

Volume 31
Number 17
May 15, 2014
Pages 607 - 620

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules



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Chris Benge,
Secretary of State
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ISSN 0030-1728

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Submissions to Governor and Legislature

Within 10 calendar days after adoption by an agency of proposed PERMANENT rules, the agency must submit the rules to the Governor and the Legislature. A "statement" of such submission must subsequently be published by the agency in the *Register*.
For additional information on submissions to the Governor/Legislature, see 75 O.S., Section 303.1 and 308.

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 45. MEDICATION AND EQUINE
TESTING PROCEDURES**

[OAR Docket #14-428]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULE:

325:45-1-9 [AMENDED]

325:45-1-22 [AMENDED]

SUBMITTED TO GOVERNOR:

March 27, 2014

SUBMITTED TO HOUSE:

March 27, 2014

SUBMITTED TO SENATE:

March 27, 2014

[OAR Docket #14-428; filed 4-18-14]

Emergency Adoptions

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect the public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).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 cites to 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 545. BOARD OF PODIATRIC MEDICAL EXAMINERS CHAPTER 15. EXAMINATION/LICENSURE

[OAR Docket #14-424]

RULEMAKING ACTION:
EMERGENCY adoption.

RULES:

- 545:15-1-1.1. Definitions [NEW]
- 545:15-1-2. Examination [AMENDED]
- 545:15-1-5. License [AMENDED]
- 545:15-1-5.1. Training License [NEW]

AUTHORITY:

TITLE 59 O.S., Sections 141 and 144.1, State Board Podiatric Medicine Practice Act

COMMENT PERIOD:

November 15, 2013 to December 17, 2013

PUBLIC HEARING:

December 17, 2013

ADOPTION:

January 13, 2014

APPROVED BY GOVERNOR:

January 29, 2014

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2014, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Senate bill 302 authorized the Board of Podiatric Medical Examiners to use certain examinations for the licensing exam and permitting the issuance of a training license. The law became effective November 1, 2013. In order to be compliant with the changes set out in the new law, these rules need to be updated on an emergency basis.

ANALYSIS:

These rules facilitate implementation of changes made to 59 O.S. Sections 144, 144.1 and 145 relating to examination, biennial license renewal and training licenses. The law went into effect November 1, 2013. Emergency rules are needed because the licensing exam is given in March and the license renewal process begins May 1st.

CONTACT PERSON:

Kathy Plant, Executive Secretary, 405-962-1400, ext. 122

**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 (F):**

545:15-1-1.1. Definitions

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

"APMLE" means the American Podiatric Medical Licensing Examinations.

"National Board examination" means the AMPLE, formerly known as the Podiatric Medical Licensing Examination for States or PMLexis.

"NBPME" means the National Board of Podiatric Medical Examiners.

"Podiatric resident" means an individual enrolled in a podiatric medicine and surgery residency accredited by the Council on Podiatric Medical Education.

545:15-1-2. Examination

~~(a) Examination for licensure to practice podiatry in the State of Oklahoma shall be given by the Board.~~

~~(b) The Board may give the examination at any special meeting, but it shall not be required to do so.~~

~~(1) In general, the examination for licensure shall be given during the month of March on an annual basis on a date set by the Board.~~

~~(2) The written portion and oral portion of the exam must be passed within the same calendar year. Any person who fails both the oral and written portions of the exam and who still seeks licensure shall be required to sit for the entire examination. Any person who fails the written portion, passes the oral portion and who still seeks licensure may retake the written portion on a date set by the Board.~~

(a) Upon submission and approval of a completed application for licensure by examination, and the payment of all fees, an applicant may sit for an examination approved by the Board. The Board has adopted the APMLE Part III as the written portion of the licensure examination. The applicant also must pass a jurisprudence exam and an oral exam as authorized in 59 O.S. Section 144 as administered by the Board.

Emergency Adoptions

(eb) Applicants shall file a written application for examination as required by the Board as set out in OAC 435:15-1-3 of this Subchapter and pay, in advance, the fee for examination.

(1) The application must be received at least 30 days prior to the date the exam is to be administered.

(2) The application fee must be submitted in the form of a cashier's check or certified check with the completed application form.

(3) If the application for examination is unacceptable, the fee shall be returned to the candidate along with the application.

(4) If the application is deemed acceptable, the candidate shall be notified of same in writing and scheduled for examination. The application fee shall be deposited with the office of the State Treasurer of the State of Oklahoma and shall at that point become non-refundable.

(ec) Any person who is otherwise qualified for licensure shall receive a license to practice podiatry in this State who meets the requirements set out in Title 59 O.S. § 144.

~~(e) The examination shall include a written and an oral portion. In addition, it shall be administered in the English language.~~

(fd) The examination shall cover areas in anatomy, podiatric medicine and surgery, pathology, dermatology, pharmacology, biomechanics, anesthesia, radiology, Oklahoma law relating to podiatry and any other areas deemed relevant by the Board.

