

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH

Editor's Note: *Effective 1-1-02, "all powers, duties, responsibilities, . . . of the State Board of Health, the State Department of Health, and the State Commissioner of Health relating exclusively to the regulation of the plumbing, electrical and mechanical trades, and building and construction inspectors [were] placed under the authority of the Construction Industries Board [59 O.S., § 1000.4(C)]." "In addition to rules promulgated by the Construction Industries Board, rules promulgated by the State Board of Health prior to January 1, 2002 shall be the rules of the Construction Industries Board and shall continue in effect until such rules are amended or repealed by rules promulgated by the Construction Industries Board." [59 O.S., § 1000.4(A)(3)] The Construction Industries Board promulgated emergency rules effective 1-22-02 (Chapters 10, 30, 40, 50, and 60) and 2-1-02 (Chapter 1), and superseded the emergency rules with permanent rules effective 5-28-02. •For additional information about this transfer of rulemaking authority, see 59 O.S., §§ 1000.1 et seq. •For emergency rules promulgated by the Construction Industries Board on 1-22-02 and 2-1-02, see 19 Ok Reg 719, 721, 726, 732, 738, and 1243. •For permanent rules promulgated by the Construction Industries Board, see OAC 158. •For related rules of the Oklahoma State Department of Health promulgated prior to 1-1-02, see Title 310, Chapters 6, 7, 110, 245, 275, 290, and 310 in the 2001 OAC Edition and emergency amendments to 310:290 published at 18 Ok Reg 3591.*

Editor's Note: *Effective 7-1-93, some programs and functions of the Oklahoma State Department of Health were transferred to the newly-created Department of Environmental Quality (DEQ). Rules "relating to such programs and functions transferred ... remain [ed] in effect until the promulgation of rules by the [DEQ]" [Laws 1993, c. 145, § 8]. For additional information on this transfer, see Laws 1993, c. 145 and Laws 1992, c. 398.*

CHAPTER 1. PROCEDURES OF THE OKLAHOMA STATE BOARD OF HEALTH

[**Authority:** 63 O.S., § 1-105; 75 O.S., § 302]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. PURPOSE AND ORGANIZATION

310:1-1-1. Purpose; fair and impartial construction [REVOKED]

[**Source:** Amended at 12 Ok Reg 2267, eff 6-26-95 ; Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-1-2. Board membership [REVOKED]

[Source: Amended at 12 Ok Reg 2267, eff 6-26-95 ; Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-1-3. Board officers

- (a) The Board of Health shall elect from its membership a President, a Vice-President, and a Secretary.
- (b) Officers of the Board shall be elected annually, at the last meeting of each fiscal year. In the event an officer's position becomes vacant, a replacement shall be elected to complete the unexpired term at the following meeting of the Board.
- (c) The President shall preside over all Board meetings and rule on all questions of procedure and order. He shall have the power, in the exercise of his discretion, to call special meetings of the Board, and shall call a special meeting when requested by four members, in writing, to do so. The President shall determine the agenda of each meeting.
- (d) The Vice-President shall assume the duties of the President during the President's absence or incapacity.
- (e) The Secretary shall be responsible for keeping the minutes of Board meetings, and have such other duties as the Board may, from time to time, designate. The Board may designate an employee of the Department to assist the Secretary in the performance of these functions.
- (f) The officers shall serve as the Executive Committee of the Board.

[Source: Amended at 12 Ok Reg 2267, eff 6-26-95 ; Amended at 38 Ok Reg 1914, eff 9-11-21]

310:1-1-4. Board powers and duties [REVOKED]

[Source: Amended at 12 Ok Reg 2267, eff 6-26-95 ; Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-1-5. Formal and informal proceedings

- (a) **Formal proceedings.** The rules of this Chapter shall govern all formal proceedings of the Oklahoma State Board of Health.
- (b) **Informal proceedings.** Informal proceedings may be held by agreement between the Board or its agents and any party.

310:1-1-6. Severability [REVOKED]

[Source: Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-1-7. Citation [REVOKED]

[Source: Revoked at 38 Ok Reg 1914, eff 9-11-21]

SUBCHAPTER 3. MEETINGS

310:1-3-1. Meetings

The Board shall hold such meetings as it deems necessary, with a regular meeting once during each quarter of the calendar year. Special meetings may be called by the President in his discretion, and shall be called when four (4) members of the Board request of the President, in writing, that such a meeting be called.

310:1-3-2. Location

The Board may convene at any location or institution within the jurisdiction of the Board or of the State Commissioner of Health, or at such other location as the Board may specify. Provided, that unless otherwise specified, meetings shall be conducted at the room provided for that purpose at the Oklahoma State Department of Health, 123 Robert S. Kerr Ave., Oklahoma City, Oklahoma, 73102-6406.

[Source: Amended at 39 Ok Reg 1220, eff 9-11-22]

310:1-3-3. Open Meeting Act [REVOKED]

[Source: Amended at 12 Ok Reg 2267, eff 6-26-95 ; Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-3-4. Agenda

The agenda of the Board's regular meetings shall be determined by the President, and a copy thereof sent to each Board member at least ten (10) days before the meeting. Additional items of business which were not known or could not have been reasonably foreseen prior to posting of the agenda may be added to that agenda at the discretion of the President or on the request of at least three members of the Board; however, objection by three members shall be sufficient to postpone consideration of such items.

310:1-3-5. Special meetings

The agenda of the Board's special meetings shall be determined by the President, and copies thereof shall be sent to each Board member no less than five (5) days prior to the meeting. Only those items appearing on the agenda of such special meetings shall be considered by the Board.

310:1-3-6. Robert's Rules of Order [REVOKED]

[Source: Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-3-7. Quorum

Five (5) members of the Board shall constitute a quorum and may transact any business or hold any hearing by a simple majority vote of the quorum.

SUBCHAPTER 5. GENERAL COURSE AND METHOD OF OPERATIONS

310:1-5-1. Principal office

The principal office of the Board of Health is: Oklahoma State Department of Health, Attention: Board of Health, 123 Robert S. Kerr Ave., Oklahoma City, OK 73102-6406.

[Source: Amended at 39 Ok Reg 1220, eff 9-11-22]

310:1-5-2. Office hours

Office hours shall be from 8:00 a.m. to 4:30 p.m., unless otherwise designated by the Commissioner of Health, Monday through Friday inclusive, excepting legal holidays established by statute or proclamation of the Governor.

310:1-5-3. Exercise of powers [REVOKED]

[Source: Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-5-4. Writing to the Board

Every communication in writing to the Board of Health shall be addressed to the President of the Board of Health at the principal office designated above, unless otherwise directed by the Board.

[Source: Amended at 12 Ok Reg 2267, eff 6-26-95]

310:1-5-5. Records

(a) **Rules and policy.** All rules and other written statements of policy or interpretations formulated, adopted, or used by the Board shall be available at the principal office during regular business hours.

(b) **Proceedings and forms.** All final orders, decisions, and opinions, and all forms, applications, and instructions which are required to be completed in applying for a license or permit, shall be made available within the offices of the individual program during regular business hours.

(c) **Copies.** Copies of all official records of the Board not privileged from disclosure by law shall be available for inspection at the principal office during regular office hours. Copies of such records, certified by the Commissioner of Health or his designee, may be made, and the expense of such copies shall be paid by the person requesting the same. Fees for such copies shall be in accordance with a fee schedule established by the Commissioner of Health.

[Source: Amended at 12 Ok Reg 2267, eff 6-26-95]

310:1-5-6. Petitions

(a) **Form.** All requests for hearings, declaratory rulings, in or for the adoption, amendment, or repeal of a rule or regulation shall be in the form of a petition captioned as follows.

BEFORE THE

OKLAHOMA STATE BOARD OF HEALTH

IN RE (Nature of Proceeding, No. _____ (to be
e.g. - Request for Amendment of Rule Regarding Hospital Licensure Requirements)))) completed by staff if
no number assigned
or known)

(b) **Contents.** The Petition shall state the nature of the request and, where relevant, the reasons for the request, and shall be signed by the person, firm, or corporation making the request, his agent or attorney.

SUBCHAPTER 7. RULEMAKING PROCEDURES [REVOKED]

310:1-7-1. Upon Board's initiative or request of Commissioner [REVOKED]

[Source: Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-7-2. Petitions for rulemaking [REVOKED]

[Source: Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-7-3. Rulemaking hearings [REVOKED]

[Source: Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-7-4. Opportunity to submit data, views and arguments [REVOKED]

[Source: Revoked at 38 Ok Reg 1914, eff 9-11-21]

310:1-7-5. Emergency rules [REVOKED]

[Source: Amended at 12 Ok Reg 2267, eff 6-26-95 ; Revoked at 38 Ok Reg 1914, eff 9-11-21]

SUBCHAPTER 9. OTHER PROCEDURES [REVOKED]

310:1-9-1. Requests for declaratory rulings [REVOKED]

[Source: Revoked at 12 Ok Reg 2267, eff 6-26-95]

310:1-9-2. Appeals from orders of the Commissioner [REVOKED]

[Source: Revoked at 12 Ok Reg 2267, eff 6-26-95]

CHAPTER 2. PROCEDURES OF THE STATE DEPARTMENT OF HEALTH

[**Authority:** 63 O.S., §§ 1-101 et seq. 1-104, 1-106.1, and 1-106.2; 75 O.S., §§ 302 and 506]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION

310:2-1-1. Purpose

These rules implement the Administrative Procedures Act, 75 O.S. § 250 et seq., as amended ("APA"). These rules govern formal proceedings of the Department and may be supplemented by procedural rules within a particular departmental area. Informal proceedings may be held as announced by the Department or as agreed with any person.

[**Source:** Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-1-2. Definitions

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

"Administrative Law Judge" means a person appointed by the Commissioner of Health to conduct an individual hearing under the Administrative Procedures Act and may be an employee or a private attorney with whom the Department has a contract for services.

"Board" means the Oklahoma State Board of Health.

"Commissioner of Health" and **"Commissioner"** mean the Oklahoma State Commissioner of Health, the chief executive officer of the Department. References in this Chapter to the Commissioner may include a designee of the Commissioner of Health. Designations shall be subject to such powers and limitations as are specified in writing.

"Department" means the Oklahoma State Department of Health.

"Respondent" means the person(s) or legal entity(ies) named in a petition for an individual proceeding, against whom relief is sought.

[**Source:** Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-1-3. Organization

The Department shall be organized and divided into such departmental areas and divisions as the Commissioner deems desirable for efficiency. Such organization and division may be revised by the Commissioner as necessary or expedient.

[**Source:** Amended at 38 Ok Reg 1916, eff 9-11-21]

SUBCHAPTER 3. GENERAL OPERATIONS AND PROCEDURES

310:2-3-1. Address

The principal office of the Department is Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102.

[Source: Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-3-2. Office hours [REVOKED]

[Source: Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-3-3. Writing to the Department

Unless a person is working with a particular departmental area, written communication to the Department shall be addressed to the Commissioner at the principal office.

310:2-3-4. Agency statements, orders and forms

Each departmental area shall make available to the public all rules and other written statements of policy or interpretations formulated, adopted or used in the discharge of its functions; all final orders, decisions and opinions; and all forms, applications and instructions for use by the public, including those required to apply for a license or permit.

310:2-3-5. Access to agency records pursuant to the Open Records Act

(a) **Official records.** Official records include records required to be maintained by law, the record in individual proceedings, records submitted to the agency by any person and any other "record" as that term is defined by the Oklahoma Open Records Act, 51 O.S. § 24A.1, et seq., (OORA).

(b) **Access to official records.** Records available to the public pursuant to the Oklahoma Open Records Act, 51 O.S. § 24A.1 et seq., are subject to inspection and mechanical reproduction under the provisions set forth below.

(c) **Initial procedural requirements.** A request for inspection shall be submitted electronically or in writing. To encourage a fully articulated and accurate response to a request, the request shall be submitted on a form made available by OSDH, online and the requester must reasonably describe the records sought. Additionally, if applicable, every request must specify a time period for which records are being sought. A request submitted in the manner above, reasonably describing the records sought and stating an appropriate time period for the records being sought will be timely acknowledged and further processed for a review and inspection. Consistent with the OORA, agency personnel may determine that the requester is required to pay, in advance, any fees due pursuant to subparagraph (h) below.

(d) **Requests received.** Requests submitted to the agency will not be deemed to have been received unless and until the request has been

identified by agency personnel as a request properly submitted in accordance with these rules. After a determination is made of the estimated fees to gather the records requested, the agency will advise the requester of the cost. Upon receipt of the requested search fee, the request will be deemed to have been received by the agency and will then be timely processed for inspection.

(e) **Abandonment.** Any request not confirmed by a tender of the requisite search fee within thirty (30) days of advice by the agency shall be deemed to be abandoned, unless, within the time stated, the requester can show cause why the confirmation should be delayed or postponed.

(f) **Cooperation with the agency.** If the requester fails to furnish additional information reasonably necessary to identify the records sought or otherwise enable agency personnel to accurately process the request, the processing of the subject request may be suspended by agency personnel. A request that remains suspended for a period exceeding thirty (30) days shall be deemed abandoned.

(g) **Unavailable or confidential records.** If the agency cannot comply with the request for disclosure, the requester shall be notified of the adverse determination, stating the reason(s) therefor.

(h) **Fees.** The following are fees for preparing records for production:

(1) Paper Records - The fees for preparing paper records are those set forth in the OORA.

(2) Electronic Records - If request is for records to be produced in a format other than an electronically transmitted digital file, the preferred digital media to the agency, the agency will recoup the actual cost of transferring the records to the requester's media.

(3) Other Fees - The hourly fee for requests that are solely for commercial purpose or that cause excessive disruption of the agency's essential functions is in accordance with the schedule filed at the Oklahoma County Clerk's office. 'Excessive disruption' fees apply to requests that require more than eight (8) hours of actual employee work time to compile.

(4) Actual cost charged to OSDH by any third party related to obtaining records.

[Source: Amended at 19 Ok Reg 532, eff 1-3-02 through 7-14-02 (emergency)¹; Amended at 20 Ok Reg 1180, eff 5-27-03 ; Amended at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), the text of 310:2-3-5 reverted back to the permanent text that was effective prior to enactment of the emergency action on 1-3-02, as was last published in the 2001 Edition of the OAC, and remained as such until amended by permanent action on 5-27-03.*

310:2-3-6. Office of Administrative Hearings

(a) **Session hours.** Unless otherwise ordered by the assigned administrative law judge, the morning sessions shall begin at 9:00 a.m.

and close at 12:00 noon, and the afternoon sessions shall begin at 1:30 p.m. and close at 4:30 p.m.

(b) **Chief Administrative Law Judge.** The Chief Administrative Law Judge is the administrative officer for the Office of Administrative Hearings and shall perform all duties that the Commissioner may delegate or assign. The Chief Administrative Law Judge may assign administrative law judges to conduct individual proceedings or other hearings, or specific activities within proceedings and hearings. The Chief Administrative Law Judge shall have the discretion to issue non-dispositive orders including the scheduling of conferences and pre-hearing conferences, orders on non-dispositive motions, and orders for the conduct of the proceedings in general or in a specific proceeding.

(c) **Assigned administrative law judge.** The administrative law judge shall have complete authority to conduct the proceedings and may take any action not inconsistent with the provisions of the rules of this Chapter or of the APA for the maintenance of order at hearings and for the expeditious, fair, and impartial conduct of the proceedings. The assigned administrative law judge may also:

- (1) arrange and issue notice of the date, time and place of hearings and conferences;
- (2) establish the methods and procedures to be used in the presentation of the evidence;
- (3) hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;
- (4) administer oaths and affirmations;
- (5) regulate the course of the hearing and govern the conduct of participants;
- (6) examine witnesses;
- (7) rule on, admit, exclude and limit evidence;
- (8) establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions, and hold the record open for such purposes;
- (9) rule on motions and other pending procedural matters; and
- (10) divide the hearing into stages or combine interests of parties whenever the number of parties is large or the issues are numerous and complex.

(d) **Hearing Clerk.** The Hearing Clerk is the person designated by the Commissioner to assist the Chief Administrative Law Judge and maintain the administrative hearing files and dockets within the Office of Administrative Hearings.

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 24 Ok Reg 1896, eff 6-25-07]

310:2-3-7. Requesting individual proceedings and rulemaking [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-3-8. Pandemic emergency rules [EXPIRED]

[Source: Added at 37 Ok Reg 807, eff 5-14-20 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-21 (after the 9-14-21 expiration of this emergency action), Section 310:2-3-8 was no longer effective. For the official text of the emergency rule that was in effect from 5-14-20 through 9-14-21, see 37 Ok Reg 807.*

SUBCHAPTER 5. PROCEDURE IN INDIVIDUAL PROCEEDINGS [REVOKED]

310:2-5-1. Petition and notice [REVOKED]

[Source: Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-2. Service [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Revoked at 16 Ok Reg 901, eff 1-5-99 (emergency); Revoked at 16 Ok Reg 1389, eff 5-27-99]

310:2-5-2.1. Notice of hearing [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-2.2. Service of petition and notice of hearing [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-2.3. Service of other papers and documents [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-3. Response [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-4. Prehearing conference [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-5. Continuances [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-6. Subpoenas [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-7. Record [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-8. Order of procedure [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-9. Default [REVOKED]

[Source: Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-10. Order [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-11. Final Order [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-12. Reconsideration [REVOKED]

[Source: Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-13. Settlement [REVOKED]

[Source: Amended at 12 Ok Reg 2271, eff 6-26-95 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-14. Enforcement of Final Orders [REVOKED]

[Source: Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-15. Hearings by Boards [REVOKED]

[Source: Added at 12 Ok Reg 2271, eff 6-26-95 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

310:2-5-16. Emergency actions [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 24 Ok Reg 1896, eff 6-25-07]

SUBCHAPTER 7. ADDITIONAL PROCEDURES FOR ADMINISTRATIVE PENALTY PROCEEDINGS

PART 1. ENVIRONMENTAL HEALTH PENALTIES

310:2-7-1. Applicability

The requirements of this Subchapter are in addition to other requirements of this Chapter governing individual proceedings and are applicable to matters where the Department is a party brought under 63 O.S. § 1-1701.1A.

[Source: Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 38 Ok Reg 1916, eff 9-11-21 ; Amended at 39 Ok Reg 1221, eff 9-11-22]

310:2-7-2. Notice of Violation ("NOV")

Administrative penalty proceedings must be preceded by a written Notice of Violation (NOV) informing the Respondent of the regulatory requirement at issue, unless otherwise provided by law. This NOV must be served upon the Respondent and must state the factual allegations and particular standards or rules upon which the NOV is based. A letter, petition, consent order or final order may constitute a NOV for purposes of instituting administrative penalty proceedings, if it meets the requirements of this paragraph.

[Source: Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99]

310:2-7-3. Determining penalty

(a) **In general.** The following factors may be considered in determining the amount of penalty specified in an Administrative Compliance Order:

- (1) the value of efforts to comply with the regulations cited in the notice of violation;
- (2) the economic benefit to the violator of noncompliance with the regulations in question; and
- (3) an additional amount for deterrence purposes, based upon
 - (A) the likelihood of the development of adverse health effects caused by the violation,
 - (B) the severity of environmental degradation or public health effects caused or placed at risk by the violation,
 - (C) the degree of variance from the applicable standards,
 - (D) costs of correction of damage, and
 - (E) bad faith of the Respondent.

(b) **Small businesses.** If the violator is a "small business" as defined in 75 O.S. § 502, or is a for-profit enterprise consisting of fifty or fewer full-

time or part-time employees, the following additional factors may be considered in determining the amount of penalty specified in an Administrative Compliance Order, and whether the penalty should be reduced or waived altogether:

- (1) the small business corrects the violation within thirty (30) days or less after receipt of a notice of violation or citation; or
- (2) the violation was the result of an excusable misunderstanding of the Department's interpretation of a rule.

[Source: Amended at 20 Ok Reg 88, eff 10-29-02 (emergency); Amended at 20 Ok Reg 1180, eff 5-27-03]

310:2-7-4. Administrative Compliance Order

(a) **When issued.** Fifteen (15) days or more after service of any required Notice of Violation (NOV) upon the Respondent, or such reduced period as the Petitioner believes necessary to render the order reasonably effectual, the Commissioner of Health or his or her designee may issue an Administrative Compliance Order requiring compliance and specifying penalties for noncompliance. The entry of an Administrative Compliance Order initiates an individual proceeding under this Subchapter and shall meet the requirements of a petition as stated above.

(b) **Must specify.** The Administrative Compliance Order shall specify the facts and conclusions upon which it is based and shall set a time for the Respondent to comply with the applicable regulations. The Administrative Compliance Order shall specify the penalty, not to exceed the statutory maximum per day of non-compliance, to be assessed in the event that the Respondent fails to comply with the Order within the prescribed time.

(c) **Service.** The Administrative Compliance Order shall be served in accordance with OAC 310:2-21-4. The Order shall advise the Respondent that it shall become final unless a hearing is requested within fifteen (15) days of service of the Order. If a hearing is requested, proceedings shall promptly commence.

(d) **Hearing.** Based on the hearing, the Administrative Compliance Order will be sustained, modified, or dismissed. If the hearing process extends beyond any compliance deadline specified in the Administrative Compliance Order, fines specified in the Order for violations of the Order will continue to accrue during the hearing process unless the Hearing Officer stays the penalty upon request for good cause shown.

[Source: Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-7-5. Assessment Order

(a) **Failure to comply with Administrative Compliance Order.** After the Administrative Compliance Order is issued, proceedings may be conducted to determine whether the Respondent has failed to comply with the Order.

(b) **Application for compliance and penalty hearing.** Any time the Petitioner believes the Administrative Compliance Order has been violated, it may with reasonable promptness apply to the Hearing Officer

for a compliance and penalty hearing, alleging the period of noncompliance and the amount of the administrative fine that has accrued. The Petitioner shall provide a copy of the request to the Respondent.

(c) **Elements to consider.** The Commissioner, in deciding whether the Administrative Compliance Order has been violated and whether the penalties are appropriate, may consider efforts to comply with applicable requirements made by the Respondent after issuance of the Administrative Compliance Order.

(d) **Must request hearing within 7 days.** The Petitioner's application shall advise the Respondent that the Respondent's right to contest the determination of noncompliance and the amount of the fine is waived if the request for hearing is not made within seven calendar days of receiving notice. A request for hearing is deemed made when received by the Department. If timely requested, the hearing must be promptly set and held.

(e) **Issuance of Assessment Order.** An Assessment Order shall be issued by the Commissioner of Health or a designated Deputy Commissioner following the determination of the application. The Assessment Order must state the nature and period of the violation, and determine the amount of the fine. The fine is due and payable immediately upon issuance of the Assessment Order, unless otherwise provided therein. A copy of the Assessment Order will be provided to the Respondent.

(f) **Continuing violations.** If the Petitioner believes that violations of the Administrative Compliance Order continue after the issuance of an Assessment Order, the Petitioner may apply within a reasonable time for the issuance of additional Assessment Orders covering periods of violation since the period covered by the issuance of a previous Assessment Order.

[Source: Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99]

PART 3. [RESERVED]

310:2-7-10. Applicability [RESERVED]

SUBCHAPTER 9. ADDITIONAL PROCEDURES FOR SOLID AND HAZARDOUS WASTE PERMITTING MEETINGS AND HEARINGS [REVOKED]

PART 1. PUBLIC MEETINGS [REVOKED]

310:2-9-1. Public meetings [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

PART 3. ADMINISTRATIVE PERMIT HEARINGS [REVOKED]

310:2-9-25. General provisions [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-26. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-27. Request for hearing [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-28. Hearing Officer [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-29. Prehearing conferences [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-30. Prehearing verification conference [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-31. Selection of Lead Counsel [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-32. Identification of issues [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-33. Continuances [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-34. Subpoenas [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-35. Administrative record [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-36. Prehearing scheduling conference [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-37. Discovery [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-38. Prehearing determination conference [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-39. Prehearing order [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-40. Final prehearing conference [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-41. Settlement conference [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-42. Withdrawal and dismissal [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-43. Motions [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-44. Rulings as final orders [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-45. Hearings [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-46. Orders [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-9-47. Issuance or denial of permit [REVOKED]

[Source: Revoked at 12 Ok Reg 2271, eff 6-26-95]

SUBCHAPTER 11. CONSUMER HEALTH SERVICE LICENSE PROCESSING TIMES

310:2-11-1. Purpose and applicability

(a) **Purpose.** The rules in this Subchapter are intended to establish time periods for issuance or denial of licenses that are required by law.

(b) **Licenses included.** The provisions of this Subchapter apply to licenses reviewed by the Consumer Protection Division or the Occupational Licensing Division, both within Consumer Health Service.

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Amended at 12 Ok Reg 2271, eff 6-26-95 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 39 Ok Reg 1221, eff 9-11-22]

310:2-11-2. Definitions

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

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the Department to begin regulatory review.

"Application" means a document prepared in accordance with the rules and the forms and instructions provided by Consumer Health Service and submitted with the expectation of providing that information necessary for review and determination of the permit. The application consists of the initial submittal and all supplements.

"Division" means those portions of the Department that are specified in Section 310:2-11-1 and are part of Consumer Health Service.

"Submittal" means each separately submitted document or document package that forms a part of an application.

"Supplement" means a response to a request for additional information following completeness and regulatory reviews, and information submitted voluntarily by the applicant.

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 39 Ok Reg 1221, eff 9-11-22]

310:2-11-3. Application submittal

(a) **Application forms.** Each Division will make available to the public, for each type of permit or license required, a detailed, comprehensive application package, including rules, forms, checklists, instructions and guidance.

(b) **Filing.** Applications and submittals are filed with the respective Division.

(c) **Format.** Each submittal must be complete and legible, so required information can be easily found and to clearly preserve the chronology.

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 39 Ok Reg 1221, eff 9-11-22]

310:2-11-4. Application processing and review

(a) **Filing of applications.** Unless otherwise provided in this Subchapter, upon the receipt of an application and the proper fee, each Division will:

- (1) file-stamp the application with the date of receipt, the Division name and the application number; and
- (2) assign each application to a named person who will do the review. This information will be timely logged.

(b) **Administrative completeness review.** Unless otherwise provided in this Subchapter, the reviewer has 30 calendar days to initially determine if the filed application is administratively complete.

(1) **Not complete.** Upon determining that the application is not administratively complete, the reviewer will immediately notify the applicant and indicate with reasonable specificity the inadequacies and measures necessary to complete the application. Such notification does not require or preclude further review of the application and further requests for specific information. If the reviewer fails to notify the applicant as specified in this Paragraph, the period for regulatory review will begin at the close of the administrative completeness review period.

(2) **Complete.** Upon a determination that the application is administratively complete, the regulatory review period begins.

(c) **Regulatory review.** Each Division involved will have 30 days from the date an application is determined to be administratively complete to review each application for compliance with the relevant regulations and reach a final determination.

(d) **When times are tolled.** The time period for regulatory review is tolled (the clock stops) during litigation, during public review (public meetings or hearings, administrative hearings, public comment periods, and review by other federal or State agencies) or when the Division has asked for supplemental information and advised the applicant that the time period is tolled pending receipt.

(e) **Supplements.** To make up for time lost in reviewing inadequate materials, a request for supplemental information may specify that up to 30 additional calendar days may be added to the deadline for regulatory review, unless the request for supplemental information is a second or later request that identifies new deficiencies not previously identified.

(f) **Failure to provide supplemental information.** An application is considered withdrawn, if an applicant fails to provide supplemental information within 180 days from the date of request. The 180 day time period may be extended by agreement for good cause.

(g) **Extensions.** Extensions may be allowed as provided by law or at Consumer Health Service's discretion.

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 39 Ok Reg 1221, eff 9-11-22]

310:2-11-5. Pending failures

(a) **Circumstances outside agency control.** Review times may be tolled when the Commissioner certifies that a failure to meet a deadline is imminent and is caused by circumstances outside the control of the Department. Such circumstances include, but are not limited to, acts of God, a substantial and unexpected increase in the number of applications filed, or additional review duties imposed on the Department from an outside source.

(b) **Other circumstances.** When the Department is unable to meet an application deadline for reasons within its control, the applicant can agree to an extension or withdraw the application and receive a refund for the application fee, unless the refund is prohibited by law.

