If a member's identified needs cannot be met through provision of ADvantage program or Medicaid State Plan services and other formal or informal services are not in place or immediately available to meet those needs, the individual's health, safety or welfare in their home cannot be assured.
 - (2) if the individual poses a physical threat to self or others as supported by professional documentation.
 - (3) if other members of the household or persons who routinely visit the household who, as supported by professional documentation, pose a threat of harm or injury to the individual or other household visitors.
 - (4) if the individual's needs are being met, or do not require ADvantage services to be met, or if the individual would not require institutionalization if needs are not met.
 - (5) if, after the service and care plan is developed, the risk to individual's health and safety is not acceptable to the individual, or to the interdisciplinary service plan team, or to the OKDHS/ASD.
- (f) The case manager provides the OKDHS/ASD with professional documentation to support the recommendation for redetermination of program eligibility. The service providers continue providing services according to the service plan as provider safety permits until the individual is removed from the ADvantage program. As a part of the procedures requesting redetermination of program eligibility, the OKDHS/ASD will provide technical assistance to the Provider for transitioning the individual to other services.
- (g) Individuals determined ineligible for ADvantage program services are notified in writing by OKDHS of the determination and of their right to appeal the decision.

[OAR Docket #11-1154; filed 11-30-11]

Executive Orders

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

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

TITLE 1. EXECUTIVE ORDERS

1:2011-50a.

AMENDED EXECUTIVE ORDER 2011-50

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

1. Earthquakes, tornadoes, severe storms, straight line winds, and flooding beginning Saturday, November 5, 2011, and that are continuing, have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this state.
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 earthquakes, tornadoes, severe storms, straight line winds, and flooding in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health, and safety. The counties included in this declaration are:

Caddo, Carter, Cleveland, Comanche, Greer, Harmon, Jackson, Johnston, Kiowa, LeFlore, Lincoln, McCurtain, Murray, Okfuskee, Oklahoma, Pottawatomie, Pushmataha, Sequoyah, Tillman, and Washita.

This declaration may be amended to add and/or remove additional counties as conditions warrant.

4. The State Emergency Operations Plan was 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.
5. 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.

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 set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 8th day of December 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
V. Glenn Coffee
Secretary of State

[OAR Docket #11-1167; filed 12-8-11]

1:2011-54.

EXECUTIVE ORDER 2011-54

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the authority vested in me by Section 90.10 of Title 25 of the Oklahoma Statutes, in recognition of Oklahoma Pearl Harbor Remembrance Day and those who died or were injured in World War II, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Wednesday, December 7, 2011, to honor the many Oklahoma and United States citizens who died on December 7, 1941, as a result of the attack by the Japanese on Pearl Harbor, Hawaii.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

Executive Orders

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 5th day of December, 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day Acting
Secretary of State

[OAR Docket #11-1164; filed 12-6-11]