(ge) The Board hereby authorizes examination papers to be graded by one or more of its own members or by any one or more licensed podiatrist it shall select at a meeting of the Board.

~~(h) The Board further may employ any national examination administered by any person or entity approved by the Council on Podiatric Medical Education to administer any such examination in their behalf.~~

545:15-1-5. License

(a) Each license issued by the Board shall be signed by each member of the Board, shall bear the Seal of the Board, and shall designate the licensee as a licensed podiatrist.

(b) Licenses, to remain effective, must be renewed ~~annually~~ biennially or reinstated as provided by the Act.

545:15-1-5.1. Training License

(a) The Secretary of the Board is authorized to issue a training license to podiatric residents. Unless otherwise renewed, amended, suspended or revoked by the Board, a training license issued under this section may be extended without renewal by the Secretary for a period not to exceed ninety (90) days until scores from the first-year resident's final licensing examination are received and application for full licensure is acted on by the Board.

(b) No person granted a training license to practice podiatric medicine within a post-graduate training program within this state shall practice outside the scope of the training license. Any practice outside the scope of a training license shall be deemed to be the unlicensed practice of podiatric medicine. The Secretary is authorized to seek injunctive action to prevent

any person from violating terms or limitations of a training license granted by the Board.

(c) Upon application for renewal, the Secretary shall review all training licenses granted on an annual basis to determine if such license should be renewed by the Board or amended as to its terms or limitations.

(d) No special license for post-graduate training may be issued unless the applicant has passed all sections of Part I and Part II of the America Podiatric Medical Licensing Examination (APMLE).

[OAR Docket #14-424; filed 4-14-14]

TITLE 545. BOARD OF PODIATRIC MEDICAL EXAMINERS CHAPTER 20. MAINTAINING LICENSURE

[OAR Docket #14-425]

RULEMAKING ACTION:

EMERGENCY adoption.

RULES:

Subchapter 1. Renewal of Licensure

545:20-1-1.1. Definitions [NEW]

545:20-1-2. Qualifications [AMENDED]

545:20-1-3. Fees [AMENDED]

545:20-1-5. Reinstatement [AMENDED]

Subchapter 3. Continuing Education

545:20-3-1. Continuing education requirements [AMENDED]

545:20-3-2. Provisions for continuing education [AMENDED]

545:20-3-3. Approved continuing education programs [AMENDED]

AUTHORITY:

TITLE 59 O.S., Sections 141, State Board Podiatric Medicine Practice Act

COMMENT PERIOD:

November 15, 2013 to December 17, 2013

PUBLIC HEARING:

December 17, 2013

ADOPTION:

January 13, 2014

APPROVED BY GOVERNOR:

January 29, 2014

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2014, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Senate bill 302 changed the renewal period for Podiatrist licensure from an annual renewal to a biennial renewal. The law was effective November 1, 2013. The license renewal process begins May 1st for Oklahoma Podiatrists. Emergency implementation is necessary in order to have time to notify and insure compliance of the state's podiatrists.

ANALYSIS:

These rules facilitate implementation of changes made to 59 O.S. Sections 145 and 145.1 relating to biennial license renewal. The law went into effect November 1, 2013. Emergency rules are needed because the license renewal process begins May 1st.

CONTACT PERSON:

Kathy Plant, Executive Secretary, 405-962-1400, ext. 122

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 (F):

SUBCHAPTER 1. RENEWAL OF LICENSURE

545:20-1-1.1. Definitions

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

"Renewal period" means the two year period from July 1 of an even-numbered year to the following June 30 of the next even-numbered year.

545:20-1-2. Qualifications

(a) Each license to practice podiatry heretofore issued which remains effective under the provisions of the Act and each license issued hereafter under the Act shall entitle the licensee to practice podiatry in this State and to hold himself or herself out as a licensed podiatric physician from the date of issuance thereof until the following first day of July June 30 of the following even-numbered year and as long as lawfully renewed, unless suspended or revoked.

(b) Qualifications for renewal of licenses are as follows:

(1) The applicant for renewal must not have violated the Act or the Rules of the Board.

(2) The applicant for renewal must have fulfilled the annual/biennial requirement for continuing education as set forth in 59 O.S., Section 145.1, and submit proof thereof, with application for renewal. Licensees licensed in the second half of the biennial period will required to obtain 30 hours of continuing education. Proof of continuing education shall be submitted to the Board prior to renewing the license.

(3) The applicant for renewal must submit completed application form with appropriate fee attached to the Board office.

(c) A licensed podiatrist shall be entitled to have his or her license renewed on or before the first day of July June 30 of the renewal year, following completion of the above requirements.

(d) A licensed podiatrist who does not so satisfy the Board of the above requirements in the time and manner required shall cease to be entitled to have such license renewed.

(e) A licensed podiatrist in good standing who seeks retirement status may, at the discretion of the Board, be issued from the Board a license designated as "Licensed Podiatrist - Retired" with a one time application processing fee as stated in 545:35-1-2(b)(1)(A). The issue of such license waives the requirement of continuing education and restricts the privileges of said licensee to the following:

(1) The licensee may use the designation Doctor of Podiatric Medicine - Retired.