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Amended at 16 Ok Reg 901, eff 1-5-99 (emergency); Amended at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 39 Ok Reg 1221, eff 9-11-22]

310:2-11-10. Air Quality permits [REVOKED]

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-11-11. Consumer Protection permits [REVOKED]

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 16 Ok Reg 901, eff 1-5-99 (emergency); Revoked at 16 Ok Reg 1389, eff 5-27-99]

310:2-11-12. Hazardous Waste permits [REVOKED]

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-11-13. Occupational Licensing [REVOKED]

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 16 Ok Reg 901, eff 1-5-99 (emergency); Revoked at 16 Ok Reg 1389, eff 5-27-99]

310:2-11-14. Solid Waste permits [REVOKED]

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-11-15. Water Quality permits [REVOKED]

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 12 Ok Reg 2271, eff 6-26-95]

310:2-11-16. Other permits [REVOKED]

[Source: Added at 10 Ok Reg 95, eff 10-13-92 (emergency); Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 16 Ok Reg 901, eff 1-5-99 (emergency); Revoked at 16 Ok Reg 1389, eff 5-27-99]

SUBCHAPTER 13. POLLUTION COMPLAINT PROCESSING [REVOKED]

310:2-13-1. Purpose [REVOKED]

[Source: Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 16 Ok Reg 901, eff 1-5-99 (emergency); Revoked at 16 Ok Reg 1389, eff 5-27-99]

310:2-13-2. Definitions [REVOKED]

[Source: Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 16 Ok Reg 901, eff 1-5-99 (emergency); Revoked at 16 Ok Reg 1389, eff 5-27-99]

310:2-13-3. Referral to environmental agency with jurisdiction [REVOKED]

[Source: Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 16 Ok Reg 901, eff 1-5-99 (emergency); Revoked at 16 Ok Reg 1389, eff 5-27-99]

310:2-13-4. Notification to complainant [REVOKED]

[Source: Added at 10 Ok Reg 1721, eff 7-1-93 ; Revoked at 16 Ok Reg 901, eff 1-5-99 (emergency); Revoked at 16 Ok Reg 1389, eff 5-27-99]

SUBCHAPTER 15. APPLICATION FORMS

310:2-15-1. Required descriptions of forms

The descriptions of application forms in OAC 310:2-15 are presented to comply with the Oklahoma Administrative Procedures Act, 75 O.S., § 302.

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-15-2. Uniform application for credentialing of providers

(a) The application described in OAC 310:002-15-2(b) is intended for use pursuant to Title 63 O.S. Supp. 1998, Section 1-106.2.

(b) The uniform application for credentialing of providers requests the following:

- (1) personal information;
- (2) education, including medical, dental and professional schools;
- (3) training, including internships, residencies, fellowships and preceptorships;
- (4) professional licenses;
- (5) certifications and registrations;
- (6) academic appointments;
- (7) health care affiliations;
- (8) other professional work history;

- (9) current professional practice;
- (10) office billing information;
- (11) attestation;
- (12) copies of required documents; and
- (13) any additional information needed to answer all questions fully.

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Amended at 17 Ok Reg 687, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2034, eff 6-12-00]

310:2-15-3. Uniform Employment Application for Nurse Aide Staff

- (a) The application described in OAC 310:2-15-3 is required for use pursuant to 63 O.S. § 1-1950.4 and shall be used for the purposes set forth in that statute.
- (b) The uniform employment application for nurse aide staff requires the following:

- (1) personal information;
- (2) employment desired;
- (3) U.S. military record;
- (4) prior work history;
- (5) educational background;
- (6) certification;
- (7) references;
- (8) background information;
- (9) applicant's employment application certification and agreement;
- (10) previous certified nurse aide training;
- (11) applicant's signature certifying no previous conviction and authorizing criminal history record checks; and
- (12) Any additional information needed to answer all questions fully.

[Source: Added at 18 Ok Reg 646, eff 1-10-01 (emergency); Added at 18 Ok Reg 2026, eff 6-11-01 ; Amended at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

SUBCHAPTER 17. LOCAL PUBLIC HEALTH ENHANCEMENT GRANTS [REVOKED]

310:2-17-1. Purpose [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-2. Definitions [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-3. Contingency [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-4. Eligibility for grant program [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-5. Grant description [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-6. Grant program announcements [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-7. Grant program guidelines [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-8. Grant limitations [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-9. Application evaluation process [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-10. Approval of grants [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-17-11. Grant program administration [REVOKED]

[Source: Added at 16 Ok Reg 901, eff 1-5-99 (emergency); Added at 16 Ok Reg 1389, eff 5-27-99 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

SUBCHAPTER 19. PROCEDURES FOR DETERMINING AGENCY COST ALLOCATION TO THE CONSTRUCTION INDUSTRIES BOARD [REVOKED]

310:2-19-1. Purpose and authority [REVOKED]

[Source: Added at 19 Ok Reg 2041, eff 6-27-02 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-19-2. Definitions [REVOKED]

[Source: Added at 19 Ok Reg 2041, eff 6-27-02 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-19-3. Procedures and methods [REVOKED]

[Source: Added at 19 Ok Reg 2041, eff 6-27-02 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-19-4. Dissemination of the adjusted and indirect cost agreements [REVOKED]

[Source: Added at 19 Ok Reg 2041, eff 6-27-02 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

SUBCHAPTER 21. RULES OF PROCEDURE GOVERNING INDIVIDUAL PROCEEDINGS

310:2-21-1. Purpose and scope of Rules

These rules are promulgated to provide due process to parties appearing before the Department and are not to be construed inconsistently with the Oklahoma Administrative Procedures Act. The assigned administrative law judge has the discretion to waive, supplement or modify any requirement of the applicable law or rule of procedure where permitted by law and when the administration of justice requires.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-2. Initiating an individual proceeding

(a) **In general.** Individual proceedings may be initiated before the Department by filing with the Office of Administrative Hearings a Petition, administrative order executed by the Commissioner or his designee, or other instrument which seeks any relief authorized by law to be granted by the Department.

(b) **Proceedings initiated by Petition.** *Each Petition shall name the Respondent and include a statement of the legal authority and jurisdiction under which the proceeding is to be held, a reference to the particular sections of the statutes and rules involved, a short and plain statement of the matters asserted giving a right to relief, the relief requested, and, unless provided in a separate written Notice of Hearing, the time, place and nature of the hearing. If the Department is unable to give a short and plain statement of the matters asserted at the time the notice is served, the initial notice may be limited to a statement of the issues involved.* [75 O.S. § 309]

(c) **Proceedings initiated by an administrative order.** Proceedings initiated by an administrative compliance order issued pursuant to 63 O.S. § 1-1701.1(A) must satisfy the requirements of that statute, the APA and this Chapter. If Section 1-1701.1(A) conflicts with provisions of the APA or this Chapter then Section 1-1701.1(A) shall control. Proceedings initiated by any other administrative order must comply with the APA and this Chapter.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-3. Notice of Hearings

The Commissioner, the Chief Administrative Law Judge or the assigned administrative law judge shall schedule the date, time and place of any hearing in accordance with these rules. The Hearing Clerk shall notify the parties. The initial hearing shall be scheduled at least thirty (30) days after the date of service of the petition. The parties may agree to an earlier date. If a specific law requires a hearing in fewer days, that statute shall be followed. If an emergency exists, a hearing may be conducted without the filing of a petition and without prior notice to the Respondent. When such emergency hearing is held the Respondent shall be afforded a hearing within ten (10) days of the issuance of an emergency order to contest such an order.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-4. Service of instruments initiating an administrative proceeding

Any instruments initiating an administrative proceeding must be served on every named Respondent by either personal service, certified mail, return receipt requested, restricted delivery, or issuing a report by hand-delivery. If service is being sent by certified mail, return receipt requested, and the intended Respondent refuses to sign the return receipt or otherwise does not sign or is unavailable to sign and accept service through the certified mail at the address identified on Department records, then Respondent is deemed to have been served. If service is by personal service, the person serving the instrument initiating an administrative proceeding shall file proof of service with the Hearing Clerk within twenty (20) days of service or before the date of the first hearing, whichever is sooner. If an inspection is performed, the report and/or the notice to correct violations issued by the inspectors/sanitarions to the license holder or to the person in charge, requesting a signed acknowledgement of receipt of the report or notice, shall constitute service of the report and/or notice. Acknowledgement in writing by the Respondent or appearing at the hearing without objection to service is equivalent to service.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 37 Ok Reg 1354, eff 9-11-20]

310:2-21-5. Service of other papers and documents

Service of all other documents and papers connected with an individual proceeding shall be served on the parties or their counsel by delivering a copy or mailing a copy by first class mail, postage prepaid.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-6. Responsive pleadings

Any party served with a petition, an application for an administrative fine, an administrative order or other instrument providing notice of a claim or defense to a claim initiating an individual proceeding before the Department shall file a written response or answer within twenty (20) days of receipt of the petition, application, order or other instrument initiating an individual proceeding. The original of the response must be filed with the Hearing Clerk of the Office of Administrative Hearings and a copy must be delivered or mailed to all other parties by 5:00 p.m. on the 20th day. Delivery to other parties must be made in person, by process server, or may be sent by certified mail, return receipt requested, restricted delivery. Every defense, in law or fact, to a claim for relief in any petition, application or administrative order initiating an administrative proceeding shall be asserted in the responsive pleading.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 27 Ok Reg 2496, eff 7-25-10]

310:2-21-7. Appearance of parties

- (a) A party in any proceeding before the Department may appear pro se, by an attorney licensed to practice law in Oklahoma, by an out-of-state attorney admitted to practice before the Department pursuant to rules of the Oklahoma Bar Association, or by a licensed legal intern. Provided further, corporate entities, limited liability companies, other business entities and governmental units or entities may appear only by an attorney as provided within this subsection.
- (b) Attorneys who will appear before the Department on behalf of a party shall notify the Office of Administrative Hearings of their appearance by filing an entry of appearance.
- (c) Any other attorney who files an entry of appearance on behalf of any party in the case or who is identified as a substitute attorney pursuant to a notice of substitution of attorney shall also be considered an attorney of record. The Department shall send notices to all attorneys of record until a substitution of attorney has been filed or an Application for Leave to Withdraw as Attorney has been filed and granted by the administrative law judge assigned to a case. Various attorneys may appear before the Department in a matter, but notice shall be sent only to those attorneys who are an "attorney of record" as defined in this subsection.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-8. Ex parte communications

Communication with the assigned administrative law judge or his office regarding scheduling and procedural matters is permitted. A

lawyer shall have no ex parte communication on the substance of a pending matter or proceeding with the assigned administrative law judge.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-9. Initial scheduling conference

The Chief Administrative Law Judge or the assigned administrative law judge may set the dates for appearances and deadlines in a Scheduling Conference Order or in his discretion schedule a scheduling conference to be attended by the parties. The Chief Administrative Law Judge or the assigned administrative law judge may authorize such to occur by teleconference. The subjects and objectives of scheduling conferences shall be similar to those for pretrial proceedings in the district courts.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-10. Pre-hearing procedure

(a) **Purpose.** All matters pending before the Office of Administrative Hearings are subject to pre-hearing procedures determined by the assigned administrative law judge to be appropriate for a prompt and efficient resolution to matter. At least one pre-hearing conference will routinely be ordered unless the assigned administrative law judge determines the same to be unnecessary.

(b) **Pre-hearing Conference procedure.** The assigned administrative law judge shall provide notice to the parties of the date, time, and place of any pre-hearing conference at least ten (10) days prior to the scheduled date. The conference shall be informal, structured by the assigned administrative law judge, and not open to the public. If a record is deemed advisable by the assigned administrative law judge or requested by the parties, the conference may be recorded by audio tape and/or transcribed by a court reporter at the requesting party's expense. The pre-hearing conference shall be used to resolve any dispute or matter the resolution of which would promote the orderly and prompt conduct of the pre-hearing process or the hearing on the merits. The administrative law judge shall issue an order reciting any agreements made by the parties as to any matter considered. No witnesses shall appear or present evidence. The assigned administrative law judge may convert a pre-hearing conference into a scheduling conference, which may be held telephonically.

(c) **Final Pre-hearing Conference.** The assigned administrative law judge may hold more than one pre-hearing conferences or a final pre-hearing conference to formulate the final plan to streamline the hearing on the merits. If a final pre-hearing conference is ordered, the attorneys and any unrepresented parties shall confer prior to the final pre-hearing conference and prepare a single suggested Pre-hearing Conference Order for use during the conference and the hearing on the merits. Any party unable to secure the cooperation of another party may submit their own Proposed Final Pre-hearing Conference Order and, if the other

party's cooperation is shown to be without cause, request that the other party's Proposed Final Pre-hearing Conference Order be stricken. The Final Pre-hearing Conference Order may follow substantially the form provided in Rule 5 of the Rules for District Court, 12, O.S., Ch.2, App. Such order, when entered, controls the subsequent course of the proceeding, unless modified to prevent manifest injustice. The assigned administrative law judge may waive the requirement of a pre-hearing conference order unless such order is requested by a party.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 27 Ok Reg 2496, eff 7-25-10 ; Amended at 39 Ok Reg 1221, eff 9-11-22]

310:2-21-11. Continuances

Each party is entitled to a single continuance of the hearing on the merits upon request submitted at least three (3) days in advance of the hearing unless exigent circumstances make such notice impractical. Additional continuances may be granted only upon good cause. Motions for a continuance based upon cause shall be in writing and filed with the Hearing Clerk with a copy to the parties and the assigned administrative law judge. A motion for a continuance shall state the reason(s) for the request and specify the length of time requested.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-12. Subpoenas

(a) **Issuance.** Subpoenas for the attendance of witnesses, the furnishing of information and the production of evidence shall be issued by the Office of Administrative Hearings upon request by a party. The requesting party must submit the subpoena to the hearing clerk to be issued. Filing a formal request for the issuance of subpoenas shall not be required. Subpoenas shall be served and a return made in the same manner as provided in the Oklahoma Pleading Code.

(b) **Failure to obey.** The Commissioner or Petitioner may seek an appropriate judicial proceeding to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing or who refuse to answer a proper question during a hearing. The hearing shall proceed despite any such refusal but the assigned administrative law judge may, in his discretion at any time, continue the proceedings as necessary to secure a court ruling.

(c) **Motions to quash.** Motions to quash subpoenas may be filed with the Office of Administrative Hearings and may be decided by the assigned administrative law judge or the Chief Administrative Law Judge.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-13. Record

(a) **To be made.** An electronic recording of the hearing proceedings shall be made. The recording will not be transcribed as a matter of course. The Department's electronic recording of the hearing shall be the official record of the individual proceeding. Copies of the official record shall be

provided to a party upon written request.

(b) **Court reporter.** A party may have the proceeding, or any part thereof, transcribed by a certified court reporter at the expense of the party. Each party requesting copies shall make such arrangements with a reporter, including costs, as required. The parties may agree to have the proceedings recorded and memorialized by a certified court reporter or may file a transcript prepared by a certified court reporter as a supplemental aid to the official record.

(c) **Maintained.** The record of a proceeding and the file containing the notices and the pleadings will be maintained in a location designated by the Office of Administrative Hearings. All pleadings, motions, orders and other papers submitted for filing in such a proceeding shall be date/file-stamped by the Hearing Clerk upon receipt. The burden of showing substantial prejudice by any failure to correctly file-stamp any submission shall be upon the party asserting same.

(d) **Designation on appeal.** On appeal, the parties may designate and counter-designate portions of the record pursuant to the APA.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-14. Hearings open to the public

All hearings conducted by the Department shall be open to the public unless otherwise provided by law or these rules. The use of cameras or other audio-visual recording equipment during a hearing may be permitted at the discretion of the assigned administrative law judge.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-15. Hearing procedure

(a) **APA Governs.** The order of procedure in hearings in all individual proceedings shall be governed by the Oklahoma APA and this Chapter. At the hearing, each party may make a brief opening statement; present witnesses, documents and exhibits on its behalf; cross-examine adverse witnesses. The right to make a closing statement or argument shall be at the discretion of the assigned administrative law judge. The rules of evidence shall be those specified by the APA. At the discretion of the assigned administrative law judge, any party may reopen the case in chief, even after the adverse party has rested. Parties may stipulate to any lawful matter.

(b) **Rulings.** The assigned administrative law judge shall rule on the admissibility of evidence and objections to evidence, on motions or objections raised during hearings. All objections shall be made promptly or be deemed waived. Parties shall be deemed to have taken exception to any adverse ruling.

(c) **Standards of Proof.** The standard of proof in all individual proceedings affecting or prejudicing an individual's license, registration, permit, certification or other authorization to engage in a given livelihood or occupation shall be clear and convincing evidence. In all other matters the standard of proof shall be a preponderance of the evidence.

(d) **Findings and conclusions.** The assigned administrative law judge shall hear all evidence and arguments applicable in a case and shall prepare the final order in the proceeding, which shall include Findings of Fact and Conclusions of Law, separately stated. The record of the proceedings may be deemed to be closed when the parties announce that the matter has been fully submitted to the assigned administrative law judge. The assigned administrative law judge may allow the parties to submit briefs or proposed findings of fact and conclusions of law before ruling on the matter at issue. The assigned administrative law judge shall specify the time of filing and must rule on each proposed finding of fact and conclusion of law. The assigned administrative law judge may take the cause of action under advisement for a period not to exceed fifteen (15) days and will then issue a final order in writing to the parties.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-16. Signatures upon documents filed or submitted

(a) Any document, correspondence or order submitted to the Office of Administrative Hearings, or to any administrative law judge, shall be typed or printed legibly and shall bear the typed or printed name and the signature of the person who prepared the document or correspondence; the firm name if applicable; the complete mailing and office address, including the zip code; the telephone number, including the area code; and the assigned case number. If the document or correspondence has been prepared by an attorney, the attorney's Oklahoma Bar Association number shall also be listed.

(b) The signature of an attorney or party constitutes the following:

- (1) a certification that the form, motion or other paper has been read;
- (2) that to the best of the attorney's or party's knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and
- (3) that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(c) Any document or correspondence submitted to the tribunal shall include a certificate of service to all parties.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 27 Ok Reg 2496, eff 7-25-10]

310:2-21-17. Motions, applications and other written submissions

(a) **Margins and page length.** All written submissions shall be typewritten in clear type not less than 12-point, with single spaced lines of quoted matter and double spaced lines of unquoted matter. The margins of the printed page shall be one and one-quarter (1¼) inches on the left side and one (1) inch on the other three sides.

(b) **Accompanied by proposed order.** Motions and applications are to be accompanied by a proposed order.

(c) **Length.** All motions, applications and responses thereto, including briefs, shall not exceed ten (10) pages in length, excluding exhibits, without prior permission of the assigned administrative law judge. A request for enlargement of page length may accompany the written instrument filed. Reply briefs shall be limited to five (5) pages in length. Page limitations herein exclude only the cover, if used, index, appendix, signature line and accompanying information identifying attorneys and parties, and certificate of service. No further briefs shall be filed without prior permission of the assigned administrative law judge. Exceptions to this requirement are not favored.

(d) **When responses are due.** Unless otherwise ordered by the assigned administrative law judge, objections to motions or responses to written submissions are due within fifteen (15) days of receipt. Replies to objections or to responses to written submissions are due within ten (10) days of receipt. Exceptions to this requirement may be granted upon application and for good cause shown.

(e) **Hearings upon motions or applications.** The assigned administrative law judge shall decide any motion or application without hearing based upon the written submissions of the parties unless the assigned administrative law judge determines that an evidentiary hearing is necessary for a proper resolution of the issue(s) submitted.

(f) **Disposition of unopposed motions.** Dispositive motions that are unopposed may be deemed to be confessed and, where appropriate, may result in the summary disposition of a claim or defense as applicable.

(g) **Motions filed close to hearing.** Motions may not be filed within ten (10) days of hearing unless based upon a sudden emergency of facts that could not have been previously known. Copies of such motions must be hand delivered to all parties of record.

(h) **Motions will not stay discovery.** Motions to Dismiss or for Summary Judgment will not stay any discovery deadline unless by a written agreement of the parties that has been communicated to the assigned administrative law judge.

(i) **Citations of authority.** Legal citations are to be made in accordance with subsections c,d and e of Rule 1.200 the Oklahoma Supreme Court Rules. If an unpublished case or a case cited by a special reporter is cited as persuasive authority a copy must be attached to the document citing the case.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 27 Ok Reg 2496, eff 7-25-10]

310:2-21-18. Default

Any Respondent or other person who fails to appear as directed, after service of the instrument initiating an administrative proceeding as provided by these rules, may be determined to have waived the right to appear and present a defense to the allegations contained in the instrument that initiates the individual proceeding. A final order in such proceeding may be issued by the assigned administrative law judge or the Commissioner granting by default the relief prayed for in the petition.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-19. Final Order

Following the hearing, the assigned administrative law judge or hearing officer shall issue a Final Order resolving all of the issues submitted by the parties or identified by the assigned administrative law judge or hearing officer. The final order must comply with 75 O.S. § 312 and contain findings of fact and conclusions of law. Parties shall be notified by the Hearing Clerk either personally or by certified mail, return receipt requested, of the issuance of a Final Order. Upon request, a copy of the order shall be delivered or mailed to each party and to his attorney of record.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-20. Proposed Final Orders

In any case or matter in which the Commissioner has decided, or is required by law, to issue a Final Order the parties may submit a proposed final order.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-21. Reconsideration

Any party may petition for rehearing, reopening or reconsideration of any decision in an individual proceeding within ten days of its entry, pursuant to 75 O.S. § 317. Nothing shall prevent reconsideration of a matter in accordance with other statutory provisions.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-22. Settlement agreements and consent orders

(a) **Settlement agreements.** The resolution of an administrative proceeding that is reduced to writing by the parties shall be considered a settlement agreement. Settlement agreements may be approved by the assigned administrative law judge by agreement of the parties. Settlement agreements may be executed and tendered to the assigned administrative law judge at any time. The Department may retain jurisdiction of any settlement agreement, and the case may be re-opened if a breach of the agreement is alleged by any party. The settlement agreement may be used as evidence in any proceeding subsequent to an allegation of breach.

(b) **Consent orders.** The resolution of an administrative proceeding that is reduced to writing by the parties and submitted to the assigned administrative law judge or Commissioner for approval shall be considered a Consent Order. Consent Orders must conform to the requirements of OAC 310:2-21-19. A Consent Order may substitute for a settlement agreement at any time by agreement of the parties. A consent order shall constitute a Final Order in the case. By agreeing to the entry of a consent order, the parties expressly agree not to seek judicial review.

Consent orders may be enforced as judgments in District Court as provided by law.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-23. Emergency actions

When the Commissioner of Health or an assigned administrative law judge finds that the public health, safety or welfare requires that action be taken immediately and when such a finding is incorporated in an order, emergency action or summary suspension of a license may be ordered pending the filing of a petition and/or the outcome of an individual proceeding.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-24. Sanctions for noncompliance

The assigned administrative law judge may take any action allowed by law against any party as a sanction for any non-compliance with the rules in this chapter, including, but not limited to, assuming an adverse evidentiary inference, continuing any proceeding, striking any pleading, imposition of costs and fees, including attorneys fees, granting default, as applicable.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-21-25. Time

(a) **Computation.** In computing any period of time prescribed or allowed by this Subchapter or by order of an administrative law judge made pursuant to this Subchapter, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes or any other day when the offices of the Department do not remain open for public business until the regularly scheduled closing time, in which event the period runs until the end of the next day which is not a legal holiday or a day when the office of the Department does not remain open for public business until the regularly scheduled closing time. When the period of time prescribed or allowed is less than then (10) days, intermediate legal holidays and any other day when the offices of the Department does not remain open for public business until the regularly scheduled closing time, shall be excluded from the computation. The assigned administrative law judge may at any time in its discretion alter any period of prescribed or allowed time with prior notice to the parties.

(b) **Use of Mail.** When a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail or third-party commercial carrier or like means, three (3) days shall be added to the prescribed period.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

310:2-21-26. Protective orders

At the time that a matter has been filed with the Office of Administrative Hearings all personal health information of any party or witness that comes into the possession of a party to pending matter is subject to an automatic protective order. The automatic protective order generally limits any party in possession of such information from publishing the information to any third party without first making application to the assigned administrative law judge supported by good cause. Third parties shall not include any person employed or affiliated with an attorney or his office who is representing a party to the individual proceeding.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

310:2-21-27. Filing by electronic means

(a) **General requirements.** Documents may be filed by facsimile or other electronic mail transmission ("e-mail") directly to the Clerk of the Office of Administrative Hearings. Litigants are encouraged to limit the use of facsimile or e-mail filings to those of a time-critical nature only. The e-mail address or facsimile number may be obtained from the Clerk. Filing by facsimile or e-mail does not relieve a party from providing a copy of the filing to all other parties in the case. Filing with the Office of Administrative Hearings does not constitute notice to the Oklahoma State Department of Health Office of General Counsel or any other party. Submissions received after 5:00 p.m., CST or CDT, shall be deemed filed on the next regular business day.

(b) **Use of facsimile transmission.** Facsimile transmissions are limited to not more than ten (10) pages. A single document may not be split into multiple facsimile transmissions to avoid the page limitation. Each facsimile transmission sent shall be accompanied by a Facsimile Transmission Cover Sheet. The cover sheet shall be the first page transmitted, followed by any special processing instructions. A cover sheet is required for each fax and is NOT considered part of the ten (10) page limitation. The cover sheet must contain the name, mailing address, telephone number and return fax number for the transmitting party. Reference must be made to the identity of the case by number and/or names of parties. The number of pages being transmitted MUST be on the cover sheet. The submission must include a visible hand-written signature on the document to be filed.

(c) **Use of electronic mail.** Filings by e-mail must be made as an attachment to the e-mail and not contained in the body of the e-mail. They must be in an electronic format compatible with Microsoft Word or PDF. The name, mailing address, e-mail address and telephone number of the person filing must be on the document filed. The subject description of the e-mail must include a reference to the case by case number. The submission must include a visible hand-written signature or the signature line must show a signature in electronic form as follows: /s/ First and

Last Name. Electronic signatures shall be deemed authentic and be considered the signature of the person filing the document.

(d) **Other considerations.** Filing a document by facsimile or e-mail constitutes implied consent for the Office of Administrative Hearings and other parties in the case to notify and deliver documents to that party by facsimile or e-mail. A party who files by fax or e-mail shall retain the original source document in his or her possession or control during the pendency of the action in exactly the same format and content as transmitted and shall produce such document upon request by the assigned administrative law judge or any party to the action. Upon failure to produce the original source document when requested, the assigned administrative law judge may refuse to consider the fax or e-mail as a properly filed instrument. The quality of the original document transmitted shall be clear and dark enough to be transmitted legibly. The Department will not be responsible for events that disrupt or render impossible the receipt of documents transmitted electronically.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

310:2-21-28. Videoconference hearings

(a) **General.** Any hearing may be held by videoconference technology. The proceedings will be conducted in a manner that is similar to those conducted when all parties are in the same room. A participant is required to sit in front of a device (e.g. phone, laptop, computer monitor, television) that allows the person to see the parties at the other locations.

(b) **Procedure.** At the commencement of a videoconference the presiding administrative law judge, hearing clerk or video coordinator will check that the link has been established. The administrative law judge will confirm that the remote participants can be seen and heard clearly and in like manner verify that the remote participants can clearly see and hear the participants and administrative law judge at the hearing venue. The assigned administrative law judge will decide and explain the procedure for the videoconference prior to testimony being taken. Identification for each participant, such as a driver's license or photo I.D., may be required. At the beginning of the docket, each case will be called and the parties will be given the number in which their case will be heard. Only the case being heard by the presiding administrative law judge will be in video contact with the tribunal. The administrative law judge may dismiss witnesses prior to conclusion of the hearing.

(c) **Hearing procedure.** The administrative law judge will be in charge of the proceedings. Parties will be sworn in and testimony taken as in a courtroom proceeding. The entire proceeding will be recorded using both audio and video means. Only one person shall talk at a time as directed by the administrative law judge.

(d) **Recesses.** If a recess is taken, the administrative law judge will indicate for the record when it starts and stops and when the record is to continue. The administrative law judge will also note the presence or absence of those attending and previously identified prior to the recess.

(e) **Exhibits.** All exhibits that a party intends to present at a hearing must be submitted to the administrative hearing clerk and opposing

party/counsel at least five (5) days prior to the hearing. All exhibits must be identified numerically and indicate if the exhibit is by petitioner or respondent. (Example: Respondent's Exhibit 1). If the author of a document is not present to provide a foundation for admission, and the document does not otherwise qualify for an exception, it may be denied admission into evidence unless the administrative law judge determines it has probative value to the issues of the case. Other than a request for a hearing letters to the tribunal or letters to the Department are not part of the evidence unless offered by one of the parties and admitted.

(f) **Witnesses.** In some cases, witnesses may be required to wait outside the hearing room at a remote venue because of limitations on space or because of a procedural requirement. In most cases, all witnesses will be sworn in at the beginning of the hearing and admonished not to discuss their testimony with other witnesses.

(g) **Continuances.** A request to continue a video-teleconference hearing must be made no later than five (5) days before the hearing unless there is a showing of good cause. The request must be in writing and either mailed, faxed or emailed to the hearing clerk within the time specified. The request must explain why a continuance is necessary, must indicate the person requesting the continuance, and must indicate if the opposing counsel has been contacted and whether opposing counsel objects to the continuance request. If the hearing is continued, it will be scheduled on the next available docket.