(2) The licensee shall not engage in the practice of podiatric medicine.

(3) The licensee shall not possess a narcotic license or have prescription writing privileges.

(4) The licensee may be reinstated to active status upon fulfilling the requirements set forth by the Board in Paragraphs (a), (b), (c), and (d) heretofore set forth in this Section and Section 545:20-3-2(c).

545:20-1-3. Fees

The annual/biennial renewal fee as set by the Oklahoma State Board of Podiatry is seventy five dollars (\$75.00) one-hundred-fifty dollars (\$150.00).

545:20-1-5. Reinstatement

(a) A license shall be renewed by the Board upon the payment of the delinquent annual/biennial renewal fee and completed application form without penalty between the 1st day of July and the 30th day of September, of the year in which renewal is due, if and only if the licensee first satisfies the Board that during the preceding twelve (12) month period, he or she did not violate the Act or rules of the Board he or she has not violated the Act or rules of the Board since the last renewal or initial licensure, whichever is most recent.

(b) A license which has not been renewed by the 30th day of September of the year in which renewal is due shall be entitled to renewal/reinstatement thereof on or before the next 30th day of June of the following next even-numbered year, upon such application therefore, and upon meeting the requirements for renewal and satisfying the Board that the Act and rules of the Board have not been violated, and upon payment of the delinquent annual renewal fee, plus a penalty of four (4) times the delinquent annual renewal fee and administrative fees/reinstatement fee as stated in OAC 545:35-1-2. (b)(2)(B).

(c) A license not so reinstated in such time as outlined in this section becomes void at the close of the 30th day of June following the year of delinquency.

(d) An individual whose license becomes void may be reinstated only by application for a license by examination as stated in OAC 545:15-1-3.

SUBCHAPTER 3. CONTINUING EDUCATION

545:20-3-1. Continuing education requirements

(a) Each podiatric physician licensed in this state shall complete and provide the Board proof of attendance of thirty (30) sixty (60) hours of continuing education each year every two years for renewal of his or her license to practice podiatric medicine in the State of Oklahoma.

(b) These hours of continuing education must be obtained in the twelve (12) twenty-four (24) month period immediately preceding the year for which the license is to be issued renewal deadline. That is, from July 1 of one year even-numbered years to the following June 30 of an even-numbered year.

(c) At least fifteen (15) thirty (30) hours of the required thirty (30) sixty (60) hours of continuing education must be obtained in the State of Oklahoma, save and except those podiatrist practicing only in states outside of Oklahoma who hold an Oklahoma license, may substitute hours of continuing education in the state which they practice.

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(d) The Board may, upon showing of good cause and in their absolute discretion, waive hours of continuing education for any ~~one-year~~two-year renewal period providing that all hours of continuing education be completed at the end of ~~any three-year~~the following two-year renewal period pursuant to Section 545:20-3-2(b).

545:20-3-2. Provisions for continuing education

(a) Excess hours of continuing education obtained in the last one-half of the preceding ~~fiscal year~~renewal period may be carried forward to the following ~~year~~renewal period, providing they do not exceed ~~five (5)~~ten (10) hours in number.

(b) Delinquency for continuing education hours may only be allowed in cases of hardship as determined on an individual basis by the Board. In all instances, hours of delinquency must be current at the end of ~~any three-year~~the four year period following a period of delinquency.

(c) Any practitioner fully retired from the practice of podiatric medicine shall be exempt from compliance of these requirements; however upon resuming the practice of podiatry, the individual shall fulfill such requirements of continuing education hours which have accrued from the effective date of retirement to the time of resumption of practice.

(d) Non-resident podiatrist, who hold an Oklahoma license, but who do not actively practice in the State of Oklahoma, may substitute approved hours of continuing education from the state in which they practice as long as the qualifications are equal to or greater than the State of Oklahoma.

545:20-3-3. Approved continuing education programs

(a) Any program approved by the Council on Continuing Education of the American Podiatric Medical Association will be approved by the Board for the hours actually attended by the candidate.

(b) One (1) hour of continuing education credit may be granted an applicant by attending a meeting or hearing of the Board; not to exceed ~~three (3)~~six (6) hours per renewal period.

(c) Hospital programs of continuing education consisting of lecture, audio-visual, talk-back and grand rounds as well as clinico-pathological conferences shall be granted as per the hours of actual attendance, whether these hours be of a medical or podiatric nature. These programs and attendance must be verified by the continuing education director of that institution. No more than ~~five (5)~~ten (10) hours of continuing education credit may be given.

(d) National, state and local society sponsored programs will be approved as per the guidelines established by the Council of Continuing Education of the American Podiatric Medical Association and the Board.