(h) **Technical difficulties.** If a video link is interrupted or cannot be established, the hearing may be postponed or proceed as a telephone hearing at the discretion of the tribunal.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10 ; Amended at 39 Ok Reg 1221, eff 9-11-22]

310:2-21-29. Reconsideration of long-standing interpretations by the Department and final orders

(a) **Long-standing interpretations.** If the Department certifies that an interlocutory decision made by an assigned administrative law judge reverses or materially alters a long-standing interpretation of a rule or statute that is within the administrative or regulatory purview of the Department and that such interpretation would materially affect the outcome of a proceeding, upon request by the Department, the administrative law judge shall grant the Department an evidentiary hearing to demonstrate the longevity and appropriateness of the long-standing interpretation before pronouncing the interlocutory decision. The interlocutory decision shall uphold the Department's long-standing interpretation if the Department successfully demonstrates that the interpretation has been adhered to for at least the last five (5) years, or since the statute or rule was passed or last amended if less than five (5) years since enactment, and that the Department's interpretation is reasonably based upon the language of the statute or rule at issue. Each party may file a Memorandum of Law not to exceed five (5) pages in length regarding the matter in dispute within five (5) days of the assigned administrative law judge's initial, disputed ruling. The Memoranda shall be submitted simultaneously and no reply or response

will be permitted. The administrative law judge shall render a decision on the matter within five (5) days of submission of the Memoranda or the evidentiary hearing, whichever is later.

(b) **Final decisions.** If the Department is aggrieved by a final agency order the Department may request reconsideration of the decision to the Commissioner of Health. The Commissioner of Health, or his designee, shall receive an Application for Reconsideration with a brief in support that complies with section 310:2-21-17 within ten (10) days of the entry of the final agency order. Any party opposing the application may file a response and brief in support that complies with section 310:2-21-17 within ten (10) days of the date the application is filed. The grounds for such application shall be governed by 75 O.S. § 317. The Commissioner of Health may hold a hearing on the matter and shall render a decision on the application within twenty (20) days of its submission and the decision rendered by the Commissioner of Health shall be considered the final agency order in the proceeding before the Department.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

310:2-21-30. Requirements of parties filing petitions for judicial review

Any party appealing a final agency decision of an administrative law judge or the Commissioner of Health must promptly file a file-stamped copy of the Petition For Judicial Review or other document initiating appellate review with the Hearing Clerk of the Office of Administrative Hearings in order to provide sufficient notice to prepare and transfer the record to the reviewing court in compliance with 75 O.S. § 320. Any party may submit by electronic means in PDF compatible format to the Office of Administrative Hearings and the opposing counsel a suggested Index of Record of Proceedings to be used by the Hearing Clerk in preparing the record for transmittal to the district court. If part of the administrative record is subject to a protective order, or includes a stipulation by the parties to limit the administrative record for purposes of judicial review, the suggested Index of Record must specifically describe any part of the record subject to the protective order or to the stipulation. Electronic recordings of an individual proceeding will be submitted to the reviewing court without transcription, unless otherwise required by the reviewing court; in such case, the expense of transcription shall be taxed and assessed pursuant to Article II of the Oklahoma Administrative Procedures Act.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

310:2-21-31. Summary adjudication and resolution

(a) **General.** The tribunal may resolve any dispute or controversy by full or partial summary adjudication when the tribunal is satisfied that there is no reasonable dispute as to a material fact, or the reasonable inferences that may be drawn from material facts, or if only questions of law are involved. A final agency order rendered as a result of this section must contain findings of fact and conclusions of law as required by 75

O.S. § 312 and include special findings of fact supporting the tribunal's determination that there is no reasonable dispute as to a material fact, the reasonable inferences that may be drawn from the material facts, or if only questions of law are involved. If the tribunal's summary adjudication and resolution does not dispose of all the issues pending in the action then it must recite the issues remaining for determination in its decision granting partial summary relief.

(b) **Procedure.** The motion for summary adjudication and resolution may be filed by Respondent at any time after commencement of the action and by Petitioner at any time after twenty (20) days have passed from commencement of the action or after Respondent serves a motion for summary adjudication and resolution. The motion may be filed with or without supporting affidavits or other admissible evidence on all or part of the claims or defenses at issue in the proceeding. The motion must be served on the opposing party at least ten (10) days before the day set for the hearing on the merits. An opposing party may serve opposing affidavits or other admissible evidence before the hearing day. The facts and issues determined by the tribunal to not be at issue and resolved by a summary decision must be treated as established in the action.

(c) **Affidavits and testimony.** A supporting or opposing affidavit must be made on personal knowledge, set out facts that would be admissible into evidence according to 75 O.S. § 310, and show that the affiant is competent to testify on the matters stated. If a paper or part of a paper is referred to in an affidavit, a sworn or certified copy must be attached to or served with the affidavit. The tribunal may permit an affidavit to be supplemented or opposed by admissions, depositions, answers to interrogatories, or additional affidavits. When a motion for summary adjudication and resolution is properly made and supported, an opposing party may not rely merely on allegations or denials in its own pleadings; rather, its response must, by affidavits or as otherwise provided in this rule, set out specific facts showing a genuine issue for hearing or further proceeding. If the opposing party does not so respond, a summary decision should, if appropriate, be entered against that party.

(d) **When affidavits are unavailable.** If a party opposing the motion shows by affidavit that, for specified reasons, it cannot present facts essential to justify its opposition, the tribunal may deny the motion, order a continuance to enable affidavits to be obtained, depositions to be taken, or other discovery to be undertaken or issue any other just order.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

SUBCHAPTER 23. REQUESTS FOR DECLARATORY RELIEF AND RULEMAKING

310:2-23-1. Purpose and scope

This Subchapter shall govern the procedure for requesting declaratory relief or rulemaking action by the Department. These rules are promulgated to provide due process to parties appearing before the Department and are not to be construed inconsistently with the

Oklahoma Administrative Procedures Act. The assigned administrative law judge has the discretion to waive, supplement or modify any requirement of the applicable law or rule of procedure where permitted by law and when the administration of justice requires.

[Source: Reserved at 24 Ok Reg 1896, eff 6-25-07 ; Added at 27 Ok Reg 2496, eff 7-25-10]

310:2-23-2. Rules of procedure generally applicable

Unless expressly provided otherwise in this Subchapter, the rules of procedure set forth in Subchapter 21 shall be generally applicable to all actions before the Department where declaratory relief has been requested.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

310:2-23-3. Initiating a proceeding for declaratory ruling

Proceedings for declaratory ruling upon the applicability of any rule or order of the agency may be initiated before the Department by filing with the Office of Administrative Hearings a Petition which seeks relief authorized by 75 O.S. § 307. Each petition shall be styled "In re the request of _____, Petitioner, for a declaratory ruling." The person or entity filing the Petition shall be denominated the Petitioner and the Department shall be denominated the Respondent. The petition shall include a statement of the legal authority and jurisdiction under which the proceeding is to be held, a reference to the particular sections of the rules or orders involved, a short and plain statement of the matters asserted giving a right to relief and the relief requested.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

310:2-23-4. Initiating a proceeding seeking rulemaking

(a) **General.** Proceedings seeking rulemaking by the Department may be initiated before the Department by filing with the Office of Administrative Hearings a Petition which seeks relief authorized by 75 O.S. § 305. Each petition shall be styled "In re the request of _____, Petitioner, for adoption, amendment or repeal of a rule." The person or entity filing the Petition shall be denominated the Petitioner and the Department shall be denominated the Respondent.

(b) **Contents of the petition.** The petition shall include a statement of the legal authority and jurisdiction under which the proceeding is to be held, a reference to the particular sections of the statutes and rules involved, a short and plain statement of the rule language the Petitioner seeks to add, amend or delete.

(c) **Emergency rulemaking.** A petition seeking or requesting an emergency rule must include a separate statement describing the circumstances or conditions constituting an imminent peril threatening the preservation of the public health, safety, or welfare, or a compelling public interest requiring the adoption of an emergency rule, or the amendment or repeal of an existing rule.

(d) **Notice of hearing.** If the Department determines that the petitioner's request will proceed to hearing notice shall be issued to the petitioner and any other person who may have requested notice regarding said petition.

(e) **Denial.** *If the Department fails to initiate rulemaking proceedings in accordance with the Oklahoma Administrative Procedures Act within thirty (30) calendar days after the filing of a petition, the petition shall be deemed to have been denied.* [75 O.S. § 305.]

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

SUBCHAPTER 25. DISCOVERY

310:2-25-1. Purpose and scope

(a) This Subchapter shall govern the procedure for discovery in matters before the Department to provide for the just, speedy and inexpensive determination of actions. Each party shall participate in the discovery process, to the maximum extent possible, without intervention by the Office of Administrative Hearings. If a dispute over discovery should arise between the parties, the parties shall in good faith attempt to resolve their differences informally, without resort to motion or request filed with the Department. Subsequent to such attempt, any request or motion to compel discovery must be accompanied by a verified affidavit from the party seeking discovery, stating that informal conference did not resolve the dispute, and the reasons why such resolution was not achieved.

(b) Discovery may be obtained by interrogatories (written questions), requests for production of documents or entry on land for inspection and other purposes, requests for admission, and depositions. Discovery may be obtained on any matter, not privileged, which is relevant to the subject matter involved in the pending case, and which is reasonably calculated to lead to the disclosure of admissible evidence. It is not a ground for objection that an answer relates to an ultimate fact in the case or the application of law to fact.

(c) A request, response or objection to discovery shall be signed by the party or the party's attorney. A party responding to a request that was complete when it was made shall supplement the response if and when it is discovered that the response was incorrect when made, or that the response is no longer true.

(d) An evasive or incomplete answer to a discovery request may be treated as a failure to answer. If a party or his or her attorney knowingly fails to obey an order to provide or permit discovery, the assigned administrative law judge may issue such order(s) which are just and will remediate the failure to obey, including an order that the party or other person failing to act pay reasonable discovery fees and costs, including attorney fees. Failure to act as described in this section may not be excused on the ground that the discovery sought was objectionable.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 27 Ok Reg 2496, eff 7-25-10]

310:2-25-2. Commencing discovery; time for completion

(a) The parties may begin discovery at any time after a scheduling order has been entered in the case; or, if no scheduling order is entered, discovery may begin once the matter has been set for hearing on the merits.

(b) Discovery shall be completed in accordance with the scheduling order entered in the case. If no scheduling order is entered, the parties shall complete their discovery on or before the date of the pre-hearing conference. If no pre-hearing conference is ordered, discovery shall be completed at least ten (10) days prior to hearing on the merits.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07]

310:2-25-3. Discovery conference

A discovery conference may be ordered and conducted by the assigned administrative law judge or the Chief Administrative Law Judge. Special protective orders may be entered if deemed advisable, which may limit the information sought and/or the manner in which it will be provided.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 27 Ok Reg 2496, eff 7-25-10]

310:2-25-4. Methods of discovery

(a) **Interrogatories.** A party may serve on any other party written questions not to exceed 20 in number, including discrete subparts. Interrogatories inquiring as to the names and locations of witnesses, or the existence, location and custodian of documents or physical evidence shall be construed as one interrogatory. All other interrogatories, including subdivisions of one numbered interrogatory, shall be construed as separate interrogatories. Each question shall be answered separately and fully in writing or shall be objected to by the person making the answer. If objected to, the reasons shall be stated. Answers or objections shall be made within twenty (20) calendar days after service unless a shorter or longer time is ordered or agreed upon by the parties. Where the answer to a question may be obtained from the records kept by a party, it is a sufficient answer to specify the records from which the answer may be obtained. The answer shall afford the party making the request an opportunity to examine, audit or inspect such records.

(b) **Requests for Production or entry upon land.** A party may serve on any other party a request to produce, inspect and copy any designated documents not confidential or privileged; or to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing or sampling the property or any designated object or operation thereon. A request shall describe with particularity the items to be produced or inspected and shall indicate a reasonable time, place and manner of making the inspection and performing any related acts. A written response to each item or category shall be made within twenty (20) calendar days after the service

of a request unless a shorter or longer time is ordered or agreed upon by the parties. The response shall either state that the production or inspection will be permitted, or if objected to, the reasons shall be stated. A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(c) **Requests for Admission.** A party may serve on any other party written requests for admissions, not to exceed 20 in number, regarding the truth of any matters that relate to statements or opinions of fact or of the application of law to fact. This includes the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have otherwise been furnished or made available for inspection and copying. Each matter for which an admission is requested shall be answered separately. The answer shall admit or deny the matter or state why the answering party can not admit or deny the matter. A written response shall be made within twenty (20) calendar days after the service of a request unless a shorter or longer time is ordered or agreed upon by the parties. If an objection is made the reasons shall be stated. Any matter admitted is established unless withdrawal or amendment of the admission is permitted by the assigned administrative law judge.

(d) **Depositions.** A party may ask questions of any other party or person, under oath, before a person authorized to administer such oath. A written transcript shall be made by the person seeking the deposition and that person shall provide a copy to the other party or person. The requirements for conduct of depositions set forth in 12 O.S. § 3230 shall be applicable to depositions in cases before the Department, unless such would conflict with the Administrative Procedures Act, or these rules. At the discretion of the assigned administrative law judge, depositions may be taken by videoconference and/or recorded on videotape or other electronic medium. Depositions so taken shall also be transcribed by stenographic means. The admissibility of video deposition evidence shall be at the discretion of the assigned administrative law judge. Video depositions for purposes of submission as testimony at the hearing, where the witness is unavailable, may be permitted on a case by case basis, subject to approval of the assigned administrative law judge.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 27 Ok Reg 2496, eff 7-25-10]

310:2-25-5. Enforcement of discovery rules and orders

The sanctions available in OAC 310:2-21-24 are applicable to this Subchapter, and failure or refusal to comply with a discovery order may result in the imposition of one or more sanctions against the offending party. In addition, the Department may seek enforcement by District Court order if deemed necessary for the proper and just disposition of the case.

[Source: Added at 24 Ok Reg 1896, eff 6-25-07 ; Amended at 27 Ok Reg 2496, eff 7-25-10 ; Amended at 39 Ok Reg 1221, eff 9-11-22]

310:2-25-6. Time

Unless expressly provided otherwise in this Subchapter, the computation of time provisions in OAC 310:2-21-25 are applicable to this Subchapter.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

310:2-25-7. Protected health information

Discovery requests for medical records or other records containing protected health information of a party or a person who is not a party to a proceeding, shall be subject to the following requirements:

- (1) Information contained in party's medical records shall be disclosed only to counsel of record in this action or only to individuals certified by such counsel as employed by or assisting counsel in preparation for, or at the trial of this action. For the purposes of compliance with this rule, medical records shall mean any note, memorandum, or any other form of information, including information in electronic form, that is covered by the HIPAA Privacy Rule, 45 CFR § 164.xx, et seq.
- (2) Any such documents or information obtained shall be used only for the purpose of litigation before the Department in the case in which the information was collected.
- (3) The production of such documents or information concerning a resident's medical records shall not constitute a waiver of any privilege or other claim or right of withholding or confidentiality which resident may have.
- (4) It shall be the responsibility of the parties to maintain all confidential information in a secure place designed to prevent any third party from access.
- (5) Copies of all documents containing such information should reflect that they are protected, privileged or confidential within the spirit of this Order, including any portion of a hearing transcript, exhibit, brief or other document containing such information, and shall be filed and transmitted using sealed envelopes or other appropriate containers clearly marked as being confidential and protected.
- (6) To the extent possible, all pleadings and other documents used in an administrative hearing shall be redacted to exclude the name of a patient. For the purpose of clarity in hearings, parties may file a letter with the Office of Administrative Hearings identifying any redacted party. Upon conclusion of the case, the letter shall be placed in a sealed envelope and kept with the tribunal file.

[Source: Added at 27 Ok Reg 2496, eff 7-25-10]

SUBCHAPTER 27. CONTRACTS WITH CHARITABLE HEALTH CARE PROVIDERS

310:2-27-1. Purpose

The rules of this Subchapter are adopted to implement Senate Bill 930, Oklahoma Sessions 2007, for the administration of contracts between charitable health care providers and the Oklahoma State Department of Health or a city-county health department for the benefit of Oklahoma residents who are medically indigent. These rules establish eligibility criteria for charitable health care providers and medically indigent persons, procedures for entering into and revoking contracts between the Oklahoma State Department of Health or a city-county health department and a charitable health care provider and responsibilities and obligations pursuant to such contracts.

[Source: Added at 25 Ok Reg 507, eff 12-04-07 (emergency); Added at 25 Ok Reg 2387, eff 7-11-08]

310:2-27-2. Definitions

The following words or terms used in this Subchapter shall have the meaning described below unless the context clearly indicates otherwise:

"Charitable health care provider" or "charitable provider" *means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of business or the practice of a profession and who provides care to a medically indigent person, as defined in this subchapter, with no expectation of or acceptance of compensation of any kind.* [51 O.S.Supp.2007, § 152(3)]

"Charitable provider contract" means an annual agreement executed in compliance with this subchapter between a charitable health care provider and a contracting agency for the provision of health care services to the medically indigent.

"Claim" as used in 'claims history' means any written demand presented by a claimant or the claimant's authorized representative to recover money as compensation for an act or omission committed by a person who provides health care.

"Claims history" means a summary of the claims made against the applicant for a charitable provider contract with a contracting agency, including the number of claims, a brief description of each claim, the type of health care services being provided that precipitated each claim, and the money that was paid, or is being paid, for each claim, if any.

"Commissioner" means the Commissioner of Health and the chief executive officer of the Oklahoma State Department of Health.

"Contracting agency" means either the Oklahoma State Department of Health or a city-county health department.

"Department" means the Oklahoma State Department of Health.

"Free clinic" means a facility where the health care professional receives no form of compensation as provided at 76 O.S.Supp.2004, § 32 and the clinic requires no form of compensation from any patient.

"Medically indigent" *means a person requiring medically necessary hospital or other health care services for the person or the dependents of the person who has no public or private third-party coverage, and whose personal resources are insufficient to provide for needed health care.* [51 O.S.Supp.2007, § 152(8)]

"Person" means a human being or natural person, and does not include governmental agencies, corporations or other business entities.

"Person whose personal resources are insufficient to provide for needed health care" means a person who has declared that the person, or family of the person seeking health care services, does not have sufficient resources to pay for the needed health care.

"Risk Management" means the Office of the Risk Management Administrator of the Department of Central Services as provided at 51 O.S.Supp.2006, § 156.

[Source: Added at 25 Ok Reg 507, eff 12-04-07 (emergency); Added at 25 Ok Reg 2387, eff 7-11-08]

310:2-27-3. Contingency

The execution or continuation of a contract between a contracting agency and a charitable health care provider, as defined within and provided for in this subchapter, is contingent upon funding being available to the contracting agency for this purpose, and nothing within this subchapter shall be construed to grant to a charitable health care provider any greater rights than those otherwise provided by law.

[Source: Added at 25 Ok Reg 507, eff 12-04-07 (emergency); Added at 25 Ok Reg 2387, eff 7-11-08]

310:2-27-4. Application to contract as a charitable health care provider

(a) The Department shall develop and provide an application form for a person to use when applying with a contracting agency to enter into a charitable provider contract.

(b) A person may apply to enter into a charitable provider contract as a charitable health care provider if such applicant:

(1) is licensed, certified, or otherwise authorized by the laws of Oklahoma to administer, in the ordinary course of business or in the practice of a profession, the health care that is the subject of the charitable health care contract;

(2) will provide health care to the medically indigent, as defined in section 310:2-27-2; and

(3) submits a complete application to a contracting agency requesting to enter into a charitable provider contract, and the application must include:

(A) the scope of service the applicant will provide to the medically indigent; and

(B) the applicant's claims history for the last ten (10) years.

(c) State Risk Management will determine the amount of the insurance premium the Department would be required to pay into the State's self-insurance pool and manage claims related to the program, if and when they occur.

(d) A health care provider whose application to be granted a charitable provider contract from a contracting agency is denied may re-submit the application with a different scope of service.

[Source: Added at 25 Ok Reg 507, eff 12-04-07 (emergency); Added at 25 Ok Reg 2387, eff 7-11-08 ; Amended at 36 Ok Reg 1649, eff 9-13-19]

310:2-27-5. Charitable provider responsibilities

- (a) The charitable provider is responsible for determining the patient is medically indigent before providing health care services by confirming that the person seeking services has:
- (1) no health insurance;
 - (2) not been informed that he or she is Medicaideligible; and
 - (3) insufficient income to pay for the needed health care services.
- (b) All professional services rendered by the charitable provider to the medically indigent must be provided gratuitously and with no expectation or acceptance of compensation of any kind.
- (c) Upon receipt of a claim by the charitable health care provider indicating that the claimant is seeking compensation for an act or omission by the charitable provider occurring when rendering professional services to a medically indigent person at, or on referral from, a free clinic, the charitable health care provider shall submit the claim to Risk Management and the contracting agency and shall not submit such claims to a professional malpractice insurance carrier.
- (d) The charitable provider shall keep records related to the performance of the charitable health care contract during the term of the contract for a period of two years after the contract ends. Upon request, the charitable provider shall make these records available to the contracting agency or Risk Management.

[Source: Added at 25 Ok Reg 507, eff 12-04-07 (emergency); Added at 25 Ok Reg 2387, eff 7-11-08]

310:2-27-6. Termination or rescission of charitable health care contracts

- (a) Charitable health care contracts may be terminated or rescinded by the Department in the event of noncompliance with any provision of the charitable provider contract or this subchapter or the unavailability of funding for such contracts. Before terminating or rescinding a contract, the Department will give the charitable health care provider thirty (30) days written notice and request information as to why the charitable health care contract should not be terminated or rescinded.
- (b) Upon completing the review of any information submitted in reconsideration of terminating or rescinding the charitable provider contract, the Department will provide the charitable health care provider its decision in writing. This final decision is not appealable.

[Source: Added at 25 Ok Reg 507, eff 12-04-07 (emergency); Added at 25 Ok Reg 2387, eff 7-11-08]

SUBCHAPTER 29. CRIMINAL HISTORY BACKGROUND CHECKS

310:2-29-1. Purpose

These rules implement the Long Term Care Security Act as established at Title 63 O.S. Section 1-1944 et seq., as amended, and eligibility appellate procedures for those Chapters under Title 310, which provide for denials of eligibility for a license, certification, or permit based on criminal history.

[Source: Added at 31 Ok Reg 417, eff 2-1-14 (emergency); Added at 31 Ok Reg 1577, eff 9-12-14 ; Amended at 37 Ok Reg 1354, eff 9-11-20]

310:2-29-2. [RESERVED]

[Source: Reserved at 31 Ok Reg 417, eff 2-1-14 (emergency); Reserved at 31 Ok Reg 1577, eff 9-12-14]

310:2-29-3. Implementation

(a) **Authority.** Title 63 O.S. Section 1-1947(Y) authorized the Department to establish through rulemaking the effective dates of subsections D through V of Section 1-1945 of Long Term Care Security Act, by category of employer.

(b) **Effective dates.** The effective dates for subsections D through V of Section 1-1947 (relating to screening and fingerprint based background checks) are defined below.

(1) For the following, compliance may begin February 1, 2014, but shall be required no later than March 1, 2014:

(A) Adult Day Care Centers as defined by Section 1-872 of Title 63 of the Oklahoma Statutes; and

(B) Residential care homes as defined by Section 1-820 Title 63 of the Oklahoma Statutes.

(2) For Specialized Nursing Facilities licensed pursuant to Title 63 O.S. Section 1-1901 et seq., compliance may begin February 1, 2014, but shall be required no later than April 1, 2014:

(3) For the following employers, compliance may begin February 1, 2014, but shall be required no later than May 1, 2014:

(A) Applicants for employment with the State Department of Health and Department of Human Services whose responsibilities include working inside long term care facilities, pursuant to Title 63 O.S. Section 1-1947(A)(1); and

(B) Nursing Facilities licensed pursuant to Title 63 O.S. Section 1-1901 et seq.,

(4) For the following employers compliance may begin February 1, 2014, but shall be required no later than June 1, 2014:

(A) Continuum of Care or Assisted Living facilities licensed pursuant to Title 63 O.S. Section 1-890.1 et seq.; and

(B) Hospice programs licensed pursuant to Title 63 O.S. Section 1-860.1 et seq.

(5) For Medicare Certified Home Care Agencies licensed pursuant to Title 63 O.S. Section 1-1960 et seq., compliance may begin February 1, 2014, but shall be required no later than July 1, 2014.

(6) For all other employers defined in Title 63 O.S. Section 1-1945(4), compliance may begin February 1, 2014, but shall be required no later than August 1, 2014.

(7) For Nurse Aide Scholarship Programs operated under contract with the Oklahoma Health Care Authority compliance may begin July 1, 2014, but shall be required no later than August 1, 2014.

(8) For staffing agencies or independent contractors as defined in Title 63 O.S. Section 1-1945(4), compliance shall match the contracted employer.

(9) Pursuant to Title 63 O.S. Section 1-1947(I)(5), *Medicaid home and community-based services waived providers as defined in Section 1915 (c) or 1915 (i) of the federal Social Security Act may voluntarily participate in the submission of fingerprints for applicants. In lieu of fingerprinting, said providers shall obtain a name-based state criminal history record check from the [Oklahoma State Bureau of Investigation] at the fee established in Section 150.9 of Title 74 of the Oklahoma Statutes. No other fees shall apply to said providers relying on a name-based state criminal history record check. The determination of employment eligibility shall be made by said providers based on the criteria established in subsection Dof*[Title 63 O.S. Section 1-1947].

(c) **Nurse Aide Scholarship Programs.** For the purposes of complying with Title 63 O.S. Section 1-1947(G) (related to conducting a registry screening and criminal history record check), the Nurse Aide Scholarship Program may refer the applicant's application and release to the Department for registry screening and authorization to collect fingerprints.

(d) **Alternate Name Based Background Check.** Where the Department is unable to authorize the collection and submission of fingerprints through an authorized collection site pursuant to Title 63 O.S. Section 1-1947(I), the Department shall conduct a name based search of the applicant in the criminal history database maintained by the Oklahoma State Bureau of Investigation.

[Source: Added at 31 Ok Reg 417, eff 2-1-14 (emergency); Added at 31 Ok Reg 1577, eff 9-12-14]

310:2-29-4. [RESERVED]

[Source: Reserved at 31 Ok Reg 417, eff 2-1-14 (emergency); Reserved at 31 Ok Reg 1577, eff 9-12-14]

310:2-29-5. Appeals

(a) **Notice.** A determination by the Department that finds an applicant not eligible for a license, certification, permit or employment will result in a notice to the applicant to include the reasons why the applicant is not eligible for license, certification, permit or employment and a statement that the applicant has a right to appeal the decision made by the Department regarding the eligibility. The notice shall also include information regarding where to file and describe the appellate procedures.

(b) **Days to initiate an appeal.**

(1) Pursuant to Title 63 O.S. 1-1947(T)(1), any individual who has been disqualified from or denied employment by an employer pursuant to Title 63 O.S. Section 1-1947 may file an appeal with

the Department within thirty (30) days of the receipt of the notice of disqualification. An applicant under 63 O.S. 1-1947(T)(1) may receive an extension of the thirty (30) days allowed to appeal where good cause is shown.

(2) An individual who has been found not eligible for a license, certification, or permit based on their criminal history may file an appeal with the Department at any time following receipt of the notice of disqualification.

(c) **Types of appeals.** An applicant may appeal the determination by:

- (1) Challenging the finding that the applicant is the true subject of the results from a name-based registry background check;
- (2) Challenging the criminal history record as inaccurate;
- (3) Requesting a waiver which gives the applicant the opportunity to demonstrate that the applicant should be allowed to work because he or she does not pose a risk to patients, facilities or their property; or
- (4) Requesting a reconsideration of eligibility, which may be considered no sooner than twelve (12) months from the previous appeal of a determination of ineligibility.

(d) **Inaccuracy of criminal history record.** To demonstrate that the criminal history record is inaccurate, the applicant shall submit to the Department written documents, issued and certified by a governmental entity that demonstrate that the information contained in the criminal history report is inaccurate.

(e) **Criteria for consideration in a waiver review.** The Department shall consider the following criteria in considering whether the applicant merits a waiver of the applicant's determination of ineligibility:

- (1) The time elapsed since the disqualifying criminal conviction, whether the applicant has fulfilled the sentence requirements, and whether there are any subsequent arrests or convictions of any nature;
- (2) Any extenuating circumstances such as the offender's age at the time of conviction, substance abuse history and treatment, or mental health issues and treatment;
- (3) Rehabilitation as demonstrated by character references and recommendation letters from past employers, the applicant's record of employment history, education, and training subsequent to conviction;
- (4) The relevancy of the particular disqualifying information with respect to the proposed employment of the individual to include the job type and duties, and the extent to which the applicant has unsupervised access to service recipients; and
- (5) For appeals under the authority of 63 O.S. 1-1947(T)(2), whether the crime was committed against a vulnerable child or adult, and whether the conviction was related to an employer subject to the requirements of the Long Term Care Security Act.

(f) **Where to file.** The applicant's appeal shall be submitted in writing to the Administrative Hearings Clerk for the Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117, and shall address the criteria specified in (d) of this Section and how the applicant

merits a waiver of the disqualification from employment.