(e) ~~Hours obtained in colleges or universities, while working on a degree or non degree program, providing these courses shall be of a medical nature, shall be granted one (1) hour of continuing education for each credit hour granted by the college or university.~~

(f) Hours of continuing education submitted to the Board for approval, by any ~~member~~licensee, from any source, must be

certified by the continuing education director of the institution or organization from which the hours were obtained, that he or she was in actual attendance for the specified period.

(g) Applicants may be granted ~~three (3)~~six (6) hours of continuing education credit for obtaining ~~hospital-sponsored~~hospital-sponsored Cardio-Pulmonary Resuscitation Certification during the current ~~license year~~renewal period or ~~six (6)~~twelve (12) hours of continuing education credit for obtaining ~~hospital-sponsored~~hospital-sponsored Advanced Cardiac Life Support Certification during the current licensure year.

(h) Credit may be given for correspondence work or internet courses if ~~pre approved by the Board~~ or approved by the Council on Continuing Education of the American Podiatric Medical Association. A maximum of ~~five (5)~~ten (10) hours per renewal period may be obtained in this manner.

[OAR Docket #14-425; filed 4-14-14]

TITLE 545. BOARD OF PODIATRIC MEDICAL EXAMINERS CHAPTER 35. FEE SCHEDULE

[OAR Docket #14-426]

RULEMAKING ACTION:

EMERGENCY adoption.

RULES:

545:35-1-2. Fees [AMENDED]

AUTHORITY:

TITLE 59 O.S., Sections 141, State Board Podiatric Medicine Practice Act

COMMENT PERIOD:

November 15, 2013 to December 17, 2013

PUBLIC HEARING:

December 17, 2013

ADOPTION:

February 3, 2014

APPROVED BY GOVERNOR:

January 29, 2014

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2014, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Senate bill 302 changed the renewal period for Podiatrist licensure from an annual renewal to a biennial renewal. The law was effective November 1, 2013. The license renewal process begins May 1st for Oklahoma Podiatrists. Emergency implementation is necessary in order to have time to notify and insure compliance of the state's podiatrists. Additionally, SB 302 added provisions for a training license. Emergency rules are needed to add a fee for the training license so that podiatry residents can obtain a training license. The training license fee is minimal for residents and will cover administrative costs for processing, printing and mailing the licenses.

ANALYSIS:

These rules facilitate implementation of changes made to 59 O.S. Sections 145 and 145.1 relating to biennial license renewal. The law went into effect November 1, 2013. Emergency rules are needed because the license renewal process begins May 1st. The license renewal fee is not being raised. The fee is being doubled but the licenses will be renewed every two years now, instead of every year.

The fee for a training license is needed so that residents in training can receive a license according to 59 O.S. Section 144.1.

CONTACT PERSON:

Kathy Plant, Executive Secretary, 405-962-1400, ext. 122

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 (F):

545:35-1-2. Fees

- (a) All fees are non-refundable.
- (b) The following fees are collected by the Board:
 - (1) **Licensure**
 - (A) Application processing fee: \$50.00
 - (B) Display certificate: \$50.00
 - (C) State examination fee: \$100.00
 - (D) Reprocessing fee: \$100.00
 - (E) Training license
 - (i) Initial: \$50.00
 - (ii) Renewal: \$25.00
 - (2) **Renewal**
 - (A) ~~Annual~~ Biennial renewal fee: ~~\$75.00~~ \$150.00
 - (B) Reinstatement fee (after October 1): \$200.00
 - (3) **Miscellaneous**
 - (A) Verification of license: \$10.00
 - (B) Duplication of display certificate: \$50.00
 - (C) Duplication of proof of renewal of license: \$10.00
 - (D) Certification of public records (per page): \$1.00
 - (E) Duplication of public records (per page): \$.25
 - (F) Probation fee:
 - (i) Level I (minimum per month): \$125.00
 - (ii) Level II (minimum per month): \$50.00
 - (iii) Level III (minimum per month): \$30.00
 - (G) Investigations/prosecution.....Actual cost incurred
 - (4) **Filing of motions**
 - (A) Rehearing or reconsideration of any disciplinary case: \$ 75.00
 - (B) Terminate or modify probation: \$100.00
 - (C) Issuance of subpoena: \$10.00

[OAR Docket #14-426; filed 4-14-14]

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 10. ACADEMIC AFFAIRS**

[OAR Docket #14-431]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. State Authorization [NEW]
- 610:10-1-1. Purpose [NEW]
- 610:10-1-2. Definitions [NEW]
- 610:10-1-3. Authorization to operate in the state [NEW]

- 610:10-1-4. Standards for program authorization [NEW]
- 610:10-1-5. Standards for operation [NEW]
- 610:10-1-6. Reporting requirements [NEW]
- 610:10-1-7. Penalties [NEW]

AUTHORITY:

State Regents for Higher Education; 70 O.S. § 4103

ADOPTION:

January 30, 2014

APPROVED BY GOVERNOR:

February 18, 2014

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2015, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The State Regents for Higher Education (State Regents) find that a compelling public interest requires the passage of this emergency rule to comply with deadlines in amendments to federal programs and to avoid violations of federal regulations and further to avoid serious prejudice to private educational institutions operating in Oklahoma. The proposed rules must be in place to meet a deadline imposed by the United States Department of Education (USDOE) requiring compliance with 34 C.F.R. §600.9 by July 1, 2014. This Federal regulation requires states to take an "active role" in the approval or licensure of private institutions offering postsecondary education in order for those institutions to be eligible for Title IV funding and other federal programs. Unfortunately the guidance provided to date by the USDOE has been vague and ambiguous and fails to provide a method to adequately judge what policies will pass USDOE muster. The effective date of this regulation has been changed multiple times and a portion of the regulation was vacated by a U.S. District Court and those rules have not been replaced through negotiated rulemaking. All of these factors have made compliance with this regulation a moving target and contributed to the resulting need for emergency rules. The State Regents suggest that the proposed rules are the least intrusive, cost neutral and efficient way to meet the requirements of USDOE and protect the interests of private institutions operating in Oklahoma.

ANALYSIS:

The proposed emergency rule changes address the following issues:

1. Historically Title 70 Section 4103 of the Oklahoma Statutes has allowed private institutions in Oklahoma to qualify for Title IV funding and other Federal programs by demonstrating to the State Regents that the institution has been "accredited by a national or regional accrediting agency which is recognized by the Secretary of the United States Department of Education as a reliable authority as to the quality of education or training offered by institutions of higher education for the purposes of the Higher Education Act of 1965, as amended" (HEA).

2. The USDOE, due to a variety of factors, including but not limited to, high student loan default rates, gainful employment issues and misleading recruiting practices by some private educational institutions decided that demonstration of so-called "licensure by accreditation" would no longer be sufficient to qualify an institution for programs under Title IV of the HEA.

3. As long as the USDOE relied on accrediting agencies it recognized to protect the federal interest and to insure the quality of education and training being offered by private educational institutions it was unnecessary for the State Regents to exercise its option to promulgate rules.

4. The proposed rules address an emergency created by USDOE in failing to provide clear guidance as to what States are required to do in order to demonstrate an "active role" in approving or authorizing private institutions offering educational programs beyond secondary education. USDOE recognized by extending the effective date of the regulations multiple times but has now insisted on a July 1, 2014 deadline even though a portion of the regulation has been vacated by a U.S. District Court.

5. The State Regents suggest that the proposed rules are the least intrusive, cost neutral and efficient way to meet the requirements of USDOE and protect the interests of private institutions operating in Oklahoma.

The rules are sought on an emergency and temporary basis with the expectation that USDOE will provide further meaningful guidance and will complete the negotiated rulemaking process for those regulations that have been invalidated by court action. Similar permanent rule amendments are

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being presented simultaneously but may not become effective until the next legislative session.

CONTACT PERSON:

David B. Harting, Associate General Counsel, OSRHE, 655 Research Parkway, Suite 200, Oklahoma City, OK 73104-3506, 405-225-9289.

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(F):

SUBCHAPTER 1. STATE AUTHORIZATION

610:10-1-1. Purpose

The Oklahoma State Regents for Higher Education authorizes private institutions to operate educational programs beyond secondary education under the conditions outlined in the sections below.

610:10-1-2. Definitions

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

"Academic degree" is defined as any associate, baccalaureate, first professional, master's, intermediate (specialist) or doctorate degree and any variations of these words to describe postsecondary education.

"Accreditation" is defined as a status determined by an accrediting agency that is recognized by the Secretary of the United States Department of Education.

"Accreditation report" is defined as a report and/or notice provided by the accrediting agency to an institution which includes, but is not limited to, a comprehensive team summary, monitoring, or progress report.

"Asynchronous" is defined as learning in which students and faculty are not present and available simultaneously. Regular communication and instruction may be facilitated by e-mail, discussion boards, or other electronic formats.

"Avocational program" is defined as an instructional program that does not lead to an academic degree.

"Certificate" is defined as a formal award certifying the satisfactory completion of a postsecondary educational program.

"Financial report" is defined as a report and/or notice provided by the United States Department of Education or independent auditor for assessing an institution's financial viability based on audited financial statements.

"Postsecondary education" is defined as formal instruction whose curriculum is designed primarily for students who are beyond the compulsory age for high school, including programs whose purpose is academic or vocational and excludes avocational and adult basic education programs.

"Private institution" is defined as an educational institution controlled by a private individual(s) or by a nongovernmental agency, usually supported primarily by other than public funds, and operated by other than publicly elected or appointed officials. These institutions may be either for-profit or not-for-profit.

"Program" is defined as a sequentially organized series of courses and other educational experiences designed to culminate in a postsecondary certificate or degree (instructional program, academic program, and course of study are considered synonymous).

"Substantive change" is defined as a modification to a postsecondary certificate or degree program requirement from those previously authorized that will change the requirements a student must fulfill to complete the program of study. Substantive changes include, but are not limited to, program deletion, changes in total number of required credit or clock hours to complete the program, changes in required courses for the program, and changes in admission standards for the program.

"Synchronous" is defined as learning that takes place when students and/or faculty are in different geographical locations, but interact (or meet) in real-time using technology.

"University" is defined as a postsecondary institution authorized to offer baccalaureate degrees together with graduate or first professional degrees.

610:10-1-3. Physical presence

(a) For the purpose of these rules, any of the following activities constitute a physical presence in the State of Oklahoma. A private institution shall be subject to the rules outlined in this subchapter if it conducts these activities:

(1) Establishes a physical location in the State of Oklahoma for students to receive synchronous or asynchronous instruction; or

(2) Requires students to physically meet at a location in the State of Oklahoma for instructional purposes that comprise more than 2 class periods equivalent to six hours; or

(3) Provides an offering in the nature of a short course or seminar, if instruction for the short course or seminar is greater than twenty (20) classroom hours; or

(4) Establishes an administrative office in the state, including:

(A) Maintaining an administrative office in the State of Oklahoma for the purpose of providing information to prospective students or the general public about the institution, enrolling students, or providing services to enrolled students;

(B) Providing office space to instructional or non-instructional staff; or

(C) Establishing an institutional mailing address, post-office box, street address, or phone number in the State of Oklahoma.

(b) Experiential learning activities arranged for an individual student, such as clinical, practicum, residency or internship, shall not constitute a physical presence provided that:

- (1) Only a small number of students from each institution are physically present simultaneously at a single field site; and
- (2) There is no multi-year contract between the institution and the field site.

610:10-1-4. Authorization to operate in the state

To operate in the State of Oklahoma, a private institution shall apply for, in a prescribed format, and receive authorization to offer educational programs beyond secondary education and shall be accredited by a national or regional accrediting agency which is recognized by the Secretary of the United States Department of Education. Upon receiving an application for authorization to operate in the State of Oklahoma, the agency shall review the application to determine if the institution satisfies the criteria outlined below.

610:10-1-5. Standards for program authorization

(a) An institution shall obtain authorization to offer postsecondary certificate or degree programs using the following procedures:

(1) The institution's president or chief executive officer must submit to the Chancellor a letter of intent to initiate a new program and the letter shall include the following:

(A) The location where the program will be offered.

(B) Documentation of accrediting agency approval, if applicable.

(C) A list of the curriculum with total credit or clock hours for the proposed certificate or academic degree program. The institution must demonstrate that proposed programs conform to accrediting agency requirements relative to commonly accepted minimum requirements for general education for all of its undergraduate programs, and conform to minimum program lengths.

(D) Proposed programs must respond to the needs of the larger economic and social environment. Thus, the institution must provide evidence of employer demand. Evidence of employer demand can be demonstrated by, but is not limited to, employer surveys, current labor market analysis, and future employment projects.

(E) Total of tuition and fees relative to the certificate or degree program.

(b) Faculty resources shall be adequate and appropriate to support the program and the qualifications of faculty will support the objectives and curriculum of the program. Faculty shall be academically or experientially qualified for the content they teach. When faculty members are employed based on equivalent experience, the institution shall define a minimum threshold of experience and an evaluation process that is to be used in the appointment process.

(c) The State Regents' staff will review the institution's program request and will submit one of the following recommendations:

(1) Deny the program with a written explanation to the institution of the reason for this action;

(2) Defer the program request until the institution meets specified criteria or provides additional information; or

(3) Approve the program without qualification.

(d) A private institution shall provide notification of substantive changes to postsecondary certificate and degree programs.

610:10-1-6. Standards for operation

(a) A private institution shall:

(1) Make available for review to any enrolled or prospective student, upon request, a copy of the documents describing the institution's accreditation and its state, federal, or tribal approval or licensing.

(2) Establish a clearly understood and published complaint process and sustain a process within the institution for responding appropriately to complaints and for documenting their resolution. The institution shall also provide its students or prospective students with contact information for filing complaints with its accreditor and with its state approval or licensing entity and any other relevant state official or agency that would appropriately handle a student's complaint.

(b) A private institution shall not:

(1) Use fraud or misrepresentation in advertising or in procuring the enrollment of a student;

(2) Use the term "accredited" in the name or advertisement of the institution unless such institution is accredited by a national or regional accrediting agency that is recognized by the Secretary of the USDE. Additionally, the institution shall not use the term to describe its programs unless such programs hold applicable specialized or programmatic accreditation; and

(3) Use the term "university," "degrees," "associates," "baccalaureate," "master's," "doctorate," "undergraduate," "graduate," and any variations of these words to describe the education provided unless such institution is accredited by a national or regional accrediting agency which is recognized by the Secretary of the USDE.

610:10-1-7. Reporting requirements

(a) Unless already reporting data through the Unitized Data System, private institutions shall report enrollment, graduation and retention rates, credentials awarded, financial aid information, and other related information in a prescribed format annually.