(g) **Conduct of hearing.** The appeal shall be conducted as an individual proceeding pursuant to this Chapter and the Administrative Procedures Act.

[Source: Added at 31 Ok Reg 417, eff 2-1-14 (emergency); Added at 31 Ok Reg 1577, eff 9-12-14 ; Amended at 37 Ok Reg 1354, eff 9-11-20]

SUBCHAPTER 31. HUMAN SUBJECTS PROTECTION

310:2-31-1. General purpose

The Oklahoma State Department of Health (OSDH) Institutional Review Board (IRB) has been established to comply with federal regulations to protect the rights and welfare of human research participants in accordance with Title 45 of the Code of Federal Regulations Part 46 (45 C.F.R. Part 46). The OSDH IRB has the responsibility to assure that the risks of proposed research are justified by the potential benefits to the participants and to society, and that risks are minimized to the extent possible consistent with sound research design. The OSDH IRB must assure that the risks of research do not fall disproportionately on one group while the potential benefits accrue to another.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-2. Scope

This subchapter applies to all individuals at the OSDH engaged in research involving human subjects. The Commissioner retains final authority to determine whether a particular activity is subject to this policy. This subchapter applies to any person paid by, under the control of, or affiliated with the OSDH, such as scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators at OSDH.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-3. Definitions [REVOKED]

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-4. Incorporations by reference

(a) This subchapter hereby incorporates by reference Part 46 of Title 45 of the Code of Federal Regulations (45 C.F.R. Part 46) as if fully set forth herein.

(b) This subchapter hereby incorporates by reference Part 50 and 93 of Title 42 of the Code of Federal Regulations (42 C.F.R. Parts 50 and 93) as if fully set forth herein.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

310:2-31-5. Conditions of Federalwide Assurance

- (a) The conditions of the Federalwide Assurance apply whenever:
 - (1) the OSDH IRB provides review and oversight of federally-supported human subject research, regardless of where the research takes place or by whom it is conducted; or
 - (2) the OSDH becomes engaged in federally supported human subject research.
- (b) The OSDH becomes so engaged whenever:
 - (1) OSDH employees or agents intervene or interact with living individuals for purposes of federally supported research;
 - (2) OSDH employees or agents obtain, release, or access individually identifiable private information for purposes of federally-supported research; or
 - (3) The OSDH receives a direct federal award to conduct human subject research, directly or where all activities involving human subjects are carried out by a subcontractor or collaborator.
- (c) Information provided under the Federalwide Assurance will be updated on schedule in order to maintain an active Assurance.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

310:2-31-6. Authority of IRB

- (a) All human subject research will be reviewed, prospectively approved, and subject to continuing oversight by the OSDH IRB.
- (b) The OSDH IRB will have authority to approve, require modifications in, disapprove, suspend or terminate the covered human subject research.
- (c) The OSDH IRB will maintain IRB registration under the Office of Human Research Protections (OHRP) to permit the review of federally funded research.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-7. IRB procedures

- (a) All approved IRB research projects, whether approved by OSDH IRB or an external IRB, are subject to a review by OSDH Data Use Review Committee (DURC) to ensure release of OSDH data is allowable, limited to, and meets the statutory provisions pertaining to public health data sharing. Release of data will be dependent on the DURC's findings.
- (b) The OSDH and the OSDH IRB will established written procedures to ensure conformity with the requirements of 45 C.F.R. Part 46.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-8. Training

The OSDH IRB will ensure the existence of adequate education and oversight mechanisms (appropriate to the nature and volume of the research being conducted) to verify that research investigators, IRB members and staff, and other relevant personnel maintain continuing

knowledge of, and comply with, relevant Federal regulations, OHRP guidance, other applicable guidance, state and local law, and IRB determinations and policies for the protection of human subjects.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-9. Compliance and knowledge of local context [REVOKED]

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-10. Institutional support of the IRB

The institution will provide the OSDH IRB with resources, professional staff, and support staff sufficient to carry out their responsibilities efficiently and effectively.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

310:2-31-11. FDA regulated research [REVOKED]

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Revoked at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-12. Usage of procedures for allegation of possible misconduct in science

This section establishes procedure that will be followed when an allegation of possible misconduct in science is received by an OSDH official. Procedures will be in accordance with 42 C.F.R. Part 93 and are subject to Office of Research Integrity (ORI) approval. Particular circumstances in an individual case may dictate variation from this procedure deemed in the best interests of OSDH and U.S. Public Health Service (PHS). Any change from these procedures also must ensure fair treatment to the subject of the inquiry or investigation. The Commissioner should approve any significant variation in advance.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-13. Research Integrity Officer (RIO)

(a) The Commissioner will appoint the Research Integrity Officer (RIO) who will have primary responsibility for implementation of these procedures. The RIO Officer will be an OSDH employee who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith.

(b) The RIO will appoint the inquiry and investigation committees and ensure that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation. The RIO will do everything possible to ensure that confidentiality is maintained.

(c) The RIO will assist inquiry and investigation committees and all employees in complying with these procedures and with applicable standards imposed by government or external funding sources. The RIO shall maintain files of all documents and evidence.

(d) The RIO reports to ORI will keep ORI apprised of any developments during the course of the inquiry or investigation that may affect current or potential Department of Health and Human Services (DHHS) funding for the individual(s) under investigation or that PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

(e) The RIO has the responsibility under 42 C.F.R. Part 50 and 93 for the completion and submission of the institution's annual report to the federal ORI.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-14. Whistleblower

(a) The whistleblower will have the opportunity to:

- (1) Testify before the committees;
- (2) Review portions of the reports pertinent to his/her allegations or testimony;
- (3) Be informed of the results of the inquiry and investigation;
- (4) Be protected from retaliation.

(b) If the RIO has determined that the whistleblower may be able to provide pertinent information on any portions of the draft report, these portions will be given to the whistleblower for comment.

(c) The whistleblower is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-15. Respondent

(a) The respondent will:

- (1) Be informed of the allegations when an inquiry is opened;
- (2) Be notified in writing of the final determinations and resulting actions;
- (3) Be interviewed by and present evidence to the inquiry and investigation committees;
- (4) Review the draft inquiry and investigation reports;
- (5) Have the right to advice of counsel or a non-lawyer personal advisor (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal advisor to interviews or meetings on the case.

(b) The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the respondent is not found to have engaged in scientific misconduct, he or she has the right to receive assistance from OSDH in restoring his or her reputation.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-16. Deciding official

The Deciding Official (DO) will be appointed by the Commissioner and will receive the inquiry and/or investigation report and any written comments made by the respondent or the whistleblower on the draft report. The DO will consult with the RIO or other appropriate officials and will determine whether to conduct an investigation, whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-17. Responsibility to report misconduct

All employees or individuals associated with OSDH should report observed, suspected, or apparent misconduct in science to the RIO. If an individual is unsure whether a suspected incident falls within the definition of scientific misconduct, he or she may call the RIO to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of scientific misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem. At any time, an employee may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-18. Protecting the whistleblower

- (a) The RIO will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response, and those who cooperate in inquiries or investigations.
- (b) The RIO will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the institution and will review instances of alleged retaliation for appropriate action. A grievance may be filed by the RIO for the whistleblower or the whistleblower may file for him or herself.
- (c) Employees should immediately report any alleged or apparent retaliation RIO.
- (d) OSDH shall protect the privacy, positions and reputations of those who report misconduct in good faith to the maximum extent possible. The whistleblower will be advised that if the matter is referred to an investigation committee and the whistleblower's testimony is required, anonymity may no longer be guaranteed.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-19. Protecting the respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-20. Cooperation with inquiries and investigations

OSDH employees will cooperate with the RIO and other OSDH officials in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the RIO or other OSDH officials on misconduct allegations.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

310:2-31-21. Preliminary assessment of allegations

Upon receiving an allegation of scientific misconduct, the RIO will immediately assess the allegation to determine whether there is sufficient evidence to warrant an inquiry, whether PHS support or PHS applications for funding are involved, and whether the allegation falls under the PHS definition of scientific misconduct.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

310:2-31-22. Conducting the inquiry

(a) **Initiation and purpose of the inquiry.** If the RIO determines that the allegation provides sufficient information, involves PHS support, and is within the PHS definition of scientific misconduct, they will immediately initiate the inquiry process. The RIO should identify the original allegation and any related issues that should be evaluated in the initial inquiry. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the respondent, whistleblower, and key witnesses to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation. The findings of the inquiry will be documented in an inquiry report.

(b) **Sequestration of the research records.** After determining that an allegation falls within the definition of misconduct in science and involves PHS funding, the RIO must ensure that all original research records and materials relevant to the allegation are immediately secured.

(c) **Appointment of the inquiry committee.**

(1) The RIO will appoint an inquiry committee and committee chair within ten (10 days) days of the initiation of the inquiry. The inquiry committee will consist of individuals who:

- (A) Do not have real or apparent conflicts of interest in the case;
- (B) Are unbiased; and
- (C) Have the necessary expertise to evaluate the evidence and issues related to the allegation.
- (D) May be scientists, subject matter experts, administrators, lawyers, or other qualified persons, and

- they may be from inside or outside the institution.
- (2) The Inquiry Committee will interview the principals and key witnesses, and conduct the inquiry.
 - (3) The RIO will notify the respondent of the proposed committee membership in ten (10 days). days.
 - (4) If the respondent submits a written objection to any appointed member of the inquiry committee or expert based on bias or conflict of interest within five (5 days), days, the RIO will determine whether to replace the challenged member or expert with a qualified substitute.
- (d) **Charge to the committee.** The RIO will prepare a charge for the inquiry committee that describes the allegations and any related issues and states that the purpose of the inquiry is to make a preliminary evaluation to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation as required by the PHS regulation.
- (e) **Inquiry process.** The inquiry committee will interview the whistleblower, the respondent, and key witnesses as well as examining relevant research records and materials. The inquiry committee will evaluate the evidence and testimony obtained. After consultation with the RIO and OSDH counsel, the committee members will decide whether there is sufficient evidence of possible scientific misconduct to recommend further investigation.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-23. The inquiry report

- (a) **Elements of the inquiry report.** A written inquiry report will be provided to ORI in accordance with the requirements in 42 CFR Part 93.309.
- (b) **Comments on the draft report by the respondent and the whistleblower.** After first redacting the identity of the whistleblower, the RIO will provide the respondent with a copy of the redacted draft inquiry report for comment and rebuttal, and will provide the whistleblower, if he or she is identifiable, with portions of the draft inquiry report that address the whistleblower's role and opinions in the investigation.
- (c) **Receipt of comments.** Within fourteen (14), calendar days of their receipt of the draft report, the whistleblower and respondent will provide their comments, if any, to the inquiry committee. Any comments that the whistleblower or respondent submits on the draft report will become part of the final inquiry report and record. Based on the comments, the inquiry committee may revise the report as appropriate.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-24. Inquiry decision, notification, and confidentiality

- (a) **Decision by DO.** The inquiry is completed when the DO makes a determination as to whether or not an investigation is justified. This determination will be made within sixty (60) days of the first meeting of the inquiry committee. Any extension of this period will be based on good

cause and recorded in the inquiry file.

(b) **Notification.** The RIO will notify both the respondent and the whistleblower in writing of the DO's decision of whether to proceed to an investigation. The RIO will also notify all appropriate institutional officials of the DO's decision.

(c) **Confidentiality.** A decision recommending further investigation pursuant to subsection (a) above shall be deemed to be confidential pursuant to 51 O.S. § 24A.12 and shall not be publicly disseminated beyond the persons identified in subsection (b) above.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-25. Time limit for completing the inquiry report

The inquiry committee will normally complete the inquiry and submit its report in writing to the RIO no more than 60 calendar days following its first meeting, unless the RIO approves an extension for good cause. If the RIO approves an extension, the reason for the extension will be entered into the records of the case and the report. The respondent also will be notified of the extension.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

310:2-31-26. Conducting the investigation

(a) **Purpose of the investigation.** The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. The findings of the investigation will be set forth in an investigation report.

(b) **Sequestration of the research records.** The RIO will immediately sequester any additional pertinent research records that were not previously sequestered during the inquiry.

(c) **Appointment of the Investigation Committee.** The RIO, in consultation with other OSDH officials as appropriate, will appoint an investigation committee and the committee chair within ten (10) days of the notification to the respondent that an investigation is planned or as soon as practicable. The makeup of the investigation committee will follow the same requirements outlined for the inquiry committee. Individuals appointed to the investigation committee may also have served on the inquiry committee. The RIO will notify the respondent of the proposed committee membership within five (5) days. If the respondent submits a written objection to any appointed member of the investigation committee or expert, the RIO will determine whether to replace the challenged member or expert with a qualified substitute.

(d) **Charge to the committee.** The RIO will define the subject matter of the investigation in a written charge to the committee that describes the allegations and related issues identified during the inquiry, defines scientific misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and

testimony of the respondent, whistleblower, and key witnesses to determine whether, based on a preponderance of the evidence, scientific misconduct occurred and, if so, to what extent, who was responsible, and its seriousness. During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the RIO, who will determine whether it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

(e) **Investigation process.** The investigation committee will be appointed and the process initiated within 30 days of the completion of the inquiry and the determination that an investigation is warranted. The investigation will involve examination of all documentation including, but not necessarily limited to, relevant research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. Whenever possible, the committee should interview the whistleblower(s), the respondents(s), and other individuals who might have information regarding aspects of the allegations. Interviews of the respondent should be tape recorded or transcribed. All other interviews should be transcribed, tape recorded, or summarized. Summaries or transcripts of the interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-27. The investigation report

(a) **Elements of the investigation report.** The final report will be in accordance with the requirements in 42 C.F.R. Section 93.313 (Institutional investigation report).

(b) **Comments on the draft report.**

(1) **Respondent.** After first redacting the identity of the whistleblower, the RIO will provide the respondent with a copy of the redacted draft investigation report for comment and rebuttal. The respondent will be allowed five (5) days to review and comment on the draft report. The respondent's comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all the other evidence.

(2) **Whistleblower.** The RIO will provide the whistleblower, if he or she is identifiable, with those portions of the draft investigation report that address the whistleblower's role and opinions in the investigation. The report should be modified, as appropriate, based on the whistleblower's comments.

(3) **Institutional counsel.** The draft investigation report will be transmitted to the institutional counsel for a review of its legal sufficiency.

(4) **Confidentiality.** In distributing the draft report, or portions thereof, to the respondent and whistleblower, the RIO will inform the recipient of the confidentiality under which the draft report is

made available and may establish reasonable conditions to ensure such confidentiality. The identity of the whistleblower will be subject to public disclosure only as the RIO may determine is reasonable and appropriate by balancing the needs of the whistleblower to remain confidential with the needs of the IRB to comply with federal regulations enacted to protect the rights and welfare of human research participants.

- (c) **Institutional review and decision.** Based on the evidence, the DO will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions. If this determination varies from that of the investigation committee, the DO will explain in detail the basis for rendering a decision different from that of the investigation committee in the institution's letter transmitting the report to ORI. The Deciding Official's explanation should be consistent with the PHS definition of scientific misconduct, the institution's policies and procedures, and the evidence reviewed and analyzed by the investigation committee. The DO may also return the report to the investigation committee with a request for further fact- finding or analysis. The DO's determination, together with the investigation committee's report, constitutes the final investigation report for purposes of ORI review. When a final decision on the case has been reached, the RIO will notify both the respondent and the whistleblower in writing. In addition, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.
- (d) **Transmittal of the final investigation report to ORI.** After comments have been received and the necessary changes have been made to the draft report, the investigation committee should transmit the final report with attachments, including the respondent's and whistleblower's comments, to the DO, through the RIO.
- (e) **Time limit for completing the investigation report.** An investigation should ordinarily be completed with submission to ORI within 120 days of its initiation, with the initiation being defined as the first meeting of the investigation committee.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-28. Requirements for reporting to ORI

- (a) An institution's decision to initiate an investigation must be reported in writing to ORI, on or before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the PHS definition of scientific misconduct, and the PHS applications or grant number(s) involved. ORI must also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report. Any significant variations from the provisions of the institutional policies and procedures should be

explained in any reports submitted to ORI.

(b) If an institution plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the PHS regulation, the RIO will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.

(c) If the institution determines that it will not be able to complete the investigation in 120 days, the RIO will submit to ORI a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the RIO will file periodic progress reports as requested by the ORI.

(d) When PHS funding or applications for funding are involved and an admission of scientific misconduct is made, the RIO will contact ORI for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves PHS funds, the institution cannot accept an admission of scientific misconduct as a basis for closing a case or not undertaking an investigation without prior approval from ORI.

(e) The RIO will notify ORI at any stage of the inquiry or investigation if:

- (1) there is an immediate health hazard involved;
 - (2) there is an immediate need to protect Federal funds or equipment;
 - (3) there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
 - (4) it is probable that the alleged incident is going to be reported publicly; or
 - (5) the allegation involves a public health sensitive issue; or
 - (6) there is a reasonable indication of possible criminal violation.
- In this instance, the institution must inform ORI within 24 hours of obtaining that information.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-29. Institutional administrative actions

(a) OSDH will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated. If the DO determines that the alleged misconduct is substantiated by the findings, they will decide on the appropriate actions to be taken, after consultation with the RIO. The actions may include:

- (1) withdrawal or correction of all pending or published abstracts and papers emanating from the research where scientific misconduct was found.
- (2) removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
- (3) restitution of funds as appropriate.

(b) Termination of OSDH employment or resignation prior to completing inquiry or investigation. The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible scientific misconduct has been reported, will not preclude or terminate the misconduct procedures. If the respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed. If the respondent refuses to participate in the process after resignation, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

(c) Restoration of the respondent's reputation. If the institution finds no misconduct and ORI concurs, after consulting with the respondent, the RIO will undertake reasonable efforts to restore the respondent's reputation if necessary. Depending on the particular circumstances, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of scientific misconduct was previously publicized, or expunging all reference to the scientific misconduct allegation from the respondent's personnel file. Any institutional actions to restore the respondent's reputation must first be approved by the DO.

(d) Protection of the whistleblower and others. Regardless of whether the institution or ORI determines that scientific misconduct occurred, the RIO will undertake reasonable efforts to protect whistleblowers who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the DO will determine, after consulting with the whistleblower, what steps, if any, are needed to restore the position or reputation of the whistleblower. The RIO is responsible for implementing any steps the DO approves. The RIO will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the whistleblower.

(e) Allegations not made in good faith. If relevant, the DO will determine whether the whistleblower's allegations of scientific misconduct were made in good faith. If an allegation was not made in good faith, the DO will determine whether any administrative action should be taken against the whistleblower.

(f) Interim administrative actions. Institutional officials will take interim administrative actions, as appropriate, to protect Federal funds and ensure that the purposes of the Federal financial assistance are carried out.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

310:2-31-30. Record retention

After completion of a case and all ensuing related actions, the RIO will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the RIO or committees. The RIO will maintain and dispose of the

records of any inquiry or investigation in compliance with the approved records retention schedule for the office of the Commissioner. The ORI or other authorized DHHS personnel will be given access to the records upon request. These records are subject to public review or copying unless otherwise exempt from disclosure pursuant to the Oklahoma Open Records Act.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19 ; Amended at 38 Ok Reg 1916, eff 9-11-21]

SUBCHAPTER 35. TANNING FACILITIES REQUIREMENTS

310:2-35-1. Purpose

This Chapter applies to tanning facilities and their owners or operators. The rules are to implement the provisions of 63 O.S. Section 7302.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

310:2-35-2. Sign contents for entrances to tanning rooms or tanning establishments

(a) **Posting signage.** At least one (1) sign shall be posted in a place readily visible to persons entering a facility where a tanning device is operated. The sign shall be black text on white or other highly visible contrasting colors and include the language provide in 63 O.S. § 7302(C) in letters at least 1/2 inch high . The sign shall have dimensions not less than 8 ½ inches by 11 inches.

(b) Signs shall have the following statements:

- (1) It is unlawful for a tanning facility or operator to allow a person under eighteen (18) years of age to use any tanning device;
- (2) A tanning facility or operator that violates the provision shall be subject to a civil penalty;
- (3) An individual may report a violation of one or more provisions to the local law enforcement agency; and
- (4) The health risks associated with tanning include, but are not limited to, skin cancer, premature aging of skin, burns to the skin, and adverse reactions to certain medications foods, and cosmetics.

(c) **Placing Signs.** Signs shall be in place within 30 days of the effective date of these rules.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

310:2-35-3. Unlawful act

It shall be unlawful for any person under eighteen (18) years of age to use any tanning device of any tanning facility in this state.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

310:2-35-4. Signage

For any tanning facility, the owner, operator or lessee shall see that signage is posted as required in this Subchapter.

[Source: Added at 36 Ok Reg 1649, eff 9-13-19]

SUBCHAPTER 37. INITIAL DETERMINATION ON CRIMINAL HISTORY AS A DISQUALIFICATION FOR LICENSE OR CERTIFICATION

310:2-37-1. Purpose

These rules implement Section 4000.1 of Title 59 (2019) of the Oklahoma Statutes relating to processes to request an initial determination of whether an applicant's criminal history record would potentially disqualify him or her from obtaining an occupational license or certification. This process shall apply to all occupational licenses, permits or certifications issued by the Oklahoma State Department of Health.

[Source: Added at 37 Ok Reg 1354, eff 9-11-20]

310:2-37-2. Requesting a determination

The process for requesting a determination of whether an applicant's criminal history record would potentially disqualify him or her from obtaining an occupational license, permit or certification is defined in the Oklahoma Statutes at Title 59, Section 4000.1.

[Source: Added at 37 Ok Reg 1354, eff 9-11-20]

310:2-37-3. Fee

The fee for requesting a determination of whether an applicant's criminal history record would potentially disqualify him or her from obtaining an occupational license, permit or certification is forty-five dollars (\$45.00) for each initial determination.

[Source: Added at 37 Ok Reg 1354, eff 9-11-20]

SUBCHAPTER 39. MILITARY RECIPROCITY LICENSURE

310:2-39-1. Purpose

These rules implement Section 4100.8 of Title 59 (2019) of the Oklahoma Statutes relating to processes to request *an expedited*

temporary, reciprocal or comity license or certification for their currently held valid license or certification. This process shall apply to all occupational licenses, permits or certifications issued by the Oklahoma State Department of Health.

[Source: Added at 37 Ok Reg 1354, eff 9-11-20]

310:2-39-2. Requesting a temporary, reciprocal or comity license

Active duty military personnel and their spouses seeking a temporary, reciprocal or comity license shall complete an application as established by the occupational program and shall provide satisfactory evidence of equivalent education, training and experience from another state program. The Department shall evaluate an applicant's *education, training and experience in the manner most favorable toward satisfying the qualifications for issuance of the requested license or certification in this state* [59 O.S. 4100.8(B)].

[Source: Added at 37 Ok Reg 1354, eff 9-11-20]

310:2-39-3. Fee

Pursuant to Title 59 O.S. 4100.8(D), there will be no application fee for a temporary, reciprocal or comity license for active duty military personnel and the license or certification fee for the first period of issuance is waived.

[Source: Added at 37 Ok Reg 1354, eff 9-11-20]

310:2-39-4. Appeals

Pursuant to Title 59 O.S. 4100.8(C), any active duty military applicant, and their spouses, receiving a notice of denial of full licensure or certification shall have the right *to obtain and submit the documentation required to complete full license or certificate requirements in this state* or to appeal the denial determination pursuant to the Administrative Procedures Act [75 O.S. 250 et seq.] and OAC 310:2-21, relating to Department procedure governing individual proceedings.

[Source: Added at 37 Ok Reg 1354, eff 9-11-20]

CHAPTER 3. PROCEDURES OF AIR QUALITY COUNCIL [REVOKED]

[**Authority:** 63 O.S., §§ 1-1801 et seq.; 75 O.S. 1991, §§ 251 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. RULES OF PROCEDURE AND PRACTICE OF AIR QUALITY COUNCIL [REVOKED]

310:3-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2281, eff 6-26-95]

310:3-1-2. Statutory definitions [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2281, eff 6-26-95]

310:3-1-3. Description of organization [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2281, eff 6-26-95]

310:3-1-4. General course in method of operations [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2281, eff 6-26-95]

310:3-1-5. Procedure and practice in individual proceedings [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2281, eff 6-26-95]

310:3-1-6. Procedure and practice at rule-making hearings [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2281, eff 6-26-95]

310:3-1-7. Interpretation of rules [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2281, eff 6-26-95]

SUBCHAPTER 3. HEARING GROUND RULES FOR INDIVIDUAL PROCEEDINGS BEFORE AIR QUALITY COUNCIL [REVOKED]

310:3-3-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2281, eff 6-26-95]

310:3-3-2. Statutory definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2281, eff 6-26-95]

310:3-3-3. Hearings for individual proceedings before Air Quality Council [REVOKED]

[Source: Revoked at 12 Ok Reg 2281, eff 6-26-95]

CHAPTER 4. CERTIFICATE OF NEED REGULATIONS

[**Authority:** 63 O.S., §§ 1-104, 1-850 et seq., and 1-880.1 et seq.; 75 O.S., §§ 250 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL

310:4-1-1. Purpose

The purpose of this Chapter is to implement the following laws:

- (1) Title 63 O.S. Sections 1-850 et seq., (Long-term Care Certificate of Need Act);
- (2) Title 63 O.S. Sections 1-880.1 et seq., (Psychiatric and Chemical Dependency Facility Certificate of Need Act); and
- (3) Title 75 O.S. Sections 250.1 through 323, (Administrative Procedures Act).

[**Source:** Amended at 12 Ok Reg 3025, eff 7-27-95 ; Amended at 14 Ok Reg 2247, eff 6-12-97 ; Amended at 18 Ok Reg 2468, eff 6-25-01 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-2. Applicability and burden of proof

(a) This Chapter applies to the following types of Certificate of Need applications that are reviewed by the State Commissioner of Health (Commissioner) or the State Department of Health (Department):

- (1) long-term care facilities as defined in 63 O.S. Section 1-851.1;
- (2) psychiatric or chemical dependency facilities, services or units developed or offered in hospitals or related institutions as defined in 63 O.S. Sections 1-701 et seq.;
- (3) Intermediate Care Facility/Individuals with Intellectual Disabilities (ICF/IID) beds and that is in a facility that has more than 16s and subject to 63 O.S. Sections 1-850 et seq.; and
- (4) Licensed nursing facility (LNF) beds as defined in 63 O.S. Sections 1-1901 et seq. (Nursing Home Care Act), excluding any facility certified for service to individuals with intellectual disabilities.

(b) The applicant has the burden of proof to demonstrate compliance with all rules and conformance with all applicable standards stated in this Chapter.

[**Source:** Amended at 14 Ok Reg 2247, eff 6-12-97 ; Amended at 19 Ok Reg 2042, eff 6-27-02 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-3. Types of reviews [REVOKED]

[**Source:** Amended at 9 Ok Reg 1973, eff 6-11-92 ; Revoked at 14 Ok Reg 2247, eff 6-12-97]

310:4-1-4. Short review process [REVOKED]

[**Source:** Amended at 10 Ok Reg 3437, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2609, eff 6-25-94 ; Amended at 12 Ok Reg 3025, eff 7-27-95 ; Revoked at 14 Ok Reg 2247, eff 6-12-97]

310:4-1-5. Review process

This Section governs the review of Certificate of Need applications.

(1) **Capital Cost.** For purposes of determining filing fees, capital cost means one or more of the following:

(A) For construction, the total cost of the project includes the following components as applicable:

- (i) land acquisition and site development;
- (ii) soil survey and investigation ;
- (iii) construction ;
- (iv) equipment ;
- (v) architect fees ;
- (vi) engineering fees ;
- (vii) supervision ;
- (viii) performance and payment bonds ;
- (ix) contingency ; and
- (x) inflation factor.

(B) For acquisition by purchase, the total cost of the project is the greater of the building and equipment's current book value or total contract price, including any exchanges or other consideration.

(C) For acquisition by lease, the total cost of the project is the current book value of the facility to be leased plus any additional capital expenditures, such as equipment purchases.

(D) For a sale and leaseback, or a combination lease and purchase, the total cost of the project is the greater of the purchase cost or the facility's current book value.

(E) For a non-monetary transfer of stock, the total capital cost of the project is zero dollars (\$0).

(F) For a transfer of stock in which one party pays or exchanges other consideration to acquire the stock of another party, the total cost of the project is the greater of the value of the consideration given for the stock or the facility's book value on the seller's books.

(G) For a management contract the capital cost is zero dollars (\$0), if it includes none of the following:

- (i) purchase;
- (ii) lease ;
- (iii) donation ;
- (iv) transfer of stock ;
- (v) corporate merger ;and
- (vi) assignment or foreclosure of building, equipment or other assets.

(H) For any other type of project, the project cost is the greater of the book value or the fair market value of the assets required to accomplish the project. This includes but is not limited to an addition of beds through conversion of a previously constructed physical plant,.