(b) A private institution shall:

(1) Provide notice and copies within thirty (30) days of any material information related to an action or review by the institution's accrediting body concerning the institution's accreditation status, including but not limited to, reaffirmation or loss of accreditation or any sanction relative to the institution's level of accreditation such as, but not limited to, warning, probation, or show cause. In addition, the institution shall immediately provide notice if

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the institution's accrediting body is no longer recognized by the Secretary of the USDE.

(2) Provide notice and copies within thirty (30) days of any material information from an independent auditor and/or the institution's accrediting agency related to the fiscal viability of the institution.

(3) Provide notice and copies within thirty (30) days of any material information related to a Title IV program review conducted by the USDE.

(4) Immediately provide notice if an institution will cease operations or if loss of accreditation is imminent. These institutions shall establish and provide a teach-out plan that shall include, but not be limited to, the following:

(A) Former and current student notification;

(B) Processes for addressing issues relative to degree or course completion;

(C) Detailed plans regarding issuing official transcripts and release of student records; and

(D) Contact information and location of the custodian of records.

610:10-1-8. Penalties

The authorization to operate educational programs beyond secondary education may be suspended or revoked for any private institution when it fails to comply with any section of this subchapter.

[OAR Docket #14-431; filed 4-23-14]

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

1:2014-6.

EXECUTIVE ORDER 2014-06

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 5:00 p.m. Friday, April 18, 2014, to 8:00 a.m. Monday, April 21, 2014, in memory of those killed and injured in the bombing of the Alfred P. Murrah Federal Building on April 19, 1995.

We shall never forget the one hundred sixty-eight individuals who lost their lives, including nineteen children, or the more than eight hundred and fifty others who were injured. The people of Oklahoma will always remember the courage and compassion of those from around the world who were involved in the rescue and recovery and the tremendous outpouring of goodwill by countless others.

This executive order shall be forwarded to the Division of Capital Assets Management, which shall cause the provisions of this order to be implemented by all appropriate agencies of State government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 16th day of April, 2014.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Chris Morriss
Assistant Secretary of State

[OAR Docket #14-427; filed 4-17-14]

1:2014-7.

EXECUTIVE ORDER 2014-7

Today, I have signed into law Senate Bill 1456. This Bill amends Section 156 of Title 17 of the Oklahoma Statutes by requiring retail electric suppliers to bring a tariff application to the Oklahoma Corporation Commission to determine the

appropriate way to account for the infrastructure cost of distributed generation.

The intent of this Bill is to constrain the Corporation Commission's consideration and approval of tariff applications with respect to distributed generation customers. This Bill does not mandate tariffs or other increases for distributed generation customers.

Therefore, I hereby order all executive agencies to implement this Bill in the following manner:

All executive entities shall support all forms of energy, including both traditional fossil fuels and renewable energy sources like wind and solar power, as outlined and mandated by the Oklahoma First Energy Plan. This plan promotes wind and solar power as important forms of clean energy which have a significant place in Oklahoma power generation. An essential element of this plan is distributed generation. Senate Bill 1456 must be construed in a manner that is consistent with the Oklahoma First Energy Plan.

Currently, approximately 350 Oklahoma individuals and businesses rely on distributed generation produced by small wind turbines or solar power generators. While these customers will not be affected by this Bill, this number will grow significantly in the future. This is an exciting development and one this Bill encourages.

The proper incorporation of distributed power generation will require strict scrutiny from the Corporation Commission. Appropriate implementation by executive entities will require strict compliance by the Corporation Commission in accord with the goals and intent of the Oklahoma First Energy Plan and this Bill.

This Bill requires the Corporation Commission to conduct a transparent evaluation of distributed generation consistent with the Oklahoma First Energy Plan. The intent of this Bill is to protect all Oklahoma customers and encourage all forms of Oklahoma energy use.

Further, this evaluation mandates inclusion of all stakeholders, including representatives of the solar and distributed wind industries, and utilities. Prior to implementation of any fixed charges, this Bill allows the Commission to consider the use of all available alternatives, including other rate reforms such as increased use of time-of-use rates, minimum bills, and

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demand charges. A proper and required examination of these and other rate reforms will ensure that Oklahoma appropriately implements the Oklahoma First Energy Plan while protecting future distributed generation customers.

This Executive Order shall be distributed to the Oklahoma Corporation Commission and the Secretary of Energy and Environment, who shall cause the provisions of this Order to be implemented as herein directed.

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 21st day of April, 2014.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Bengé
Secretary of State

[OAR Docket #14-429; filed 4-21-14]

1:2014-8.

EXECUTIVE ORDER 2014-08

On April 21, 2014, I received notice of the Oklahoma Supreme Court's Order in a civil case, *Lockett & Warner v. Evans*. In its opinion, the Supreme Court attempts to issue a stay of the execution of Clayton Derrell Lockett. While I have great respect for the honorable men and women of the Supreme Court, this attempted stay of execution is outside the constitutional authority of that body. I cannot give effect to the Order by that Honorable Court and remain consistent with my oath of office to uphold the Constitution. However, out of extreme deference to the Supreme Court, I will hereby exercise my constitutional authority pursuant to Article 6 Section 10 of the Oklahoma Constitution.