(I) For any type of project in which book value is used to establish the capital cost, the book value is based on

audited financial statements or upon generally accepted accounting principles.

(2) **Applicant.** The applicant for a Certificate of Need must include:

(A) for a long-term care facility:

- (i) the person or entity that is or will be the owner, as defined in 63 O.S. Section 1-1902;
- (ii) the person or entity that is or will be the licensee, as defined in 63 O.S. Section 1-1902;
- (iii) the person or entity that is or will be the manager as defined in OAC 310:675-1-2; and
- (iv) any person with a controlling interest as defined in 63 O.S. Section 1-851.1; or

(B) for a hospital, the entity operating the hospital as defined in OAC 310:667-1-3.

(3) **Application fees and refunds.** The applicant must use the Department's form and pay the appropriate filing fee to the Department.

(A) The following fees are required to be submitted in accordance with 63 O.S. Section 1-852.1.

- (i) the application fee for a new Certificate of Need is three thousand dollars (\$3,000.00); and
- (ii) an application for acquisition of healthcare facility fee is one half of one percent (.50%) of the capital cost of the project with a maximum fee of five thousand dollars (\$5,000.00).

(B) The Psychiatric and Chemical Dependency Facility Certificate of Need Act's application fee is three-fourths of one percent (.75%) of the capital cost of the project, with a minimum of One Thousand Five Hundred Dollars (\$1,500.00) and a maximum of Ten Thousand Dollars (\$10,000.00).

(C) If an application is withdrawn before the Department approves or denies the application, one of the following refunds will apply:

- (i) The refund is seventy five percent (75%) of the fee paid when an application is withdrawn before the Department determines if the application is complete or incomplete.
- (ii) The refund is fifty percent (50%) of the fee paid when an application is withdrawn before the "participation by parties" deadline, as defined in subparagraph (6) of this subsection.
- (iii) The refund is twenty five percent (25%) of the fee paid when an application is withdrawn before the Commissioner issues a final decision.

(D) The applicant's refund, in accordance with subparagraph (3)(C) of this subsection will not cause the total fee paid by the applicant to be less than the applicable minimum fee set in 63 O.S. Section 1-852.1 or subparagraph (3)(B) of this subsection.

(4) Completing the application.

(A) Within fifteen (15) days after the application is filed, the Department must determine if the application is complete, clear, consistent and accurate.

(B) When the Department determines an application is incomplete, it will send the applicant written notice requesting the additional or clarifying information needed to complete the application.

(C) The applicant must submit all requested information to the Department within 90 days after the date of the notice of incomplete application. If the applicant fails to do so, then the application is summarily dismissed.

(D) The Department's finding of completeness does not prevent the Department from subsequently denying a Certificate of Need based on such incompleteness, lack of clarity, inconsistency, or inaccuracy that may be discovered by the Department as the result of the investigation conducted pursuant to 63 O.S. Section 1-852 or 63 O.S. Section 1-880.6.

(5) Notice of readiness for review. When the Department determines that an application is complete and ready for review, it will send the following notices:

(A) mail the applicant notification that the application is determined complete and ready for review.

(B) mail health care facilities that provide the same type of service in the service area notification that an application is complete and ready for review.

(C) publish notice in a newspaper of general circulation near the facility, and in a newspaper of general circulation in the area where the application is available for inspection.

(D) These notices must include:

(i) the name and location of the facility,

(ii) a brief description of the project,

(iii) information on where the full application can be viewed, and

(iv) an explanation of how parties may participate in the review.

(6) Participation by parties. Any person or agency may participate in the review process. Any evidence or argument that a participating party proposes to have the Commissioner consider before making a final decision shall be submitted to the Department in writing within twenty (20) days after the date of publication of the paid public notice as described in subparagraph (5) (C) of this subsection.

(7) Decision deadlines.

(A) The decision to approve or deny a Certificate of Need for acquisition of a psychiatric or chemical dependency facility is made within fifteen (15) days after the deadline for submitting evidence and argument as provided in subparagraph (6) of this subsection.

(B) The decision to approve or deny any other type of Certificate of Need application, except the Certificate of Need listed in subparagraph (7)(A) of this subsection, is made within forty-five (45) days after the deadline for submitting evidence and argument as provided in subparagraph (6) of this subsection.

(8) Report of investigation.

(A) If the Department's investigation indicates that the application is inconsistent with applicable criteria and standards, then the Department will notify the applicant in writing of the inconsistencies before the decision deadline stated in paragraph (7) of this subsection.

(B) The applicant shall be offered an opportunity to respond in writing to the Department's notice. To allow the applicant sufficient time to respond, the decision deadline may be extended to a date certain by agreement between the Department and the applicant.

(C) On receipt of the applicant's response, the Department may amend the investigation report but is not required to offer the applicant a second opportunity to respond.

(D) The Commissioner will consider the applicant's response when making a decision on the Certificate of Need application.

(E) The provisions of this subsection do not apply if any person has knowingly given false, misleading, or intentionally incomplete information in the application.

[Source: Amended at 10 Ok Reg 3437, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2609, eff 6-25-94 ; Amended at 12 Ok Reg 3025, eff 7-27-95 ; Amended at 14 Ok Reg 2247, eff 6-12-97 ; Amended at 16 Ok Reg 2450, eff 6-25-99 ; Amended at 18 Ok Reg 2468, eff 6-25-01 ; Amended at 19 Ok Reg 2042, eff 6-27-02 ; Amended at 22 Ok Reg 2363, eff 7-11-05 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-6. Subpoenas and attendance of witnesses [REVOKED]

[Source: Revoked at 14 Ok Reg 2247, eff 6-12-97]

310:4-1-7. Conduct of public hearings [REVOKED]

[Source: Revoked at 14 Ok Reg 2247, eff 6-12-97]

310:4-1-7.1. Applicant's holdings and history

During the investigation under 63 O.S. Section 1-852(G) and findings under 63 O.S. Section 1-853(D), the Department and the Commissioner will consider the following:

(1) If the licensee has not established a record of performance in long-term care facility operations in the State of Oklahoma for at least sixty (60) months immediately preceding the filing of the application, then the Department and the Commissioner will investigate and make required findings on the holdings and long-term care facility operations of each person with a controlling interest. In determining the relevance of prior holdings and

operations, the Commissioner will consider whether the person as an individual:

- (A) has authority to adopt or substantially influence governing policies that affect the financial performance or quality of care of the proposed facility for which a Certificate of Need has been applied; and
 - (B) had authority to adopt or substantially influence governing policies that affected the financial performance or quality of care of the prior holding or operation.
- (2) A history of noncompliance as defined in 63 O.S. Section 1-851.1(6).

[Source: Added at 14 Ok Reg 2247, eff 6-12-97 ; Amended at 18 Ok Reg 2468, eff 6-25-01 ; Amended at 22 Ok Reg 2363, eff 7-11-05 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-8. Reconsideration of decision

The applicant or any party may request reconsideration of the Commissioner's decision to issue or deny a Certificate of Need.

(1) **Filing a request.** The request for reconsideration must be written and received by the Department within the applicable time frame specified in 63 O.S. Sections 1-853 and 1-880.7. The request must demonstrate conformity to at least one (1) of the grounds for a reconsideration hearing specified in 75 O.S. Section 317 of the Administrative Procedures Act.

(2) **Determining good cause.** Within ten (10) days after receipt of the request, the Commissioner will approve or deny the request for reconsideration, based on whether or not the request has shown good cause for reconsideration.

(A) If good cause is not shown, the Commissioner will notify the applicant and other parties of this fact. No further action will be taken by the Commissioner.

(B) If the Commissioner does find good cause for reconsideration, the Commissioner will notify the applicant and other parties, and schedule a public hearing.

[Source: Amended at 14 Ok Reg 2247, eff 6-12-97 ; Amended at 18 Ok Reg 2468, eff 6-25-01 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-9. Judicial review [REVOKED]

[Source: Revoked at 14 Ok Reg 2247, eff 6-12-97]

310:4-1-10. Ex parte contacts

Applicants and other parties must not attempt to discuss the merits of a particular case with the Commissioner or the hearing officer except during a preliminary conference or public hearing. Contacts concerning Certificate of Need projects may be directed to the Department staff.

(1) **Procedure.** If the Commissioner or hearing officer is a party to a discussion on the merits of a particular case, then they must document the contact in writing in the record of the case with the

names of the parties and the essence of the conversation.

(2) **Penalty.** Any party who attempts to make an improper ex parte communication with the Commissioner or the hearing officer may be disqualified from further participation in the review of the case.

[Source: Amended at 14 Ok Reg 2247, eff 6-12-97 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-11. Effectiveness of issued Certificates of Need

A Certificate of Need can only be issued to the person who applied for the Certificate. A Certificate of Need cannot be transferred in whole or part to another person. Any transfer of a Certificate of Need renders the certificate invalid.

(1) The process for reviewing a plan cannot exceed twelve (12) months from preliminary or initial plan submittal to the Department's approval. If the applicant's submitted plan does not satisfy requirements to receive approval within twelve (12) months, then the Certificate of Need is void. The review process is as follows:

(A) Preliminary plans and outline specifications must be submitted to the Department within six (6) months after approval of a Certificate of Need. The plans and specifications must include sufficient information to establish the following:

- (i) scope of project;
- (ii) project location;
- (iii) required fire-safety and exiting criteria;
- (iv) building-construction type, compartmentation showing fire and smoke barriers, bed count and services; and
- (v) the assignment of all spaces, areas, and rooms for each floor level, including the basement.

(B) A proposed construction document must be submitted and include final drawings and specifications adequate for proposed contract purposes. All final plans and specifications must be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and must be submitted timely.

(C) All construction project submittals must be reviewed and approved or disapproved within 30 calendar days after receipt by the Department.

(2) Commencement of construction for a new or relocated facility, or for an addition to an existing facility, is evidenced by the following:

- (A) a building permit, if one is required by local government;
- (B) proof of excavations for foundations, footings or pilings; and

(C) proof of an incurred financial obligation in the form of an invoice for the excavation work, dated not later than the required construction start date.

(3) For a new or relocated facility, the Department and applicant or applicant's representative, will visit the new or relocated facility site together. The applicant shall agree to be present or represented at the visit.

(4) For a construction project that does not involve the addition of space, the start of construction is demonstrated with a building permit, if one is required locally, and an invoice for construction work done at the facility.

(5) Completion of a facility structure or modification must include at least the completion of exterior walls, all interior load-bearing members, and the facility roof. The Department will visit the facility site within fifteen (15) working days after receiving a written request from the applicant to confirm the completion of the structure.

[Source: Amended at 14 Ok Reg 2247, eff 6-12-97 ; Amended at 19 Ok Reg 2042, eff 6-27-02 ; Amended at 20 Ok Reg 2352, eff 7-11-03 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-12. Penalties

(a) No person may acquire, establish, construct, expand, or begin to acquire, establish, construct or expand a covered health care facility unless that person has first obtained a required Certificate of Need or an exemption from review.

(b) Any person who engages in a reviewable activity without first having obtained a Certificate of Need is subject to an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00).

(c) Each day the person continues a reviewable activity without a Certificate of Need to acquire, establish, construct, or expand the health care facility service is treated as a separate offense, and additional fines may be imposed.

(d) An administrative penalty may also be imposed through an order by the Department after notice and opportunity for hearing as required in the Administrative Procedures Act.

[Source: Amended at 18 Ok Reg 2468, eff 6-25-01 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-13. Description of application forms

(a) **Standard Application.** The standard application for a Certificate of Need requires the following:

- (1) The names and addresses of the facility and contact person;
- (2) Disclosure of the applicant's identity and information sufficient for the Department to determine whether *the applicant has been convicted of a felony criminal offense related to the operation or management of a long-term care facility* [63:1-853(D)(2)(d)], including but not limited to:

(A) Sworn and notarized statements confirming the lack of any such conviction from the applicant and each person

with controlling interest;

(B) Social security numbers for the applicant and each person with a controlling interest;

(C) Birth dates for the applicant and each person with a controlling interest;

(D) Copies of certificates of incorporation, bylaws, articles of organization, company operating agreements, certificates of limited partnership, or equivalent documents maintained pursuant to state or federal law, and any amendments of such documents. In lieu of submitting a document that is not a public record previously filed with a local, state or federal government agency, an applicant may submit a sworn and notarized statement that includes all of the following information:

(i) Name and date of the document;

(ii) Name and address of each person or entity that has current or proposed interests, responsibilities or participation in the ownership, operation or management of the facility or that otherwise makes or influences any decision relating to expenditures or operations affecting the facility, whether the person or entity is identified in the disclosed document by proper name or by function;

(iii) Description of the interest, responsibility, and nature of participation of each person and entity named pursuant to (a)(2)(D)(ii) of this Section; and

(iv) Location, address, and telephone number of the place of business in Oklahoma where the applicant will make the documents available for inspection by the Department, upon the Department's written request;

(3) Historical operating and financial information for the applicant and the facility;

(4) Residents council and family council minutes for the applicant's facilities;

(5) A detailed description of the project;

(6) Projections of personnel needs and identification of the medical director;

(7) Construction and building information;

(8) Justification of need for the project; and

(9) Data and projections on financial and economic feasibility, including but not limited to the following as applicable:

(A) For conventional, bank, seller-carried, third party, or bond financing, a statement of the proposed principal amount, interest rate and repayment terms, and that the applicant has access to the required funds, signed under oath by a representative of the lending institution, seller, third party, or authority;

(B) For equity financing:

(i) An attested balance sheet for the applicant that is dated within the past twelve (12) months that

reflects cash or cash equivalents sufficient to fund the project; or

(ii) A certificate of deposit or other proof that funds are available and have not been pledged for another purpose.

(C) For financing or other funding from or guaranteed by a third party that is not duly authorized or chartered as a bank:

(i) An attested balance sheet, certificate of deposit or other attested proof that is dated within the past twelve (12) months for the third party, unless the third party is a licensed insurer or surplus lines insurer, the United States of America, a state of the United States of America, or an agency or instrumentality thereof; and

(ii) Copies of organizational documents and contracts necessary to substantiate the relationship between the applicant and the third party.

(b) Exemption for ten (10) beds or ten percent (10%) expansion.

The Certificate of Need application for exemption for a ten (10) bed or ten percent (10%) expansion of a licensed nursing or specialized facility requires the following:

- (1) The names and addresses of the facility and contact person;
- (2) Disclosure of the applicant's identity;
- (3) Historical occupancy information for the facility;
- (4) The number and types of beds to be added; and
- (5) The projected capital cost.

(c) Facility replacement exemption. The Certificate of Need application for exemption for facility replacement requires the following:

- (1) The names and addresses of the facility and contact person;
- (2) Disclosure of the applicant's identity;
- (3) A detail of the number of beds to be replaced;
- (4) The projected capital cost;
- (5) A plan for future use of the facility to be replaced; and
- (6) The distance from the current and proposed sites and a map of the area.

(d) Facility acquisition. The Certificate of Need application for facility acquisition requires the following:

- (1) The names and addresses of the facility and contact person;
- (2) Disclosure of the applicant's identity and information sufficient for the Department to determine whether *the applicant has been convicted of a felony criminal offense related to the operation or management of a long-term care facility* [63:1-853(D)(2)(d)], and all items as fully described in paragraph (a)(2) of this Section.
- (3) A description of the proposed transaction and a copy of the contract or agreement;
- (4) A plan for operating the facility including identification of the medical director;
- (5) The projected capital cost;

- (6) Financial proof of the applicant's ability to complete the acquisition and to continue services and staffing; and
- (7) Residents council and family council minutes for the applicant's facilities.

(e) **Notice of decrease of beds or change in continuum of care.** The Certificate of Need notice for a decrease of beds or a change in continuum of care at a psychiatric or chemical dependency treatment facility or unit requires the following:

- (1) The names and addresses of the facility and contact person;
- (2) A description of the change in beds or change in continuum of care; and
- (3) The anticipated date of the decrease or change.

(f) **Exemption for management agreement.** The Certificate of Need application for exemption of a management agreement requires the following:

- (1) The names and addresses of the facility, manager and contact person;
- (2) A copy of the executed management agreement that details the manager's responsibilities and duties;
- (3) Disclosure of the applicant's identity and experience that is sufficient to determine if the management entity and any person with a controlling interest has a history of noncompliance;
- (4) Copies of the business entity documents as described in paragraph (a)(2)(D) of this Section.
- (5) The anticipated date of commencement of the management agreement.

(g) **Exemption for ownership change or transfer.** The Certificate of Need application for exemption for ownership change or transfer requires the following:

- (1) The names and addresses of the facility and contact person; and
- (2) A description of the transfer and disclosure of persons and entities involved or affected;
- (3) Copies of agreements or contracts by which ownership is changed or transferred; and
- (4) Copies of the business entity documents as described in paragraph (a)(2)(D) of this Section.

(h) **Attest.** For the purpose of this Section, the term "attest" has the same meaning as it is defined in 59 O.S. Section 15.1A.

[Source: Added at 14 Ok Reg 2247, eff 6-12-97 ; Amended at 18 Ok Reg 2468, eff 6-25-01 ; Amended at 19 Ok Reg 2042, eff 6-27-02 ; Amended at 22 Ok Reg 2363, eff 7-11-05 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-14. Confidentiality of records

Financial data submitted by an applicant for the purpose of obtaining a Certificate of Need is not considered a "record" as defined in Title 51 O.S. Section 24A.3, and is therefore not subject to public inspection, copying, or mechanical reproduction.

[Source: Added at 19 Ok Reg 2042, eff 6-27-02 ; Amended at 38 Ok Reg 1929, eff 9-11-21]

310:4-1-15. Management contract exemption [REVOKED]

[Source: Added at 19 Ok Reg 2042, eff 6-27-02 ; Revoked at 22 Ok Reg 2363, eff 7-11-05]

SUBCHAPTER 3. STANDARDS FOR HEALTH CARE FACILITY ACQUISITIONS

310:4-3-1. Financial

The applicant must provide proof of sufficient financial resources to complete the acquisition and to maintain services and staffing that meet licensure standards for at least twelve (12) months following the acquisition.

(1) **Financial proof of acquisition.** Proof of sufficient financial resources to complete the acquisition must be provided in the following forms, as applicable:

(A) Conventional, bank, seller-carried, third party, or bond financing, see 310:4-1-13(a)(9)(A);

(B) Equity financing, see 310:4-1-13 (a)(9)(B); and

(C) Financing or other funding from or guaranteed by a third party that is not duly authorized or chartered as a bank, see 310:4-1-13(a)(9)(C).

(2) **Projected budget.** Each application must include a projected budget of revenues and expenses for the first 12 months of operation of the facility after the anticipated issuance of the Certificate of Need. The Department may require the applicant to justify the difference between the applicant's projected budget and the facility's expenses and revenues as reported to the Oklahoma Health Care Authority pursuant to 56 O.S. Section 2002 or OAC 317:30-5.

(3) **Balance sheets.** All balance sheets must include a release authorizing the Department to verify the financial information submitted in the Certificate of Need application. The Department may make independent inquiry into the financial condition of the applicant.

(4) **Financial proof for services and staffing.** To ensure the maintenance of services and staffing, the applicant must prove the availability of reserves equivalent to the average monthly projected expenses, in addition to funds needed to complete the acquisition. The amount of the average monthly expenses is calculated based on a per-month average of the projected twelve (12) month budget of revenues and expenses submitted with the application. Proof of the availability of reserves must conform to the following:

(A) for reserves to be provided or maintained through letter of credit, line of credit, or conventional, bank or bond financing:

(i) a statement of the proposed principal amount, interest rate and repayment terms, and that the

- applicant has access to the required funds, signed under oath by a representative of the lending institution or authority;
 - (ii) a statement of provisions for terminating or rescinding a letter of credit or line of credit;
 - (B) for reserves to be maintained through the applicant's equity or net worth:
 - (i) an attested balance sheet that is dated within the past twelve (12) months for the acquiring party and that reflects cash or cash equivalents sufficient to meet the one-month reserves requirement; or
 - (ii) a certificate of deposit or other proof that funds are available and have not been pledged for some other purpose;
 - (C) for reserves to be funded or guaranteed by a third party that is not duly authorized or chartered as a bank:
 - (i) an attested balance sheet, certificate of deposit or other attested proof that is dated within the past twelve (12) months for the third party, unless the third party is a licensed insurer or surplus lines insurer, the United States of America, a state of the United States of America, or an agency or instrumentality thereof; and
 - (ii) copies of organizational documents and contracts necessary to substantiate the relationship between the applicant and the third party.
- (5) **Attested documents.** For the purpose of this Section, the term "attest" has the same meaning as it is defined in 59 O.S. Section 15.1A.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-3-2. Staffing

The applicant must provide documentation that sufficient personnel will be retained or employed to meet the needs of all residents to comply with all requirements for state licensure and Medicare/Medicaid certification, if applicable. The documentation of staffing must include written statements from the administrator, the director of nursing, the pharmacist, and the medical director, indicating the intention to contract or accept employment with the applicant.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-3-3. Experience

If the applicant has less than sixty (60) months experience in health care facility operation immediately preceding the filing of the application, the applicant must provide a plan that details how experienced and competent staffing and leadership will be responsible for the facility operations. The operational plan must include:

- (1) Organizational papers, bylaws, articles of incorporation, partnership agreements, business plans, or other documents which confirm the applicant's claims about the policies, rights, duties and responsibilities of the applicant and its principals;
- (2) Statements from the person or persons who will fill management or administrative staffing and leadership positions, including but not limited to the director of nursing, the medical director, the administrator, and the applicant's policy body, with said statements to specifying the minimum amount of time those persons will spend working at the facility; and
- (3) A statement from the applicant agreeing to advise the Department before any change in the staffing and leadership during the first six (6) months of operation after the acquisition is finalized; and
- (4) A statement from the applicant agreeing that any person added to or replacing another person in the staffing or leadership plan during the first six (6) months of operation will comply with 63 O.S. Section 1-853(D) and OAC 310:4-1-7.1.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-3-4. Description of notice to residents and families

The form used to notify residents and families as required in 63 O.S. Section 1-852(I) requires the following information:

- (1) The name of the applicant;
- (2) The name and location of the facility to be acquired;
- (3) A brief explanation of the public's opportunity to participate in the review of the Certificate of Need application;
- (4) The location where and the times when the Certificate of Need application will be available for public inspection; and
- (5) The address and deadline for submitting written comments to the Department.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

SUBCHAPTER 5. CERTIFICATE OF NEED STANDARDS FOR ICF/IID

310:4-5-1. Service area

For review purposes under the standards in this Subchapter 5, the service area for an Intermediate Care Facility/Individuals with Intellectual Disabilities (ICF/IID) is the service region or area, as designated by the State Department of Human Services, in which it is located or proposed for location. If an application for Certificate of Need is considered for a specialized ICF/IID facility for which only one or two facilities may be needed, or where no service area is designated, then the Department may treat the entire State as the service area.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-5-2. Standards for ICF/IID

- (a) No new ICF/IID beds, except ICF/IID 16s and smaller, will be approved in the service area unless the total number of ICF/IID beds in the service area falls below the following standard: eighty four (84) ICF/IID beds per one hundred thousand (100,000) general population;
- (b) An application for ICF/IID beds will not be approved unless the applicant demonstrates familiarity with and understanding of certification standards for an ICF/IID, specified in 42 CFR Section 442.400, relating to Standards for Payment to Nursing Facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities.
- (c) The identity of the licensed administrator of the existing or proposed facility must be provided by the applicant as a prerequisite to issuance of a Certificate of Need.
- (d) No additional ICF/IID beds, whether proposed through construction or conversion of existing space, will be approved for any existing ICF/IID unless it has maintained an occupancy rate of at least ninety five percent (95%), based upon a calculation of occupancy reflected in the monthly average daily census reports of the Department of Human Services, or the Department, for the most recent six (6) month period for which official data is available when the application is filed.
- (e) Any ICF/IID beds approved, but not yet in place in the service area, must be included in the evaluation for determining bed need specified in subsection (a) of this Section.
- (f) Any existing ICF/IID that proposes an expansion of beds by conversion or construction and which has a record of questionable quality of care, as demonstrated through complaint investigation records, or other means, may be denied a Certificate of Need despite the conformity of the proposal to other standards delineated herein.
- (g) The Department will consider the relationship of a Certificate of Need application to any plan adopted by the Department of Human Services concerning the distribution and allocation of services for individuals with intellectual or developmental disabilities.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

SUBCHAPTER 7. STANDARDS FOR LICENSED NURSING FACILITY BEDS

310:4-7-1. Service areas

(a) The service area for a Licensed Nursing Facility (LNF) is presumed to be a map mileage of fifteen (15) miles from the location of the facility, except that the service area is a radius of seven and one half (7.5) miles for any facility located in the corporate limits of Tulsa or Oklahoma City, and any municipality contiguous with boundaries of Tulsa or Oklahoma City.

- (1) The map mileage for LNFs is calculated based on the minimum distance on hard surface, all weather roads from LNF to LNF using the State Transportation Department Planning

Division's current official General Highway Map by County or City which provides sufficient detail for calculations of the distance between facilities.

(2) The calculation of the service area population includes population data for the cities and towns that fall within the service area, and an estimate of the service area population that does not live in area cities or towns. If detailed official population data is not available for a rural portion of the service area, the estimate of the rural population is a prorated share of the county's rural population based on the geographic size of the portion of the county which is included in the facility's service area.

(b) An applicant may define and describe a service area other than that presumed in (a) of this Section by showing through a clear and convincing demonstration one or more of the following:

(1) the facility is providing or will provide services exclusively to religious groups in which membership is restricted;

(2) the facility is responding or will respond to a regional, statewide or national population with special health service needs;

(3) the facility is or will be a qualified continuing care facility as such term is defined in Internal Revenue Code Section 7872(g)(4)(A) and is serving or will serve individuals who are residing or will reside in a separate independent living unit owned by the applicant;

(4) the facility is serving or will serve a rural area where residents must drive more than 30 minutes to reach adequate nursing facility services; or

(5) the facility is the nursing care component of a life care community.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-7-2. Standards for LNF beds

(a) The applicant must demonstrate that existing licensed nursing facility beds are not and will not be adequate in the service area described in 310:4-7-1, based on the need of the population.

(1) The applicant must demonstrate that there are persons who need services in the area but are unable to obtain those services due to the inadequacy of existing LNF facilities in the area.

(2) The applicant must demonstrate the probable impact of the proposed beds on the ratio of LNF beds to the number of persons age seventy-five (75) and over statewide. The applicant must show that the proposed new beds likely will not cause the statewide ratio to exceed one hundred seventy-nine (179) beds per one thousand (1000) persons age seventy-five (75) and over, and that the project is consistent with the achievement of an optimal target ratio of one hundred fifty-two (152) beds per one thousand (1000) persons age seventy-five (75) and over.

(3) The applicant must demonstrate the probable impact of the proposed beds on the ratio of LNF beds to the number of persons age seventy-five (75) and over in the service area. The application cannot cause an excessive increase in the bed to population ratio of a service area. The determination of whether or not an increase is excessive is based on the percentage of increase a project will cause in an area's bed to population ratio, and on a comparison of the area's bed to population ratio against the statewide ratio.

(4) The most recent population data published at the time the application is filed must be used. The source of population projections for current and future years is based on year 2000 census data as published by the Oklahoma Department of Commerce.

(5) If the applicant proposes a special service area under 310:4-7-1, then the applicant must demonstrate that the target population will have access to the proposed services through public or private transportation.

(b) The applicant must demonstrate that alternative or substitute services are not and will not be available or are and will be inadequate to meet the needs of the population.

(1) An overall mean occupancy rate of eighty-five percent (85%) should be maintained in LNF beds in the service area described in OAC 310:4-7-1.

(A) This mean is based on data from all similarly-licensed facilities in the service area using monthly reports filed with the Department of Health, taking into consideration the following:

(i) any specialized facility for individuals with intellectual disabilities or intermediate care facility for individuals with intellectual disabilities in the area is excluded;

(ii) in the case of a nursing facility application, any hospital-based skilled nursing unit shown to serve a different health service need is excluded;

(iii) in the case of a hospital-based skilled nursing unit application, any nursing facility shown to serve a different health service need is excluded;

(iv) in the case of a facility demonstrating a special service area under OAC 310:4-7-1(b), each facility not shown to be adequate or appropriate to meet the needs of the facility's special population is excluded.

(B) The mean is calculated using data for the most recent six (6) month period reports are published by the Department of Health, as of the first day of the month during which an application is initially filed.

(i) Beds reserved for residents who were temporarily absent from facilities for hospitalization or other therapeutic purposes is considered to have been occupied.

(ii) The area bed capacity used to calculate the occupancy rate is reduced by the number of beds that are not available because rooms licensed for multiple occupants have been reserved for single occupants throughout the six (6) month period.