Therefore, I, Mary Fallin, Governor of the State of Oklahoma, by virtue of the Oklahoma Constitution and the laws of the State of Oklahoma, hereby grant a stay of the execution of Clayton Derrell Lockett of seven (7) days from the date of the scheduled execution, April 22, 2014. The execution for Clayton Derrell Lockett is therefore scheduled for April 29, 2014. During this seven (7) day period, I hereby direct the Oklahoma Attorney General to file the appropriate papers to seek specific guidance from the Oklahoma Court of Criminal Appeals as to how that Court would direct me to implement its Order of the execution of Clayton Derrell Lockett.

This Executive Order shall be forwarded to the Director of the Oklahoma Department of

Corrections and the Oklahoma Attorney General, who shall cause the provisions of this Order to be implemented.

This Executive Order shall also be distributed to the Chief Justice of the Supreme Court of Oklahoma, the Presiding Judge of the Oklahoma Court of Criminal Appeals, the President Pro Tempore of the Oklahoma Senate, and the Speaker of the Oklahoma House of Representatives.

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 22nd day of April, 2014.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Bengé
Secretary of State

[OAR Docket #14-430; filed 4-22-14]

1:2014-9.

EXECUTIVE ORDER 2014-09

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. Tornadoes, severe storms, straight-line winds, and flooding beginning April 27, 2014, and 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 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:

Ottawa

This declaration may be amended to add counties as conditions warrant.

4. The State Emergency Operations Plan was activated on April 27, 2014, 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 28th day of April 2014.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Bengé
Secretary of State

[OAR Docket #14-432; filed 4-28-14]

1:2014-10.

EXECUTIVE ORDER 2014-10

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to Article 6 Section 10 of the Oklahoma Constitution, hereby grant a stay of the execution of Charles Frederick Warner of fourteen (14) days from the scheduled date of execution, April 29, 2014. This stay is issued to allow the Oklahoma Department of Corrections to evaluate the current execution protocol and to allow exhaustion of all possible legal remedies. The execution for Charles Frederick Warner is therefore scheduled for May 13, 2014.

This Executive Order shall be forwarded to the Director of the Oklahoma Department of

Corrections and the Oklahoma Attorney General 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 29th day of April, 2014.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Morriss
Assistant Secretary of State

[OAR Docket #14-433; filed 4-29-14]

1:2014-11.

EXECUTIVE ORDER 2014-11

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby appoint Michael C. Thompson, Commissioner of the Oklahoma Department of Public Safety, to conduct an independent review of the events leading up to and during the execution of Clayton Derrell Lockett. The review shall include first, an inquiry into the cause of death of Clayton Derrell Lockett through a thorough examination by a forensic pathologist. Second, an inquiry addressing whether the Oklahoma Department of Corrections correctly followed the agency's current protocol for executions. Lastly, the review shall contain any recommendations to improve the current execution protocol used by the Oklahoma Department of Corrections.

Further, pursuant to the authority in Title 63 section 938 of the Oklahoma Statutes, I direct the Chief Medical Examiner to authorize the examination and autopsy of Clayton Derrell Lockett. Specifically, I hereby direct the Chief Medical Examiner to authorize the Southwestern Institute of Forensic Science (SWIFS) in Dallas, Texas to perform the autopsy, additional examination, and all other related testing on the remains of Clayton Derrell Lockett. In order to effectuate this examination, I direct the Office of the Chief Medical Examiner to transport the remains of Clayton Derrell Lockett to and from this facility for this purpose. The Chief Medical Examiner is ordered to appropriately maintain the remains of Clayton Derrell Lockett until released to his family.

Copies of this Executive Order shall be distributed to the Commissioner of the Oklahoma Department of Public Safety, the Executive Director of the Oklahoma Department of Corrections, the Oklahoma Office of the Chief Medical Examiner, the Southwestern Institute of Forensic Science in Dallas, Texas, and the Oklahoma Attorney General 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 30th day of April, 2014.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Bengé
Secretary of State

[OAR Docket #14-434; filed 4-30-14]

1:2014-12.

EXECUTIVE ORDER 2014-12

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. to 5:00 p.m. on Thursday, May 1, 2014, to honor Judge William J. Holloway, Jr., who passed away on Friday, April 25, 2014.

Judge Holloway was born in Hugo, Oklahoma. He served in the United States Army during World War II. Judge Holloway graduated from the University of Oklahoma in 1947 and

continued his education at Harvard Law School. Judge Holloway was nominated by President Lyndon B. Johnson in 1968 to the 10th Circuit Court of Appeals. In his more than 45 year career he authored over 900 appellate opinions and served as the Court's Chief Judge from 1984 to 1991. Judge Holloway took senior status in 1992, but continued to work up until his death.

This executive order shall be forwarded to the Department of Capital Assets Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 30th day of April, 2014.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Bengé
Secretary of State

[OAR Docket #14-435; filed 4-30-14]