(C) In determining the service area's conformity to the occupancy goal specified in this subsection, the Department will investigate the causes for low-occupancy operation of other facilities in the service area. The Department must exclude such low-occupancy facility from the service area calculations if the facility has been in operation continuously under the current licensee for 24 or more months and:

(i) The facility's state license or federal certification during the sixty (60) months preceding the filing of the application has been revoked, rescinded, canceled, terminated, involuntarily suspended or refused renewal;

(ii) The facility has a history of noncompliance as defined in 63 O.S. Section 1-851.1(6); or

(iii) The facility has not complied with all lawful orders of suspension, temporary management, or administrative penalty issued by the Department, another state agency, or by the federal Health Care Financing Administration;

(iv) The facility's owner, operator, manager, or medical director has been convicted of a criminal offense related to the operation or management of a long-term care facility; or

(v) The facility has been assessed an administrative penalty above the level of deficiency with one or more of the following unfavorable factors:

(I) The administrative penalty included a citation of immediate jeopardy or actual harm to a resident;

(II) The circumstance cited in connection with a civil money penalty or other administrative penalty resulted in the death of a resident; or

(III) Multiple civil money penalties, denials of payment, or other administrative penalty have been assessed based on findings of substandard quality of care, actual harm, or potential for more than minimal harm, at the facility within the preceding sixty (60) months.

(2) The applicant must demonstrate that the proposed beds are needed in addition to any beds previously approved under the State Certificate of Need laws but not yet in operation in the service area.

- (3) The applicant's demonstration must include consideration of the adequacy of such alternative services as residential care facilities, eldercare, home health care, hospice, assisted living and adult day care.
- (c) The applicant must demonstrate adequate financial resources for the new or expanded long-term care services and for the continued operation thereof.
- (1) Reimbursement is structured to realistically provide for care and services to persons living in the service area.
 - (2) The proposed charges must be in line with the prevailing rate of similar institutions and services within the health service area.
 - (3) The projected utilization rates are sufficient to maintain cost-effectiveness.
 - (4) The projected cash flow must give the proposed project financial viability within three years.
 - (5) The relationship of the institution's assets to liabilities cannot be increased by the proposed project to the point of threatening the financial viability of the institution.
 - (6) The applicant must supply a cost/benefit analysis to justify the cost-effectiveness of the proposed project.
- (d) The applicant must demonstrate that sufficient personnel will be available to properly staff and operate the proposed new or expanded long-term care service.
- (1) A proposal to provide new or expanded long-term care service must provide assurances that the appropriate numbers and types of staff will be available to comply with licensure requirements.
 - (2) Professional and paraprofessional staffing of new or expanded long-term care services must not compromise the staffing of existing long-term care services.
 - (3) The applicant must disclose all current and prior experience in the operation of health care facilities, giving names of facilities, locations, and dates. If the applicant has less than sixty (60) months experience in health care facility operations immediately preceding the filing of the application, then the applicant must:
 - (A) Provide a plan that details how experienced and competent staffing and leadership, including but not limited to the director of nursing, the medical director, the administrator, and the applicant's policy body, will be placed in charge of facility operations; and
 - (B) Agree to advise the Department, before any change in the staffing and leadership during the first six (6) months of operation of the new or expanded facility.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

SUBCHAPTER 9. STANDARDS FOR PSYCHIATRIC AND CHEMICAL DEPENDENCY SERVICE BEDS

310:4-9-1. Definitions

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

"Appropriate transfer" means a transfer in which the transferring hospital or unit provides the required treatment within its capability which minimizes the risks to the person's life, health and safety and such risks that may relate to others; and, in which the receiving hospital or unit has available space and qualified personnel for the psychiatric or chemical dependency treatment of persons under eighteen (18) years of age, and has agreed to accept transfer of the patient and to provide the indicated treatment.

"Emergency" means the urgent need to admit a person under eighteen (18) years of age for psychiatric or chemical dependency treatment services due to the imminent threat to life, health and/or safety of the person to be admitted and/or others.

"Temporary" means the period of time, but not to exceed seventy-two (72) hours, from when a person under eighteen (18) years of age presents at the hospital for emergency psychiatric or chemical dependency treatment services in a bed ordinarily used for an adult until the earliest time as determined by the physician that the person can be transferred appropriately within the hospital to a bed that is certified for persons under eighteen (18) years of age, or to another hospital where such a bed is available, or the emergency ceases.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-9-2. Service area

The service area for a psychiatric or chemical dependency application is the mental health service area in which the service will be located. The mental health service areas as most recently adopted by the Department of Mental Health and Substance Abuse Services are shown in Appendix A.

(1) **Alternative service areas.** The Department may consider an alternative service area if the applicant clearly demonstrates the applicability of a different service area, based on the following factors:

- (A) The availability or lack of practicing psychiatrists, psychologists, and other counseling or support personnel.
- (B) The existence of an underserved population large enough to support an adequately sized hospital-based and/or freestanding psychiatric or chemical dependency service.
- (C) The availability of appropriate community mental health services to ensure a continuum of treatment.

(2) **Determination of beds.** In determining the number and occupancy of existing beds in a service area, licensed beds from one of the three state hospitals is prorated to the service area based upon the service area population as a percentage of the population of the Hospital Service Region in which the service area is located. The Hospital Service Regions maintained by the Oklahoma Department of Mental Health and Substance Abuse

Services may be obtained from that state agency.

(3) **Excluded beds.** In determining the number and occupancy of existing beds in a service area, beds which are dedicated to Department of Corrections patients is excluded.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-9-3. Population-based need

The applicant must demonstrate that existing psychiatric and chemical dependency service beds are not and will not be adequate to meet the needs in the service area described in 310:4-9-2.

(1) **Need.** The applicant must demonstrate that there are persons who need services in the area but are unable to obtain those services due to the inadequacy of existing psychiatric and chemical dependency service beds.

(2) **Impact.** The applicant must demonstrate the probable impact of the proposed beds on the ratio of psychiatric and chemical dependency beds to the population statewide. The statewide ratio must not exceed one hundred forty-five (145) beds per one hundred thousand (100,000) persons, while moving towards an optimal target ratio of one hundred seventeen (117) beds per one hundred thousand (100,000) persons.

(3) **Ratio.** The applicant must demonstrate the probable impact of the proposed beds on the ratio of psychiatric and chemical dependency beds to the population in the service area. The application cannot cause an excessive increase in the bed to population ratio of a service area. The determination of whether or not an increase is excessive is based on the percentage of increase a project will cause in an area's bed to population ratio, and on a comparison of the area's bed to population ratio against the statewide ratio.

(4) **Population projection.** The most recent published population figures are used for the application. The source of population projections for current and future years is based on year 2000 census data as published by the Oklahoma Department of Commerce.

(5) **Target population.** If the applicant proposes a special service area under 310:4-9-2, then the applicant must demonstrate that the target population will have access to the proposed services through public or private transportation.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-9-4. Availability of alternative services

The applicant must demonstrate that alternative or substitute services are not and will not be available or are and will be inadequate to meet the needs of the population.

(1) **Alternatives.** The applicant's demonstration must include consideration of residential, halfway house, outpatient, day hospitalization, or other less restrictive care settings in the

service area.

(2) **Mean occupancy.** An overall mean occupancy rate of seventy-five percent (75%) must be maintained in psychiatric and chemical dependency beds in the service area described in 310:635-9-2, as a prerequisite to the approval of additional beds whether in new or existing facilities. This mean must be based upon data from all psychiatric and chemical dependency beds in the service area using month reports submitted to the Department. This mean must be calculated using data for the most recent six (6) month period for which reports are available as of the first day of the month during which an application is initially filed.

(3) **Outstanding beds.** The applicant must demonstrate that the proposed beds are needed in addition to any beds previously approved or exempted from review under the State Certificate of Need law but not yet in operation in the service area.

(4) **Availability.** The applicant must demonstrate the availability of appropriate linkages such as referral protocols or joint venture agreements with similar or complementary services.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-9-5. Financial resources

(a) The applicant must demonstrate adequate financial resources for the new or expanded services and for the continued operation thereof.

(b) Sufficient capital must be available to initiate and operate the proposed project.

(c) Financial arrangements must be reasonable and secure.

(d) The project must be financially viable through three years beyond completion.

(e) Proposed charges must be in line with prevailing rates of similar institutions providing similar services in the general area.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-9-6. Staffing

The applicant must demonstrate that sufficient personnel will be retained or employed to meet the needs of all residents and to comply with all requirements for licensure and/or certification, if applicable. That demonstration must include documentation of the availability or plans for recruitment of the following personnel as applicable to meet the program's needs.

(1) The medical administrator (supervisor) or treatment coordinator must be a psychiatrist in a psychiatric program, and may be an internist or family practice physician for chemical dependency programs. This person may be retained on contract, or used through referral for non-medical subacute programs. The number of medical administrators or treatment coordinators must be sufficient to meet program needs.

- (2) The Director/Administrator may be in lieu of or in addition to the medical administrator, subject to training and experience.
- (3) The numbers of case workers, family therapists, psychologists, and social workers must be adequate to meet the demands of the program design.
- (4) The activities assistant will organize and supervise occupational and recreational programming.
- (5) The applicant must provide for at least one R.N. on duty at all times, with additional R.N.s adequate to meet program needs.
- (6) Psychiatric technicians/mental health workers may be non-licensed staff in addition to licensed nursing staff, and the number corresponding with the intensity of illness to be treated.
- (7) Medical records clerks sufficient to meet program needs.
- (8) The applicant must provide an education specialist for school age patients.
- (9) Clerical and support staff sufficient to meet program needs.
- (10) Ancillary support personnel sufficient to meet program needs.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-9-7. Other

- (a) A ten (10) bed psychiatric or chemical dependency unit is assumed to be the minimum size to sustain services and staffing for an acute care hospital based psychiatric or chemical dependency unit.
- (b) If coordination with a teaching or training program in the area is a part of the proposed project, the applicant must submit documentation of the participation by, and the probable impact on, health personnel teaching or training programs.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

310:4-9-8. Temporary emergency admissions

(a) Any temporary emergency must be fully documented by the physician and the hospital to include:

- (1) an explanation of the emergency;
- (2) the services rendered to the patient;
- (3) an explanation of why an adult bed was used; and
- (4) the length of stay in the bed ordinarily used for an adult.

(b) A report on each admission under the provisions for temporary emergency must be made to the Department at the end of the month of such admission. The report must be on a form provided by the Department. The form includes:

- (1) length of stay;
- (2) discharge date;
- (3) diagnosis; and
- (4) patient record number.

(c) An admission in accordance with the rules governing temporary emergencies, when utilized and fully documented by the admitting physician and hospital, is not considered a violation of the act.

[Source: Added at 38 Ok Reg 1929, eff 9-11-21]

Figure 1

CHAPTER 5. CONTROLLED INDUSTRIAL WASTE MANAGEMENT COUNCIL PROCEDURES [REVOKED]

[**Authority:** 63 O.S.1991, § 302]

[**Source:** Codified 12-31-91]

310:5-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2287, eff 6-26-95]

310:5-1-2. Organization [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2287, eff 6-26-95]

310:5-1-3. Rulemaking hearings [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2287, eff 6-26-95]

CHAPTER 6. ELECTRICAL HEARING BOARD PROCEDURES [REVOKED]

[**Authority:** 59 O.S., §§ 1680 et seq.; 75 O.S., §§ 250 et seq.]
[**Source:** Codified 12-31-91]

310:6-1-1. Purpose [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

310:6-1-2. Applicability [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

310:6-1-3. Effective date [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

310:6-1-4. Severability [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

310:6-1-5. Description of organization [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

310:6-1-6. Method of operation [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

310:6-1-7. Public information, submissions, requests and documents [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

310:6-1-8. Individual proceedings [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

310:6-1-9. Summary suspension [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

310:6-1-10. Petition for rule adoption [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1607, eff 6-12-03]

CHAPTER 7. PLUMBING HEARING BOARD PROCEDURES [REVOKED]

[**Authority:** 59 O.S., §§ 1001 et seq.; 75 O.S., §§ 250 et seq.]
[**Source:** Codified 12-31-91]

310:7-1-1. Purpose [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

310:7-1-2. Applicability [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

310:7-1-3. Effective date [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

310:7-1-4. Severability [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

310:7-1-5. Description of organization [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

310:7-1-6. Method of operation [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

310:7-1-7. Public information, submissions, requests and documents [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

310:7-1-8. Individual proceedings [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

310:7-1-9. Summary suspension [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

310:7-1-10. Petition for rule adoption [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1609, eff 6-12-03]

CHAPTER 8. RULES OF PRACTICE FOR ADVISORY GROUPS SPECIAL HEALTH SERVICES [REVOKED]

[**Authority:** 63 O.S.Supp.1990, §§ 1-2501 et seq.]

[**Source:** Codified 5-1-92]

SUBCHAPTER 1. OKLAHOMA EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL [REVOKED]

310:8-1-1. Purpose [REVOKED]

[**Source:** Added at 8 Ok Reg 3197, eff 7-18-91 (emergency); Added at 9 Ok Reg 1483, eff 5-1-92 ; Revoked at 38 Ok Reg 1943, eff 9-11-21]

310:8-1-2. Purpose and function of Council [REVOKED]

[**Source:** Added at 8 Ok Reg 3197, eff 7-18-91 (emergency); Added at 9 Ok Reg 1483, eff 5-1-92 ; Amended at 11 Ok Reg 891, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2613, eff 6-25-94 ; Amended at 12 Ok Reg 2289, eff 6-26-95 ; Revoked at 38 Ok Reg 1943, eff 9-11-21]

310:8-1-3. Council members and officers [REVOKED]

[**Source:** Added at 8 Ok Reg 3197, eff 7-18-91 (emergency); Added at 9 Ok Reg 1483, eff 5-1-92 ; Amended at 12 Ok Reg 2289, eff 6-26-95 ; Revoked at 38 Ok Reg 1943, eff 9-11-21]

310:8-1-4. Conduct of meetings [REVOKED]

[**Source:** Added at 8 Ok Reg 3197, eff 7-18-91 (emergency); Added at 9 Ok Reg 1483, eff 5-1-92 ; Amended at 11 Ok Reg 891, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2613, eff 6-25-94 ; Amended at 12 Ok Reg 2289, eff 6-26-95 ; Revoked at 38 Ok Reg 1943, eff 9-11-21]

310:8-1-5. Council recommendations [REVOKED]

[**Source:** Added at 8 Ok Reg 3197, eff 7-18-91 (emergency); Added at 9 Ok Reg 1483, eff 5-1-92 ; Amended at 11 Ok Reg 891, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2613, eff 6-25-94 ; Amended at 12 Ok Reg 2289, eff 6-26-95 ; Revoked at 38 Ok Reg 1943, eff 9-11-21]

310:8-1-6. Subcommittees, work groups, and task forces [REVOKED]

[**Source:** Added at 8 Ok Reg 3197, eff 7-18-91 (emergency); Added at 9 Ok Reg 1483, eff 5-1-92 ; Amended at 11 Ok Reg 891, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2613, eff 6-25-94 ; Amended at 12 Ok Reg 2289, eff 6-26-95 ; Revoked at 38 Ok Reg 1943, eff 9-11-21]

SUBCHAPTER 3. [RESERVED]

CHAPTER 9. HEALTH CARE INFORMATION

[**Authority:** 63 O.S., §§ 1-104 et seq. and 1-118]
[**Source:** Codified 6-25-99]

SUBCHAPTER 1. GENERAL PROVISIONS

310:9-1-1. Purpose

The purpose of this Chapter is to establish the rules for a uniform set of health care data as established by Section 1-117 of Title 63 of the Oklahoma Statutes.

[**Source:** Added at 16 Ok Reg 2451, eff 6-25-99]

310:9-1-2. Definitions

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

"Ambulatory care data" means data elements required by the Department regarding persons treated by hospitals, free-standing ambulatory surgery centers, or other health care providers, for less than 24 hours.

"Ambulatory surgery center" means a hospital-based or free-standing center providing surgery with patient stays of less than 24 hours, licensed under 63 O.S. Section 2657 et seq.

"Custom Data Set" means a subset of the Public Use Data File developed by the Department on special request.

"Custom report" means a compilation or study developed by the Department on special request.

"Data element" means the specific information collected and recorded for the purpose of health care and health care service delivery. Data elements include information to identify the individual, the health care provider, the data supplier, the services provided, charges for service, payor source, medical diagnosis, medical treatment and other data as requested.

"Data file" means an electronic file containing data elements.

"Data submission manual" means a manual developed by the Department containing data elements required to be submitted by information providers.

"Data use agreement" means a document that must be submitted in order to obtain the public use data file or any anonymous patient-level data. The document assures the Department that the user will not attempt to identify or contact any person included in the data set.

"Department" means the Oklahoma State Department of Health.

"Direct Patient Identifiers" Data elements that directly identify a patient (e.g. name, SSN, etc).

"Division" means the Health Care Information Division of the Oklahoma State Department of Health.

"Facility" means hospital or ambulatory surgery center.

"Health care information system" means the system for receipt, collection, analysis, evaluation, processing, utilization and dissemination of health care data established and maintained by the Health Care Information Division pursuant to the Oklahoma Health Care Information System Act.

"Health care provider" means hospitals, nursing facilities, ambulatory surgery centers, and any other health care provider licensed or certified by the Department or any other state agency; doctors as defined in Section 725.2 of Title 59 of the Oklahoma Statutes; or physical therapists, physician assistants, pharmacists, nurses and home health care providers licensed pursuant to the laws of this state.

"Hospital" means a hospital licensed under 63 O.S. Section 1-704.

"Hospital discharge data" means data elements required by the Department regarding persons admitted to and discharged from a hospital.

"Identifying information" means information that could uniquely identify an individual.

"Information provider" means all health care providers and the third-party payor or public-supported provider as defined in Section 1-116 of Title 63 of the Oklahoma Statutes.

"Public use data file" means an electronic file for public use containing data elements from the hospital discharge or ambulatory surgery data file that do not directly or indirectly identify an individual or physician.

"Standard information provider report" means a compilation of data submitted by an information provider that is generated by the Division for the information provider.

"Standard report" means a compilation or study developed to display information on selected topics, published periodically.

"Third-party payor" means any entity, other than a purchaser, which is responsible for payment either to the purchaser or the health care provider for health care services rendered by the health care provider.

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Amended at 18 Ok Reg 2472, eff 6-25-01 ; Amended at 37 Ok Reg 3, eff 8-1-19 (emergency); Amended at 37 Ok Reg 1356, eff 9-11-20 ; Amended at 40 Ok Reg 1541, eff 9-11-23]

310:9-1-3. Fees and charges

(a) The fee for special reports shall be \$50.00 per staff hour for creating or generating reports.

(b) The fee for Public Use Data Files shall be as follows:

(1) *Most Current Two (2) Years/each:*

(A) Participating Hospitals \$ 0.00 - 1st copy at no charge

(B) Non-Profit/Research \$ 50.00

(C) For Profit/Commercial \$7,500.00 full data year or
\$0.030/rec + \$50/hr for custom datasets

(2) *Earlier Years/each:*

(A) Participating Hospitals \$ 0.00 - 1st copy at no charge

(B) Non-Profit/Research \$50.00

- (C) For Profit/Commercial \$3,750.00 full data year or \$0.015/rec + \$50/hr for custom datasets
- (c) The Department will accept cash, checks, or money orders for payment of fees. The check or money order must be made payable to the Oklahoma State Department of Health.

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Amended at 19 Ok Reg 376, eff 11-19-01 (emergency); Amended at 19 Ok Reg 2657, eff 7-11-02 ; Amended at 27 Ok Reg 2506, eff 7-25-10]

SUBCHAPTER 3. REQUIRED INFORMATION

310:9-3-1. Required information to be collected from information providers

- (a) The Department is required by law to collect the following types of information from information providers:
- (1) Financial information including, but not limited to, consumption of resources to provide services, reimbursement, costs of operation, revenues, assets, liabilities, fund balances, other income, rates, charges, units of service, wage and salary data;
 - (2) Service information including, but not limited to,
 - (A) occupancy, capacity, and special and ancillary services;
 - (B) Physician profiles in the aggregate by clinical specialties and nursing services;
 - (C) Discharge data, including but not limited to, completed discharge data sets or comparable information for each patient discharged from the facility after the effective date of this act; and
 - (D) Ambulatory care data including, but not limited to, provider-specific and encounter data.
- (b) The data elements to be submitted by information providers for hospital inpatient discharges include, but are not limited to the data elements defined in the current version of the National Uniform Bill
- (c) The data elements to be submitted by information providers for ambulatory surgery and emergency department patients include, but are not limited to the data elements defined in the current version of the National Uniform Bill and the CMS-1500
- (d) Data file formats that will be accepted include:
- (1) XML format as defined by the Division,
 - (2) Other formats agreed upon by OSDH and the data provider prior to submission.
- (e) Formats containing the appropriate fields without adhering to the appropriate format shall be considered unreadable and will be returned to the provider.

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Amended at 18 Ok Reg 2472, eff 6-25-01 ; Amended at 18 Ok Reg 3589, eff 8-22-01 (emergency); Amended at 19 Ok Reg 376, eff 11-19-01 (emergency); Amended at 19 Ok Reg 2657, eff 7-11-02 ; Amended at 26 Ok Reg 2000, eff 6-25-09 ; Amended at 37 Ok Reg 3, eff 8-1-19 (emergency); Amended at 37 Ok Reg 1356, eff 9-11-20]

310:9-3-2. Data files

(a) When a data file is received from an information provider, the Department will notify the facility acknowledging receipt of the data.

(b) As hospital discharge or ambulatory care data files are received by the Department, the data will be processed and checked for errors. This process will include error checking for out of range, or invalid data elements as specified in the data submission manual. Upon processing the submitted data file, the Department will send the information provider:

- (1) A standard information provider report developed from the provider's data; and
- (2) A list of errors in that information provider's data file and will request the information provider correct errors associated with their data within 30 days of receipt electronically to the Department.

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Amended at 18 Ok Reg 2472, eff 6-25-01 ; Amended at 37 Ok Reg 3, eff 8-1-19 (emergency); Amended at 37 Ok Reg 1356, eff 9-11-20]

310:9-3-3. Periodic schedule for submission of information

- (a) Hospital discharge data files must be submitted to the Department within 60 days after the end of each calendar quarter, beginning calendar year 2020.
- (b) Ambulatory surgery data files must be submitted to the Department within 60 days after the end of each calendar quarter, beginning with calendar year 2020.
- (c) Emergency department data files must be submitted to the Department within 45 days after the end of each month, beginning with calendar year 2020.
- (d) The Department may grant an extension on written request from the information provider on a case-by-case basis.

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Amended at 18 Ok Reg 2472, eff 6-25-01 ; Amended at 37 Ok Reg 3, eff 8-1-19 (emergency); Amended at 37 Ok Reg 1356, eff 9-11-20]

SUBCHAPTER 5. COLLECTION AND RELEASE OF INFORMATION

310:9-5-1. Confidentiality

(a) All information collected from any source will remain confidential and will not be public records as defined in the Open Records Act except as provided in 63 O.S. 1998 Supp. Section 1-119. Under no circumstances shall the information in the database or any records from which this database is maintained be used for any purpose other than the compilation of aggregate data or the creation of anonymous medical case histories for statistical reporting and data analysis. Prior to release of any information, all identifying information shall be removed which might directly or indirectly reveal the identity of any person. This information may not be released voluntarily or in response to any legal process

unless the Department is directed to release it by a court of competent jurisdiction, granted after application showing good cause.

(b) The Department will develop internal procedures to ensure the collection, analysis and dissemination of information is in compliance with all provisions of state and federal laws and regulations, including this Chapter.

(c) State agencies, boards and commissions are required to make information authorized under the Oklahoma Health Care Information System Act available to the Department without charge to the Department. Except as otherwise provided by the Health Care Information System Act, information which is required by state or federal law to be confidential will not be transferred to any entity by the Department unless a separate written agreement for such transfer has been executed by the Department with the state agency, board or commission.

[Source: Added at 16 Ok Reg 2451, eff 6-25-99]

310:9-5-2. Release and dissemination of information

After approval by the Department, aggregate compilations prepared for release or dissemination from the data collected shall be public record. However, reports prepared at the request of an individual information provider containing information concerning only its transactions, shall not be public record.

[Source: Added at 16 Ok Reg 2451, eff 6-25-99]

310:9-5-2.1. Public Use Data File

(a) The Department will annually make available for purchase a Public Use Data File(s) (PUDF) containing a calendar year of record level data with anonymous case files (i.e., direct patient identifiers removed).

(b) The hospital inpatient discharge data PUDF includes the following data elements:

- (1) Record Identifier (Synthetic)
- (2) Patient state of residence
- (3) Patient zip code
- (4) Patient county of residence
- (5) Patient gender
- (6) Patient race
- (7) Patient marital status
- (8) Patient age group
- (9) Hospital ID
- (10) Hospital Type
- (11) Admission year
- (12) Admission month
- (13) Admission day of week
- (14) Discharge year
- (15) Discharge month
- (16) Discharge day of week
- (17) Length of stay in days

- (18) Type and source of admission
- (19) Patient discharge status
- (20) Payer classification
- (21) Total charges
- (22) Diagnosis Related Group (DRG)
- (23) Major Disease Category (MDC)
- (24) Birth weight group
- (25) Admitting diagnosis
- (26) External cause of injury codes (E-code)
- (27) Principal diagnosis
- (28) Other diagnosis codes
- (29) Principal procedure code
- (30) Other procedure codes
- (31) Present upon Admission (POA)

(c) The hospital outpatient surgery data PUDF includes the following data elements:

- (1) Record Identifier (Synthetic)
- (2) Patient state of residence
- (3) Patient zip code
- (4) Patient county of residence
- (5) Patient gender
- (6) Patient race
- (7) Patient marital status
- (8) Patient age group
- (9) Hospital ID
- (10) Admission year
- (11) Admission month
- (12) Admission day of week
- (13) Admission hour
- (14) Discharge year
- (15) Discharge month
- (16) Discharge day of week
- (17) Discharge hour
- (18) Length of stay in days
- (19) Type and source of admission
- (20) Patient discharge status
- (21) Total charges
- (22) External cause of injury codes (E-code)
- (23) Principal diagnosis
- (24) Other diagnosis codes
- (25) Principal procedure CPT code
- (26) Other procedure CPT codes
- (27) Payer classification
- (28) Ambulatory payment classification (APC)

(d) The ambulatory surgery center data PUDF includes the following data elements:

- (1) Record Identifier (Synthetic)
- (2) Patient state of residence
- (3) Patient zip code
- (4) Patient county of residence
- (5) Patient gender

- (6) Patient race
- (7) Patient marital status
- (8) Patient age group
- (9) Facility ID
- (10) Admission year
- (11) Admission month
- (12) Admission day of week
- (13) Admission hour
- (14) Discharge year
- (15) Discharge month
- (16) Discharge day of week
- (17) Discharge hour
- (18) Length of stay in days
- (19) Total charges
- (20) Principal diagnosis
- (21) Other diagnosis codes
- (22) Principal procedure CPT code
- (23) Other procedure CPT codes
- (24) Payer Classification
- (25) Ambulatory payment classification (APC)

(e) The hospital emergency department data PUDF includes the following data elements:

- (1) Record Identifier (Synthetic)
- (2) Patient state of residence
- (3) Patient zip code
- (4) Patient county of residence
- (5) Patient gender
- (6) Patient race
- (7) Patient marital status
- (8) Patient age group
- (9) Hospital ID
- (10) Admission year
- (11) Admission month
- (12) Admission day of week
- (13) Admission hour
- (14) Discharge year
- (15) Discharge month
- (16) Discharge day of week
- (17) Discharge hour
- (18) Length of stay in days
- (19) Type and source of admission
- (20) Patient discharge status
- (21) Total charges
- (22) External cause of injury codes (E-code)
- (23) Principal diagnosis
- (24) Other diagnosis codes
- (25) Principal procedure CPT code
- (26) Other procedure CPT codes
- (27) Payer classification
- (28) Ambulatory payment classification (APC)

(f) Entities requesting the PUDF must sign and complete the Data Use Agreement. The completed Data Use Agreement must be included with the request.

[Source: Added at 18 Ok Reg 2472, eff 6-25-01 ; Amended at 19 Ok Reg 376, eff 11-19-01 (emergency); Amended at 19 Ok Reg 2657, eff 7-11-02 ; Amended at 26 Ok Reg 2000, eff 6-25-09 ; Amended at 26 Ok Reg 3001, eff 8-27-09 ; Amended at 37 Ok Reg 3, eff 8-1-19 (emergency); Amended at 37 Ok Reg 1356, eff 9-11-20]

310:9-5-2.2. Custom data sets

The Department will compile custom data sets (CDS) based on the data elements contained in the PUDF.

- (1) Requests for CDS must be made in writing to the Department using the Special Request Form.
- (2) Entities requesting custom data sets from the PUDF must sign and complete the Data Use Agreement. The signed Data Use Agreement must be included with the request.
- (3) The application fee must be received by the Department with the request.

[Source: Added at 18 Ok Reg 2472, eff 6-25-01]

310:9-5-3. Standard information provider reports [REVOKED]

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Revoked at 37 Ok Reg 3, eff 8-1-19 (emergency); Revoked at 37 Ok Reg 1356, eff 9-11-20]

310:9-5-4. Standard reports

- (a) The charge for standard reports will be reproduction costs that are based on the Department's fee schedule.
- (b) Standard reports may not be published or sold by another entity without written consent of the Department.
- (c) Standard reports will include, but are not limited to, aggregate information regarding:
 - (1) Patterns and trends in the health status of Oklahomans;
 - (2) Utilization, costs and outcomes; and
 - (3) Capacity of the various components of the health care industry to provide needed services.

[Source: Added at 16 Ok Reg 2451, eff 6-25-99]

310:9-5-5. Custom reports

- (a) Requests for custom reports are handled on a case-by-case basis. The Department reserves the right to refuse any request for a custom report that could threaten the confidentiality of an individual.
- (b) All custom reports, except reports prepared at the request of an individual information provider containing information concerning only its transactions, are public record.
- (c) Requests for custom reports must be made in writing to the Department using the Special Request Form.

- (d) Special reports may not be published or sold without written consent of the Department.
- (e) The application fee must be received by the Department with the request.

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Amended at 18 Ok Reg 2472, eff 6-25-01]

SUBCHAPTER 7. HEALTH CARE INFORMATION ADVISORY COMMITTEE [REVOKED]

310:9-7-1. Committee appointment [REVOKED]

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Revoked at 40 Ok Reg 1541, eff 9-11-23]

310:9-7-2. Membership [REVOKED]

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Revoked at 40 Ok Reg 1541, eff 9-11-23]

310:9-7-3. Duties [REVOKED]

[Source: Added at 16 Ok Reg 2451, eff 6-25-99 ; Revoked at 40 Ok Reg 1541, eff 9-11-23]

CHAPTER 10. HUMAN SUBJECTS PROTECTION [REVOKED]

[Authority: 63 O.S., §§ 1-104 and 1-106]
[Source: Codified 6-27-02]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:10-1-1. General purpose [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-1-2. Scope [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-1-3. Definitions [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-1-4. Incorporations by reference [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

SUBCHAPTER 3. FEDERALWIDE ASSURANCE OF PROTECTION FOR HUMAN SUBJECTS [REVOKED]

310:10-3-1. Adherence to ethical principles [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-2. Conditions of federalwide assurance [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-3. Compliance with 45 C.F.R. Part 46 [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-4. Authority of IRB [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-5. Informed consent [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-6. IRB procedures [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-7. Assurance training [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-8. Investigator training [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-9. Compliance and knowledge of local context [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-10. Assurance of protection for human subjects [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-11. Institutional support of the IRB [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-12. Unaffiliated investigation [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-3-13. Update of federalwide assurance [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

SUBCHAPTER 5. COMPLIANCE WITH THE REGISTRATION OF THE OKLAHOMA STATE DEPARTMENT OF HEALTH INSTITUTIONAL REVIEW BOARD [REVOKED]

310:10-5-1. FDA regulated research [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-2. Ethical principles [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-3. Compliance with 45 C.F.R. Part 46 [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-4. Authority of the OSDH IRB [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-5. Informed consent [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-6. IRB procedures [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-7. Compliance and knowledge of local context [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-8. IRB Training [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-9. Provision of investigator training [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-10. Institutional support of the IRB [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-11. Update of IRB Registration [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-5-12. IRB membership requirements [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

SUBCHAPTER 7. RESEARCH INTEGRITY [REVOKED]

310:10-7-1. Responsibility for research integrity [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-2. Usage [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-3. Research Integrity Officer [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-4. Whistleblower [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-5. Respondent [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-6. Deciding official [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-7. Responsibility to report misconduct [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-8. Protecting the whistleblower [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-9. Protecting the respondent [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-10. Cooperation with inquiries and investigations [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-11. Preliminary assessment of allegations [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-12. Conducting the inquiry [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-13. The inquiry report [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

**310:10-7-14. Inquiry decision, notification, and confidentiality
[REVOKED]**

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

**310:10-7-15. Time limit for completing the inquiry report
[REVOKED]**

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-16. Conducting the investigation [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-17. The investigation report [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-18. Requirements for reporting to ORI [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-19. Institutional administrative actions [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

310:10-7-20. Record retention [REVOKED]

[Source: Added at 19 Ok Reg 2046, eff 6-27-02 ; Revoked at 37 Ok Reg 1359, eff 9-11-20]

CHAPTER 15. CLINICAL TRIALS ON THE USE OF CANNABIDIOL

[**Authority:** 63 O.S., §§ 1 through 104; 63 O.S., §§ 2-801 through 2-805]
[**Source:** Codified 9-11-16]

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

310:15-1-1. Purpose

The rules in this Chapter implement the Commissioner of Health's authorities established in Enrolled House Bill Number 2154, from the 1st Session of the 55th Oklahoma Legislature (2015) known as "Katie and Cayman's Law" and codified at 63 O.S. §§ 2-801 through 2-805.

[**Source:** Added at 33 Ok Reg 451, eff 1-13-16 (emergency); Added at 33 Ok Reg 1519, eff 9-11-16]

310:15-1-2. Definitions

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

"Clinical Trial" means a trial at an academic medical center of the use of cannabidiol at an academic medical center on patients pursuant to the requirements of Katie and Cayman's Law, codified at 63 O.S. §§ 2-801 through 2-805.

"O.S." means Oklahoma Statute.

"Severe forms of epilepsy" means refractory epilepsy that is not adequately treated by traditional medical therapies, including Lennox-Gastaut Syndrome and Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy.

[**Source:** Added at 33 Ok Reg 451, eff 1-13-16 (emergency); Added at 33 Ok Reg 1519, eff 9-11-16 ; Amended at 34 Ok Reg 1275, eff 10-1-17]

SUBCHAPTER 3. PHYSICIAN APPLICATION AND REPORTING

310:15-3-1. Physician application

Any physician, who has been designated a principal investigator of a clinical trial concerning *Lennox-Gastaut Syndrome*, also known as *Severe Myoclonic Epilepsy of Infancy*; any other severe form of epilepsy not adequately treated by traditional medical therapies (63 O.S. § 2-101 (23)), or any other form of refractory epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia; intractable nausea and vomiting; or appetite stimulation with chronic wasting diseases (63 O.S. § 2-801 (5)) on individuals, and who requests approval from the Commissioner of Health, or designee shall:

- (1) Submit an application on a form provided by the Commissioner of Health, which shall include the name, address

- and other contact information for the principal investigator;
- (2) Submit a statement from either the Oklahoma State Board of Medical Licensure or the Oklahoma State Board of Osteopathic Examiners that the physician is licensed and in good standing with said licensure board;
- (3) Submit a copy of the documents from the United States Food and Drug Administration naming the physician as the principal investigator;
- (4) Submit a copy of the license obtained by the United States Drug Enforcement Administration;
- (5) Submit and maintain a current Oklahoma State Bureau of Narcotics and Dangerous Drugs Control registration;
- (6) Demonstrate registration with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
- (7) Submit the names, addresses and other contact information of any subinvestigators who will be assisting the principal investigator and include with the submission:
- (A) A copy of the license obtained by the United States Drug Enforcement Administration; and
 - (B) Information demonstrating registration of the subinvestigator with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
- (8) Submit the following information concerning the clinical trial to be performed:
- (A) Name, address and contact information of the academic medical center where the clinical trial will occur;
 - (B) Statement from Institutional Review Board (IRB) of the academic medical center where the clinical trial will occur, concurring with the requirements for said clinical trial;
 - (C) Statement from the United States Food and Drug Administration allowing cannabidiol to be used as a investigation new drug on qualified patients with severe forms of epilepsy;
 - (D) Name, address and other contact information of the source of the cannabidiol to be used for the study. The submission of the information of the source of the cannabidiol shall include:
 - (i) Information that the cannabidiol was manufactured at a facility in the United States or in a foreign country that was approved by the United States Food and Drug Administration; and
 - (ii) Information that the cannabidiol has been tested on animals to:
 - (I) demonstrate preliminary effectiveness; and
 - (II) ensure the cannabidiol is safe to administer to humans;
 - (E) Submit a statement that the clinical trial will be performed at the highest standards of clinical research; and

- (F) Submit a statement that the clinical trial will conclude no later than December 31, 2017;
- (9) Submit a statement that the principal investigator and all subinvestigators shall adhere to the rules and regulations established by the relevant Institutional Review Board for the clinical trial; and
- (10) Submit an attestation by the principal investigator as to the accuracy and completeness of the information provided in the application.

[Source: Added at 33 Ok Reg 451, eff 1-13-16 (emergency); Added at 33 Ok Reg 1519, eff 9-11-16 ; Amended at 34 Ok Reg 1275, eff 10-1-17]

310:15-3-2. Physician reporting

(a) Any physician approved by the Commissioner of Health or designee to perform a clinical trial, pursuant to this Chapter shall submit annual reports, and a final report, to the Commissioner of Health. The report shall include:

- (1) Data from the clinical trial; and
- (2) Summary of findings from the clinical trial.

(b) Any physician, approved by the Commissioner of Health or designee to perform a clinical trial pursuant to this Chapter shall immediately report to the Commissioner of Health and to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control any adverse outcomes or injuries to any subjects participating in the clinical trial.

[Source: Added at 33 Ok Reg 451, eff 1-13-16 (emergency); Added at 33 Ok Reg 1519, eff 9-11-16]

CHAPTER 96. OKLAHOMA ADVANCE DIRECTIVE REGISTRY

[**Authority:** 63 O.S., §§ 1-104 and 3102.1]

[**Source:** Codified 7-25-10]

SUBCHAPTER 1. GENERAL PROVISIONS

310:96-1-1. Purpose

The purpose of this Chapter is to establish and maintain the Advance Directives Registry which shall be accessible through the OSDH website for the purpose of storing Advance Directives of individuals and regulating access to the Registry.

[**Source:** Added at 27 Ok Reg 2506, eff 7-25-10]

310:96-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Registry" means the Oklahoma Advance Directive Registry

[**Source:** Added at 27 Ok Reg 2506, eff 7-25-10]

310:96-1-3. Fees [RESERVED]

[**Source:** Reserved at 27 Ok Reg 2506, eff 7-25-10]

SUBCHAPTER 3. SUBMISSION REQUIRMENTS

310:96-3-1. Advance Directive Forms

The Advance Directive Form submitted for initial filing or amendment in the Registry may be substantially in the format contained in Title 63 O.S. §3101.4 or in the format available on the Oklahoma State Department of Health Website.

[**Source:** Added at 27 Ok Reg 2506, eff 7-25-10]

310:96-3-2. Document format

The Advance Directive forms submitted for filing in the Registry shall be in a PDF (Portable Document Format) document.

[**Source:** Added at 27 Ok Reg 2506, eff 7-25-10]

SUBCHAPTER 5. RELEASE OF ADVANCE DIRECTIVES

310:96-5-1. Release of Advance Directives

Release of the Advance Directive form on file with the Registry shall be limited to the subject of the record or an individual authorized by the subject of the record as identified in the Registry or a health care provider treating the subject of the record.

[Source: Added at 27 Ok Reg 2506, eff 7-25-10]

CHAPTER 99. SECONDHAND TOBACCO SMOKE [EXPIRED]

Editor's Note: *On July 23, 2002, the District Court of the 24th Judicial District of the State of Oklahoma issued a Temporary Injunction prohibiting the Oklahoma State Department of Health from enforcing these emergency rules, which were approved by the Governor on June 26, 2002, with an effective date of July 1, 2002. [See Veterans of Foreign Wars, Post 1320 and Hoyaka, L.T.D. v. State of Oklahoma, Case No. CJ-02-705 (Creek County District Court, 7-23-02) (Temporary Injunction)] On July 14, 2003, the emergency rules expired without being superseded by permanent rules.*

[**Authority:** 63 O.S., §§ 1-104, 1-106, 1-502, 1-1526, 1-1602, and 1-1701.1A]

SUBCHAPTER 1. GENERAL PROVISIONS [EXPIRED]

310:99-1-1. Purpose, authority and public policy statement [EXPIRED]

[**Source:** Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-1-2. Definitions [EXPIRED]

[**Source:** Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

SUBCHAPTER 3. ACTIVITIES OF RESPONSIBLE PERSONS [EXPIRED]

310:99-3-1. Signs [EXPIRED]

[**Source:** Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-3-2. Ash containers [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-3-3. Complaint response [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

SUBCHAPTER 5. GENERAL LIMITS UPON SMOKING AND SECONDHAND SMOKE [EXPIRED]

310:99-5-1. Smokefree places [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-5-2. Minimizing secondhand smoke [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-5-3. Smoking rooms [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-5-4. Smokefree election [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-5-5. Effective smokefree election [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-5-6. Limitations upon exclusion [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

SUBCHAPTER 7. LIMITS UPON SMOKING IN SPECIFIC PLACES AND VENUES [EXPIRED]

310:99-7-1. Adult day care centers [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-2. Ambulatory surgical centers [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-3. Bars [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: *¹For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-4. Bingo halls [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: *¹For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-5. Birthing centers [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: *¹For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-6. Bowling alleys [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: *¹For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-7. Educational facilities [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: *¹For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-8. Indoor places of public access [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-9. Lodging establishments [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-10. Malls and enclosed shopping centers [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-11. Pool and billiard halls [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-12. Restaurants [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-13. Retail tobacco stores [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-15. Taverns [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-7-16. Youth camps [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

SUBCHAPTER 9. WORKPLACES [EXPIRED]

310:99-9-1. Indoor workplaces [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-9-2. Indoor workplaces operated by a family [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-9-3. Small indoor workplaces [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-9-4. Private office exemption [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

SUBCHAPTER 11. COMPLIANCE [EXPIRED]

310:99-11-1. Enforcement by political subdivisions [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-11-2. Complaint resolution [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-11-4. Administrative monetary penalty [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-11-5. Alternative to administrative monetary penalty [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-11-6. Administrative hearings [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-11-7. Enforcement [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

310:99-11-8. Appeals [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

SUBCHAPTER 13. SAVINGS PROVISION [EXPIRED]

310:99-13-1. Savings provision [EXPIRED]

[Source: Added at 19 Ok Reg 2823, eff 7-1-02 through 7-14-03 (emergency)¹]

Editor's Note: ¹*For information about 7-23-02 Temporary Injunction and expiration of emergency rules, see Editor's Note at beginning of this Chapter 99.*

CHAPTER 100. LICENSURE OF CREMATORIES [REVOKED]

Editor's Note: *Effective 11-1-01, the authority to "promulgate rules necessary for the licensing, inspection, and regulation of crematories" [63 O.S.2001, § 1-331.1 (Laws 2001, c. 75, § 3)] was transferred from the State Commissioner of Health to the Oklahoma State Board of Embalmers and Funeral Directors (name later changed to Oklahoma Funeral Board). The Funeral Board subsequently enacted a new rule at OAC 235:10-14-1 on 6-25-09, and the Department of Health later revoked its rules regulating crematories in this Chapter 100 on 9-12-14.*

[**Authority:** 63 O.S.1981, §§ 1-331 et seq.]

[**Source:** Codified 12-31-91]

310:100-1-1. Purpose [REVOKED]

[**Source:** Revoked at 31 Ok Reg 1579, eff 9-12-14]

310:100-1-2. Fee [REVOKED]

[**Source:** Revoked at 31 Ok Reg 1579, eff 9-12-14]

CHAPTER 105. VITAL STATISTICS

[**Authority:** 63 O.S., §§ 1-104 and 1-301 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. PURPOSE, FORMS, AND FEES

310:105-1-1. Purpose

The rules in this Chapter implement the provisions of Article 3 of the Public Health Code, pertaining to vital statistics.

310:105-1-2. Completion and filing of forms and records

(a) All certificates and records filed under the act and this Chapter shall be typewritten or legibly written in black, nonfading ink.

(b) All blanks and forms shall be prepared in accordance with instructions of the Commissioner of Health. No form or blank shall be considered complete and correct or acceptable for filing that:

- (1) Does not supply all of the items of information called for thereon, or satisfactorily account for their omission.
- (2) Contains alterations or erasures.
- (3) Does not contain genuine signatures.
- (4) Is marked "copy" or "duplicate".
- (5) Is a carbon copy.
- (6) Is prepared on an improper form.
- (7) Contains any data relative to the putative father of a child born out of wedlock without his written consent, or unless determined by a court of competent jurisdiction.

[**Source:** Amended at 17 Ok Reg 2924, eff 7-13-00]

310:105-1-3. Fees for Services, Identification requirements and Certified Copies

(a) Identification prescribed by the Department, shall be required for issuance of birth, death, and stillbirth certificates. Documentation is subject to verification with the issuing authority and shall include:

- (1) Government issued photographic identification; or
- (2) At least two alternative forms of identification; or
- (3) An alternative electronic process.

(b) Alternative forms may include, but are not limited to letters from government or social agencies; pay statement; utility bills; or other items prescribed by the Department.

(c) Delegation of personal legal powers to request or amend a birth certificate by an eligible applicant as established in 63 O.S. § 1-323, shall be on a form prescribed by the Department in order to protect the integrity of the records, ensure their proper use, and to efficiently administer the vital statistics system.

(d) Attestation to the identity of another person who is applying for his/her own record shall be on a form prescribed by the Department.

(e) Except as otherwise provided in law or regulation, the following schedule of fees is adopted for services provided, certified copies of Vital Records, or for a search of files when no copy is made:

(1) Search of files or issuance of one (1) certified copy if record is found:

(A) Birth Certificates - \$15.00; additional certified copies requested - \$15.00 per copy.

(B) Death Certificates - \$15.00; additional certified copies requested - \$15.00 per copy.

(2) Delayed Registration:

(A) Initial search of files - \$15.00

(B) Certified copies after establishment of delayed registration - \$40.00 (\$40.00 fee includes a \$25.00 processing fee and credit for initial \$15.00 search fee.)

(3) Birth record substitution:

(A) Adoptions:

(i) Search of records - \$15.00

(ii) Certified copy after substitution - \$40.00 (\$40.00 fee includes a \$25.00 processing fee and credit for initial \$15.00 search fee.)

(B) Legitimations:

(i) Search of records - \$15.00

(ii) Certified copy after substitution - \$40.00 (\$40.00 fee includes a \$25.00 processing fee and credit for initial \$15.00 search fee.)

(C) Certificate of Foreign Born:

(i) Search of records - \$15.00

(ii) Certified copy after preparation of and/or substitution of record - \$40.00 (\$40.00 fee includes \$25.00 processing fee and credit for initial \$15.00 search fee.)

(4) Amendments to Vital Records and Paternities:

(A) Initial search of birth records - \$15.00

(B) Certified copies of birth certificates after amended or paternity completed - \$40.00 (\$40.00 fee includes a \$25.00 processing fee and credit for initial \$15.00 search fee.)

Paternities which are submitted at the time of original filing by the hospital and meet all the requirements for filing are not subject to the amendment fee.

(C) Search of records and certified copies of amended death certificates - \$15.00.

(D) Certified copies of death certificates after amendment or correction completed - \$35.00 (\$35.00 fee includes a \$20.00 processing fee and credit for initial \$15.00 search fee) unless the requested amendment is to change the medical certification data. In this case, there is no amendment fee.

310:105-1-4. Waiver of fees

- (a) Upon the Governor's declaration of a natural disaster within Oklahoma, the Commissioner of Health may declare a waiver of the fee for death and birth certificates of the victims of the disaster.
- (b) Upon receipt of a written application and proper identification from a member of a state or federal law enforcement agency, authorized to investigate matters involving the public's safety, it shall be lawful for the division to issue verification of death at no cost to the agency.

[Source: Added at 16 Ok Reg 3486, eff 7-30-99 (emergency); Added at 17 Ok Reg 2034, eff 6-12-00 ; Amended at 19 Ok Reg 2056, eff 6-27-02]

310:105-1-5. Definitions

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

"Delayed Registration" shall mean the registration of the birth of a person one year or more after the date of birth.

[Source: Added at 17 Ok Reg 2924, eff 7-13-00]

SUBCHAPTER 3. BIRTH REGISTRATION

310:105-3-1. Birth registration

(a) Every live birth which shall occur in this state shall be registered on a standard certificate of live birth and shall be filed with the local registrar of the district in which the birth occurred within seven (7) days after the date of birth.

(1) Data, other than that discussed in rule 105-3-3(b), omitted from the original certificate may be added to the original certificate by a supplementary report presented to the State Registrar not more than twelve (12) months after the date of birth. Certificates so completed shall not be considered "altered" or amended.

(2) If the mother was married at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered.

(3) If the mother was not married at the time of conception or birth, the name of the father shall not be entered on the certificate of birth without a sworn acknowledgment of paternity signed by the mother and the person to be named as the father, or a determination of paternity has been made by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. In such cases, the mother will sign the certificate attesting to the personal data as shown on the certificate as being true. When a certificate of birth is completed by the attendant to indicate the father's name in

accordance with the above provisions, the sworn acknowledgment of paternity or a certified copy of the court determination of paternity shall be attached to the certificate of birth and forwarded with the birth certificate to the state office of Vital Records, where such evidence will be placed in the permanent confidential files, sealed and subject to inspection only upon order of a court of competent jurisdiction.

(b) If either parent is unable due to physical limits absence or death, the health care facility shall type the name of the parent in the place of the actual signature.

[Source: Amended at 17 Ok Reg 2924, eff 7-13-00]

310:105-3-2. Delayed birth certificates

(a) **When delayed birth certificate required.** If a live birth is not registered before the person has reached or passed his first birthday, the birth shall be registered on the delayed certificate of birth form.

(b) **Facts to be established.** In filing a delayed registration of birth, the facts of the date and place of birth along with the parentage of birth shall be established.

(c) **Evidence required.**

(1) **Age one year to ten years.** For a registrant who has reached or passed his first birthday but has not reached his tenth birthday, the facts of birth shall be established by two records, one of which may be an affidavit signed by a parent or guardian and the other an affidavit signed by the health care provider. If the birth was not attended by a health care provider, a record of the birth made at or near the birth may be used as the second record to establish the facts of the birth. If no record of the birth can be produced, the Department shall investigate the facts of the birth before accepting the delayed birth certificate for registration.

(2) **Older than ten years.** For the registrant who has reached or passed his tenth birthday, the facts of birth shall be established by three (3) records, each from a different and independent source. To be acceptable as proof the records must have been made ten (10) years or more prior to the filing of the certificate, with the exception of the affidavit, and must contain information about the registrant to support the facts shown on the delayed certificate. An affidavit of personal knowledge may be used as one, but only one, of the three records of proof. All three records shall indicate the name of the registrant, the correct birth date or age of registrant, and at least two of the records shall reflect the birthplace of the registrant to be Oklahoma, and one of the records shall indicate the parentage as claimed by the registrant.

(3) **Signature.** The registrant or his parent, if a minor at the time of application, shall sign the affidavit on the face of the delayed birth certificate form before a Notary Public attesting to the authenticity of the information as set forth on the face of the form. In those instances where the registrant is unable to sign his name, he shall make his mark and two witnesses shall sign

verifying the same, all before a Notary Public.

(4) **Investigation.** The Commissioner may investigate the facts of any birth for which a delayed birth certificate is filed. No copies of the registration shall be made until the Commissioner is satisfied that the facts as listed in the registration can be adequately established.

(5) **Unacceptable application.** A delayed birth certificate form shall not be registered and no copies shall be issued when it is known that the registrant is deceased.

(6) **Fraudulent application.** At any time the State Commissioner of Health or the State Registrar of Vital Statistics finds that a delayed certificate of birth has been established by using fraudulent documents or affidavits, the Commissioner or State Registrar shall "void" such certificate by stamping the face of said certificate "void".

(7) **Duplicate certificates.** In those instances where it is found that a registrant has filed a delayed certificate of birth and also has another certificate of birth already on file, the Commissioner or State Registrar shall "void" the delayed certificate filed most recently by stamping the face of said certificate as "void".

(8) **Copies of voided certificates.** In instances where certificates have been voided, certified copies shall not be issued.

(9) **Amendments.** Delayed certificates of birth shall not be amended except in cases of judicial determination of parentage.

[Source: Amended at 17 Ok Reg 2924, eff 7-13-00]

310:105-3-3. Additions and amendments to birth certificates and records

(a) **No alterations on face of certificate-application to amend.** After its acceptance for filing, no birth certificate or other record made in compliance with statutes or this Chapter shall be altered or changed in any respect on its face, except as provided in paragraph (b) of this Section.

(b) **Name added to certificate if item blank.** The addition of the registrant's name to a birth certificate within the first twelve (12) months after the date of birth may be made by writing the name in the space provided, upon receipt by the State Registrar of the required documents, if the name is blank on the certificate originally filed.

(c) **Erroneous entries.** When a name is erroneously entered by the attendant on a certificate of birth, the certificate may be amended to indicate the name the registrant has used since birth when sufficient documentation is presented to prove the same. Such documentation shall consist of a statement from the hospital where the birth occurred on a certificate from the attendant at birth that completed the certificate of birth, or if unable to obtain either of the above at least two records indicating the correct name will be required, one of which shall have been established at least ten (10) years prior to the date the amendment is requested.

(d) **Refusal to amend.** In the event the State Registrar finds reason to believe that an attempt is being made to circumvent the provisions of Oklahoma Statutes concerning legally changing a name, the State Registrar shall not amend the certificate based on documentary evidence but shall advise the registrant of the necessity of obtaining a legal change of name as provided for in Oklahoma Statutes.

(e) **Other Changes.** Any applicant that desires to make a change, alteration or amendment not provided for in paragraphs (a) through (d) of this section may file a petition with the Administrative Hearing Clerk pursuant to OAC 310:2 and seek a final decision by an Administrative Law Judge granting the relief requested. The applicant shall bear the burden of proof, by clear and convincing evidence that the proposed change, alteration or amendment sought by the Applicant corrects an error or misstatement of fact as to any non medical information supplied to the State Registrar by the parent(s), facility or attendant.

[Source: Amended at 17 Ok Reg 2924, eff 7-13-00 ; Amended at 24 Ok Reg 1905, eff 6-25-07]

310:105-3-4. Birth certificate for children born out of wedlock; confidentiality

In those instances where a child is born out of wedlock, a full copy of the certificate may be issued under the following conditions:

- (1) A written request is received signed by the mother specifically requesting the same if the registrant is a minor.
- (2) A written request is received signed by the registrant, if of legal age - 18 years or older.
- (3) A written request is received signed by an attorney stating that the full copy is necessary for presentation to the courts for adoption purposes.
- (4) A written request is received by an individual, a licensed child placing agency, or other entity that has legal custody or guardianship of a child born out of wedlock.
- (5) Upon order of a court of competent jurisdiction.

[Source: Amended at 24 Ok Reg 1905, eff 6-25-07]

310:105-3-5. New certificates of birth

(a) **Legitimacy of child born out of wedlock.** The State Commissioner of Health shall establish a new certificate of birth for a person born in this State and whose birth certificate indicates the birth occurred out of wedlock when he receives a written request from the person, or either of the parents, and evidence proving that such person has been legitimated. Such evidence shall consist of a sworn statement by the mother and the husband that he is the natural father of the child whose certificate is to be replaced. The above-mentioned sworn statement must be accompanied by a certified copy of the parents' marriage license. The sworn acknowledgement of the parents and the certified copy of the marriage license shall be retained with the original certificate of birth in the confidential files of the Vital Records Division and shall not be subject to inspection, except upon order of a court of competent jurisdiction.

(b) **Adoption.** The State Commissioner of Health shall establish a new certificate of birth for a person born in this State when furnished with an adoption certificate as provided in the Uniform Adoption Act, or a certified copy of the decree of adoption together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth.

(c) When the State Commissioner of Health or the State Registrar receives an adoption certificate or a certified copy of the Decree of Adoption from a court for a person born outside this State, such record shall be forwarded to the appropriate State Registrar or registration authority in the State of birth.

(d) **Adoption of foreign born; certificate of birth.**

(1) The State Commissioner or State Registrar may upon request prepare and register a certificate of birth in this State for a person born in a foreign country who is not a citizen of the United States and who was adopted under the provisions of Oklahoma Statutes in this State. The certificate may be established upon receipt of an adoption certificate as provided for in the Uniform Adoption Act, or a certified copy of the decree of adoption. The information contained in the certificate of or decree of adoption shall set forth the actual date of the adopted persons birth. A request must also be made to the State Registrar by the Court, the adopting parents, or their attorney, or the adopted person if of legal age that such a certificate be prepared. Such "Certificate of Foreign Birth" shall be on a form prescribed by the State Registrar and shall be labeled "Certificate of Foreign Birth" and shall show the actual country of birth and actual date of birth. A statement shall also be included on the certificate indicating that it is not evidence of United States Citizenship for the person for whom it is issued.

(2) After registration of the "Certificate of Foreign Birth" in the new name of the adopted person, the State Registrar shall seal and file the evidence of adoption and it shall not be subject to inspection except upon order of a court of competent jurisdiction.

(3) A "Certificate of Foreign Birth" registered in accordance with the above provisions shall not be amended except upon order of a court of competent jurisdiction. Such a certificate shall then be "amended" only by adding a page providing the Court's findings. Upon receipt of notice of annulment of adoption, from a court of competent jurisdiction in this State, the State Registrar shall so mark the "Certificate of Foreign Birth" and shall follow the directive of the court.

(4) The evidentiary value of a "Certificate of Foreign Birth" shall be determined by the judicial or administrative body or official before when the certificate is offered as evidence.

(5) The State Registrar shall establish a system for filing, preserving and issuance of certified copies of "Certificate of Foreign Birth" shall so indicate the same as well as the actual country of birth and the fact the certificate is "not proof of United States Citizenship."

SUBCHAPTER 5. DEATH REGISTRATION

310:105-5-1. Death registration

(a) **Certificate properly filed; when.** An attending physician's certificate of death, medical examiner's certificate of death, or fetal death shall be considered properly filed when all items thereon have been satisfactorily and definitely answered in accordance with the instructions of the Commissioner of Health and when the certificate has been presented to the local registrar in the registration district in which death occurred or the body was found.

(b) **Fetal death defined.** A gestation period of twenty (20) weeks or more is hereby prescribed in defining the term "fetal death."

310:105-5-2. Delayed death certificates

When a death has occurred in this State and has not been registered with the Vital Records Division, it may be registered by using the current certificate of death form when one of the following conditions is met:

- (1) The certificate of death is signed by the attending physician in charge of the patient's care for the illness or condition which resulted in death.
- (2) If death occurred in a hospital and the attending physician is no longer available, the medical certification may be completed on the basis of information contained in the permanent files of the hospital and signed by the medical records librarian. In such cases, it shall be noted on the face of the certificate that the information as shown is taken from the hospital records.
- (3) If death was due to an accident, the medical examiner that originally investigated the case and who originally had the responsibility for certifying the cause of death shall sign a medical examiner's certificate of death.
- (4) If death was due to an accident and the medical examiner originally responsible for completion is not available, then the Chief Medical Examiner may sign the certificate and certify the cause of death on the basis of information concerning the deceased contained in his files.
- (5) All certificates filed more than twelve (12) months after the date of death shall be filed as a delayed filing and shall indicate the date signed by the physician or hospital personnel and shall indicate the date placed on permanent file. It shall be indicated on the face of the certificate that it is a delayed filing by the State Registrar when placing on permanent file.

310:105-5-3. Coordination of birth and death certificates

When the State Registrar receives a death certificate or notification of death of a person born in the State of Oklahoma, any copies of the birth certificate shall indicate that the person is deceased.

[Source: Added at 17 Ok Reg 2924, eff 7-13-00]

310:105-5-4. Amendments of death registrations

(a) **Causes of death.** The cause of death or any other medical portion of the death certificate may be amended only upon the application of the medical examiner or the certifying physician, advanced practice registered nurse or physician assistant as authorized by Title 63 O. S. § 1-317.

(b) **Minor corrections.** Minor corrections to a death certificate shall be made only upon the application of the funeral home which must attest that the corrections are being made based on mistake made by the funeral home.

(c) **Other corrections.** Any applicant that desires to make a change, alteration or amendment not provided for in paragraphs (a) through (b) of this section may file a petition with the Administrative Hearing Clerk pursuant to OAC 310:2 and seek a final decision by an Administrative Law Judge granting the relief requested. The applicant shall bear the burden of proof, by clear and convincing evidence that the proposed change, alteration or amendment sought by the Applicant corrects an error or misstatement of fact as to any information supplied to the State Registrar by the funeral home.

[Source: Added at 17 Ok Reg 2924, eff 7-13-00 ; Amended at 24 Ok Reg 1905, eff 6-25-07 ; Amended at 40 Ok Reg 1543, eff 9-11-23]

SUBCHAPTER 7. BODIES AND RELOCATION OF CEMETERIES

310:105-7-1. Transportation of bodies

(a) **Bodies shipped by common carrier.** The body of any person dead of a disease that is not contagious, infectious, or communicable may be shipped by common carrier subject to the following conditions:

(1) Provided the body is encased in a sound coffin or casket, enclosed in a strong outside shipping case, and provided it can reach destination within the specified number of hours from the time of death, applicable both to place of shipment and destination.

(2) When shipment cannot reach destination within the number of hours specified, the body shall either

(A) Be embalmed, encased in a sound coffin or casket, and enclosed in a strong outside case for shipment, or

(B) When embalming is not possible, or if the body is in a state of decomposition, it shall be shipped only after enclosure in an airtight coffin or casket, enclosed in proper shipping container.

(3) A burial transit permit shall be attached in a strong envelope to the shipping case.

(b) **Transportation of certain diseased bodies.** The body of any person dead of smallpox, Asiatic cholera, louse-borne typhus fever, plague, yellow fever or any other contagious, infectious or communicable disease shall not be transported unless:

(1) Such body has been embalmed, properly disinfected and encased in an airtight zinc, tin, copper, or lead-lined coffin or iron casket, all joints and seams hermetically soldered or sealed and all encased in a strong, tight outside shipping case.

(2) Disinterred remains are considered as infectious and shall be enclosed in a hermetically sealed metal or metal-lined casket, enclosed in proper shipping container.

(3) Bodies deposited in receiving vaults must be treated and considered the same as disinterred remains with respect to shipping.

310:105-7-2. Permit required for disinterment

No person shall disinter the dead body of a human being for removal from one grave to another in the same cemetery, for removal to another cemetery, for cremation, or for any other purpose without obtaining a permit therefor from the State Commissioner of Health. The permit shall be signed by the next of kin of the deceased and a licensed Oklahoma funeral director responsible for performing the disinterring. In the event the next of kin's signature cannot be obtained a certified copy of a court order from a court of competent jurisdiction approving the disinterment shall be required. The permit shall be denied by the Commissioner of Health, if, in his opinion, the disinterment would be hazardous to the public health. The removal of bodies prepared by licensed embalmers and deposited in receiving vaults shall not be regarded as disinterments until the expiration of thirty (30) days.

310:105-7-3. Opening sealed caskets of disinterred remains

A hermetically sealed casket containing the disinterred remains of any person, dead from any cause and shipped into the State of Oklahoma for burial, shall not be opened except when so ordered by a court of competent jurisdiction.

310:105-7-4. Relocation of cemeteries

For the removal and reinterment of bodies now buried in cemeteries, graveyards and family lots located in territory to be affected directly by highway construction, water or buildings as a result of the erection of dams by the official authority or for any other reason where it is necessary to relocate an existing cemetery, the following rules are herewith promulgated to meet the exigencies of this particular situation.

(1) Upon application to the State Department of Health, the official authority will be granted a blanket permit for the disinterment of all deceased persons buried within the project area when he has completed the Disinterment and Removal Application and Permit for each grave in the cemetery in accordance with the preceding regulations provided in Part VI, Paragraph 1. When the signature of the next of kin cannot be

obtained, or in those instances when graves contain bodies for which the name of the deceased is "unknown," it shall be necessary that a person or agency requesting the permit obtain a court order from a court of competent jurisdiction setting forth the necessity for relocating the existing cemetery and giving approval for the same. Upon receipt of a certified copy of such a court order, the State Commissioner of Health or the State Registrar of Vital Statistics shall issue the permit in accordance with the directions of the court.

(2) The rules and regulations of the Oklahoma State Department of Health governing the removal and transportation of dead bodies will remain in full force and effect, except that all bodies now buried in graves that are affected in any manner shall be immediately upon disinterment encased in a suitable casket or coffin, and that bodies dead less than six (6) months as a result of smallpox, Asiatic cholera, typhoid fever, leprosy, bubonic plague, anthrax, glanders, or tularemia must be placed in a metal or metal-lined casket and hermetically sealed. All disinterring and reinterment shall be done under the direction of a licensed Oklahoma funeral director.

(3) All excavations in old grave locations shall be performed by hand digging and shall be to the necessary depth and dimensions of not less than three (3) feet by four (4) feet. At this location, if no remains have been found, the person charged with the disinterring shall collect not less than one-half (1/2) cubic foot of the material at the bottom of the excavation and reinter such as the last remains. All of the body or last remains, including such jewelry, identification marks, hinges or any other objects, casket, coffin, or other container shall be removed from each grave and transferred and suitably buried in the new grave.

(4) Before the disinterment of any body or bodies in graves described in this Section, a statement from the local health officer in the area of reinterment must be furnished to the State Department of Health setting forth that each proposed site for the reinterment of said bodies has been approved by the said local health officer.

(5) Extra precaution shall be exercised by those charged with the disinterment, transportation, and reinterment of said bodies in the case of persons dead less than six (6) months prior to disinterment as a result of smallpox, typhoid fever, Asiatic cholera, leprosy, bubonic plague, anthrax, glanders, or tularemia. For the purpose of determining just which persons died of any of the above diseases during the above-prescribed periods of time, the person in charge of the disinterment and removal of said bodies shall contact the State Registrar of the state where the death occurred to determine if a death certificate is on file, and if so, the cause of death as entered on the death certificate. In the event no death certificate can be located, then the person in charge of the disinterment shall contact the local health officer of the area to determine if his records reflect information pertaining to deaths from the disease listed above. When it shall be

determined that any person has died of any of the above diseases within the above period of time, then it shall be the duty of those in charge of the removal of said bodies to advise the public to refrain from coming into close proximity of the place where and when said bodies are being disinterred, removed or reinterred in order that the possibility of infection may be eliminated. If deemed necessary for the protection of public health, the local authorities are empowered to safeguard the interest of the public. The managers or trustees of any cemetery, or those in charge of the disinterment, removal or reinterment of the bodies are empowered to appoint an agent to exercise the powers of police officers within said cemetery, and within one hundred (100) yards of said cemetery grounds.

(6) The official authority shall, after completion of reinterment of said bodies, submit a report to the State Department of Health setting forth, as far as possible, a list of the names of all deceased persons. The list shall contain the following: name of deceased; date of death; name and location of original place of burial; name and location of place to which the body was removed; provided, however, that such report may consist of a set of plans and prints used in performing said disinterments and reinterments that have been corrected to show the work finally performed.

CHAPTER 110. FEE AND FINE SCHEDULE FOR OCCUPATIONAL LICENSING [REVOKED]

[**Authority:** 59 O.S., §§ 61.1 et seq., 858-621 et seq., and 1800.1 et seq.; 63 O.S., §§ 1-106.1]
[**Source:** Codified 7-11-94]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:110-1-1. Purpose [REVOKED]

[**Source:** Added at 10 Ok Reg 3441, eff 6-14-93 (emergency); Added at 11 Ok Reg 893, eff 12-17-93 (emergency); Added at 11 Ok Reg 3813, eff 7-11-94 ; Amended at 14 Ok Reg 933, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3123, eff 7-25-97 ; Amended at 20 Ok Reg 502, eff 1-6-03 (emergency); Amended at 20 Ok Reg 1611, eff 6-12-03 ; Revoked at 38 Ok Reg 1945, eff 9-11-21]

310:110-1-2. Processing [EXPIRED]

[**Source:** Added at 10 Ok Reg 3441, eff 6-14-93 through 7-14-94 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-94 (after the 7-14-94 expiration of the emergency action), Section 310:110-1-2 was no longer effective. For the official text of the emergency rule that was in effect from 6-14-93 through 7-14-94, see 10 Ok Reg 3441.*

310:110-1-3. Plumbing examination, license and registration fees [EXPIRED]

[**Source:** Added at 10 Ok Reg 3441, eff 6-14-93 through 7-14-94 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-94 (after the 7-14-94 expiration of the emergency action), Section 310:110-1-3 was no longer effective. For the official text of the emergency rule that was in effect from 6-13-93 through 7-14-94, see 10 Ok Reg 3441.*

SUBCHAPTER 3. FEES [REVOKED]

310:110-3-1. Processing [REVOKED]

[**Source:** Added at 11 Ok Reg 893, eff 12-17-93 (emergency); Added at 11 Ok Reg 3813, eff 7-11-94 ; Revoked at 38 Ok Reg 1945, eff 9-11-21]

310:110-3-2. Plumbing examination, license and registration fees [REVOKED]

[Source: Added at 11 Ok Reg 893, eff 12-17-93 (emergency); Added at 11 Ok Reg 3813, eff 7-11-94 ; Revoked at 20 Ok Reg 1611, eff 6-12-03]

310:110-3-3. Administrative hearings [EXPIRED]

[Source: Added at 11 Ok Reg 893, eff 12-17-93 through 7-14-94 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-94 (after the 7-14-94 expiration of the emergency action), Section 310:110-3-3 was no longer effective. For the official text of the emergency rule that was in effect from 12-17-93 through 7-14-94, see 11 Ok Reg 893.*

310:110-3-4. Payment of fines [EXPIRED]

[Source: Added at 11 Ok Reg 893, eff 12-17-93 through 7-14-94 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-94 (after the 7-14-94 expiration of the emergency action), Section 310:110-3-4 was no longer effective. For the official text of the emergency rule that was in effect from 12-17-93 through 7-14-94, see 11 Ok Reg 893.*

SUBCHAPTER 5. ADMINISTRATIVE FINE SCHEDULE [REVOKED]

310:110-5-1. Common requirements under the Electrical License Act, the Mechanical Licensing Act and the Plumbing License Law of 1955 [REVOKED]

[Source: Added at 11 Ok Reg 3813, eff 7-11-94 ; Amended at 14 Ok Reg 933, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3123, eff 7-25-97 ; Amended at 18 Ok Reg 1661, eff 5-25-01 ; Revoked at 20 Ok Reg 1611, eff 6-12-03]

310:110-5-2. Other requirements under the Electrical License Act and/or the Mechanical Licensing Act [REVOKED]

[Source: Added at 11 Ok Reg 3813, eff 7-11-94 ; Amended at 14 Ok Reg 933, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3123, eff 7-25-97 ; Amended at 18 Ok Reg 1661, eff 5-25-01 ; Revoked at 20 Ok Reg 1611, eff 6-12-03]

310:110-5-3. Administrative citations [REVOKED]

[**Source:** Added at 11 Ok Reg 3813, eff 7-11-94 ; Amended at 14 Ok Reg 933, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3123, eff 7-25-97 ; Amended at 20 Ok Reg 1611, eff 6-12-03 ; Revoked at 38 Ok Reg 1945, eff 9-11-21]

310:110-5-4. Payment of fines [REVOKED]

[**Source:** Added at 11 Ok Reg 3813, eff 7-11-94 ; Amended at 14 Ok Reg 933, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3123, eff 7-25-97 ; Revoked at 38 Ok Reg 1945, eff 9-11-21]

310:110-5-5. Schedule of fines for the alarm and locksmith industry [REVOKED]

[**Source:** Added at 14 Ok Reg 933, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3123, eff 7-25-97 ; Amended at 24 Ok Reg 1907, eff 6-25-07 ; Revoked at 38 Ok Reg 1945, eff 9-11-21]

310:110-5-6. Schedule of fines for the Home Inspection Industry [REVOKED]

310:110-5-6.¹ Schedule of fines for the Home Inspection Industry [REVOKED]

[**Source:** Added at 20 Ok Reg 502, eff 1-6-03 (emergency); Added at 20 Ok Reg 1611, eff 6-12-03 ; Amended at 23 Ok Reg 2345, eff 6-25-06 ; Revoked at 38 Ok Reg 1945, eff 9-11-21]

Editor's Note: ¹*Effective 11-1-08, the authority to "adopt, amend, repeal, and promulgate rules as may be necessary to regulate . . . home inspectors" was transferred from the Oklahoma State Department of Health to the Construction Industries Board [see 59 O.S., § 1000.4]. The Construction Industries Board promulgated emergency rules on 11-14-08 [see 26 Ok Reg 387 and 390], and subsequently superseded those emergency rules with permanent rules at OAC 158:70 on 7-11-09 [see also OAC 158:10-3-1 for related fines]. The Department of Health later revoked the rules regulating home inspectors at OAC 310:276, effective 9-12-14. However, as of the cutoff date for the 2016 Edition of the OAC, the Department of Health had not revoked the rule regulating home inspectors in this Section 310:110-5-6. For additional information about this transfer, see Laws 2008, c. 405.*

310:110-5-7. Schedule of fines for the Barber Industry [REVOKED]

[**Source:** Added at 20 Ok Reg 502, eff 1-6-03 (emergency); Added at 20 Ok Reg 1611, eff 6-12-03 ; Amended at 24 Ok Reg 1907, eff 6-25-07 ; Revoked at 38 Ok Reg 1945, eff 9-11-21]

310:110-5-8. Schedule of fines for the fire extinguisher industry [REVOKED]

[**Source:** Added at 25 Ok Reg 2390, eff 7-11-08 ; Revoked at 38 Ok Reg 1945, eff 9-11-21]

CHAPTER 200. AIR POLLUTION CONTROL [REVOKED]

[Authority: 63 O.S., §§ 1-1801 et seq.]
[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:200-1-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-1-2. Statutory definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-1-3. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 3. AIR QUALITY STANDARDS AND INCREMENTS [REVOKED]

310:200-3-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-3-2. Primary standards [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-3-3. Secondary Standards [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-3-4. Significant deterioration increments [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 5. REGISTRATION OF AIR CONTAMINANT SOURCES [REVOKED]

310:200-5-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**310:200-5-2. Registration of potential sources of air contaminants
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**310:200-5-3. Confidentiality of proprietary information
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 7. PERMITS [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

310:200-7-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-2. Dual permitting system; applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-3. Permit fees [REVOKED]

[Source: Amended at 10 Ok Reg 69, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1707, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-4. Annual operating permit fees applicable to federal major sources [REVOKED]

[Source: Added at 10 Ok Reg 69, eff 10-5-92 (emergency); Added at 10 Ok Reg 1707, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 3. PERMITTING [REVOKED]

310:200-7-15. Construction permit [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-16. Stack height limitation [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-17. Relocation permits [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-18. Operating permit [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**PART 5. PREVENTION OF SIGNIFICANT
DETERIORATION (PSD) REQUIREMENTS FOR
ATTAINMENT AREAS [REVOKED]**

310:200-7-30. Applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-31. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-32. Source applicability determination [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-33. Review, applicability and exemptions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-34. Control technology [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-35. Air quality impact evaluation [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-36. Source impacting Class I areas [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-37. Innovative control technology [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**PART 7. MAJOR SOURCES AFFECTING
NONATTAINMENT AREAS [REVOKED]**

310:200-7-50. Applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-51. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-52. Source applicability determination [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-53. Exemptions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-7-54. Requirements for sources located in nonattainment areas [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 9. EXCESS EMISSION AND MALFUNCTION REPORTING REQUIREMENTS [REVOKED]

310:200-9-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-9-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-9-3. General requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-9-4. Maintenance procedures [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-9-5. Malfunctions and releases [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**310:200-9-6. Excesses resulting from engineering limitations
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**SUBCHAPTER 11. ALTERNATIVE EMISSIONS
REDUCTIONS PERMITS [REVOKED]**

310:200-11-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-11-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-11-3. Applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-11-4. Permit petition [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-11-5. Requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-11-6. Issuance of permit [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**SUBCHAPTER 13. PROHIBITION OF OPEN BURNING
[REVOKED]**

310:200-13-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-13-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-13-3. Scope [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-13-4. Effective date [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-13-5. Open burning prohibited [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-13-6. Salvage operations utilizing open burning prohibited [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-13-7. Permissible open burning [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 15. MOTOR VEHICLE POLLUTION CONTROL DEVICES [REVOKED]

310:200-15-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-15-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-15-3. Scope [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-15-4. Prohibitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-15-5. Maintenance, repair, or testing [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-15-6. Liquefied petroleum gas [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 17. INCINERATORS [REVOKED]

310:200-17-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-17-2. Effective date; applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-17-3. Prohibition on density of emissions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-17-4. Prohibition on pounds per hour of emissions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-17-5. Incinerator design requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-17-6. Allowable emission of particulates [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 19. PARTICULATE MATTER EMISSIONS FROM FUEL-BURNING EQUIPMENT [REVOKED]

310:200-19-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-19-2. Emission of particulate matter prohibited [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-19-3. Existing equipment [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-19-4. New equipment [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-19-5. Refuse burning prohibited [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-19-6. Allowable emission of particulate matter [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-19-7. Particulate matter emission limits [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**SUBCHAPTER 21. PARTICULATE MATTER EMISSIONS
FROM WOOD-WASTE BURNING EQUIPMENT
[REVOKED]**

310:200-21-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-21-2. Emission prohibition [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-21-3. Limitations [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-21-4. Allowable emissions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-21-5. Emission limits [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**SUBCHAPTER 23. CONTROL OF EMISSIONS FROM
COTTON GINS [REVOKED]**

310:200-23-1. Purpose [REVOKED]

[Source: Added at 1 Ok Reg 3111, eff 9-7-92 (emergency); Added at 10 Ok Reg 1609, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-23-2. Definitions [REVOKED]

[Source: Added at 1 Ok Reg 3111, eff 9-7-92 (emergency); Added at 10 Ok Reg 1609, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-23-3. General provisions; applicability [REVOKED]

[Source: Added at 1 Ok Reg 3111, eff 9-7-92 (emergency); Added at 10 Ok Reg 1609, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-23-4. Smoke, visible emissions, and particulates [REVOKED]

[Source: Added at 1 Ok Reg 3111, eff 9-7-92 (emergency); Added at 10 Ok Reg 1609, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-23-5. Emission control equipment [REVOKED]

[Source: Added at 1 Ok Reg 3111, eff 9-7-92 (emergency); Added at 10 Ok Reg 1609, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-23-6. Fugitive dust controls [REVOKED]

[Source: Added at 1 Ok Reg 3111, eff 9-7-92 (emergency); Added at 10 Ok Reg 1609, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 25. SMOKE, VISIBLE EMISSIONS AND PARTICULATES [REVOKED]

310:200-25-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-25-2. General prohibition [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-25-3. Smoke, visible emissions and particulates [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-25-4. Alternative for particulates [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 27. PARTICULATE MATTER EMISSIONS FROM INDUSTRIAL AND OTHER PROCESSES AND OPERATIONS [REVOKED]

310:200-27-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-27-2. Process emission limitations [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-27-3. Exception to emission limits [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-27-4. Sampling and testing [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-27-5. Allowable rate of emission [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 29. CONTROL OF FUGITIVE DUST [REVOKED]

310:200-29-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-29-2. Prohibitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-29-3. Precautions required in maintenance or nonattainment areas [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-29-4. Exception for agricultural purposes [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-29-5. Variance [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

310:200-31-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-31-2. Definitions [REVOKED]

[Source: Added at 9 Ok Reg 3111, eff 7-1-92 (emergency); Added at 10 Ok Reg 1609, eff 6-1-93 ;
Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-31-3. Performance testing [REVOKED]

[Source: Amended at 9 Ok Reg 3111, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1609, eff 6-1-93 ;
Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 3. EXISTING EQUIPMENT STANDARDS [REVOKED]

310:200-31-12. Sulfur oxides [REVOKED]

[Source: Amended at 9 Ok Reg 3111, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1609, eff 6-1-93 ;
Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-31-13. Sulfuric acid mist [REVOKED]

[Source: Amended at 9 Ok Reg 3111, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1609, eff 6-1-93 ;
Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-31-14. Hydrogen sulfide [REVOKED]

[Source: Amended at 9 Ok Reg 3111, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1609, eff 6-1-93 ;
Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-31-15. Total reduced sulfur [REVOKED]

[Source: Amended at 9 Ok Reg 3111, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1609, eff 6-1-93 ;
Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 5. NEW EQUIPMENT STANDARDS [REVOKED]

310:200-31-25. Sulfur oxides [REVOKED]

[Source: Amended at 9 Ok Reg 3111, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1609, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-31-26. Hydrogen sulfide [REVOKED]

[Source: Amended at 9 Ok Reg 3111, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1609, eff 6-1-93 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES [REVOKED]

310:200-33-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-33-2. Emission limits [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-33-3. Performance testing [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE [REVOKED]

310:200-35-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-35-2. Emission limits [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-35-3. Performance testing [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 37. CONTROL OF EMISSIONS OF ORGANIC MATERIALS [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

310:200-37-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-37-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-37-3. Applicability and compliance [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-37-4. Exemptions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS [REVOKED]

310:200-37-15. Storage of volatile organic compounds [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-37-16. Loading of volatile organic compounds [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-37-17. Effluent water separators [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-37-18. Pumps and compressors [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 5. CONTROL OF ORGANIC SOLVENTS [REVOKED]

310:200-37-25. Coating of parts and products [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-37-26. Clean up with organic solvents [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 7. CONTROL OF SPECIFIC PROCESSES

310:200-37-35. Waste gas disposal [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-37-36. Fuel-burning and refuse-burning equipment [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 39. EMISSION OF ORGANIC MATERIALS IN NONATTAINMENT AREAS [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

310:200-39-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-3. General applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 3. PETROLEUM REFINERY OPERATIONS [REVOKED]

310:200-39-15. Petroleum refinery equipment leaks [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-16. Refinery process unit turnaround [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-17. Refinery vacuum producing system [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-18. Refinery effluent water separators [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**PART 5. PETROLEUM PROCESSING AND STORAGE
[REVOKED]**

310:200-39-30. Petroleum liquid storage in external floating roof tanks [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 7. SPECIFIC OPERATIONS [REVOKED]

310:200-39-40. Cutback asphalt (paving) [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-41. Vapor recovery systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-42. Metal cleaning [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-43. Graphic arts systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**310:200-39-44. Manufacture of pneumatic rubber tires
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-45. Petroleum (solvent) dry cleaning [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-46. Coating of parts and products [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-47. Control of VOS emissions from aerospace industries coatings operations [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-48. Vapor recovery systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-39-49. Manufacturing of fiberglass reinforced plastic products [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**SUBCHAPTER 41. CONTROL OF EMISSION OF
HAZARDOUS AND TOXIC AIR CONTAMINANTS
[REVOKED]**

PART 1. GENERAL PROVISIONS [REVOKED]

310:200-41-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**PART 3. HAZARDOUS AIR CONTAMINANTS
[REVOKED]**

310:200-41-15. National emission standards for hazardous air pollutants [REVOKED]

[Source: Amended at 8 Ok Reg 3113, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1431, eff 5-1-92 ; Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-16. Asbestos [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 5. TOXIC AIR CONTAMINANTS [REVOKED]

310:200-41-35. Applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-36. General provisions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-37. New sources [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-38. Existing sources [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-39. Area sources [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-40. Maximum acceptable ambient concentrations (MAAC) [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-41. Emissions inventories [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-42. Compliance requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-43. Exemptions [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-41-44. Compliance date [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 43. SAMPLING AND TESTING METHODS [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

310:200-43-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-43-2. Test procedures [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-43-3. Conduct of tests [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

PART 3. SPECIFIC METHODS [REVOKED]

310:200-43-15. Gasoline vapor leak detection procedure by combustible gas detector [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

SUBCHAPTER 45. MONITORING OF EMISSIONS [REVOKED]

310:200-45-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-45-2. Monitoring equipment required [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

310:200-45-3. Records required [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**APPENDIX A. ALLOWABLE EMISSIONS FOR
INCINERATORS WITH CAPACITIES IN EXCESS OF 100
LB/HR [REVOKED]**

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**APPENDIX B. ALLOWABLE EMISSIONS FOR
INCINERATORS WITH CAPACITIES LESS THAN 100
LBS/HR [REVOKED]**

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

APPENDIX C. PARTICULATE MATTER EMISSION LIMITS FOR FUEL-BURNING EQUIPMENT [REVOKED]

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

**APPENDIX D. PARTICULATE MATTER EMISSION
LIMITS FOR WOOD-WASTE BURNING EQUIPMENT
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2293, eff 6-26-95]

CHAPTER 205. ALARM AND LOCKSMITH INDUSTRY [REVOKED]

Editor's Note: *Effective 11-1-12, the authority to "promulgate, adopt, amend, and repeal rules consistent with the provisions of the Alarm and Locksmith Industry Act for the purpose of governing the establishment and levying of administrative fines and the examination and licensure of alarm or locksmith companies, managers, technicians, and salespersons" [SB 1866 (2012), § 19] was transferred from the State Board of Health to the Commissioner of Labor. See OAC 380:75 for rules promulgated by the Commissioner of Labor, effective 7-11-13. See OAC 310:205 in the 2011 Edition of the OAC for full text of rules as last promulgated by the State Board of Health.*

[**Authority:** 59 O.S., §§ 1800.1 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:205-1-1. Purpose [REVOKED]

[**Source:** Amended at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3125, eff 7-25-97 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-1-2. Definitions [REVOKED]

[**Source:** Amended at 10 Ok Reg 1983, eff 6-1-93 ; Amended at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3125, eff 7-25-97 ; Amended at 15 Ok Reg 1075, eff 12-15-97 (emergency); Amended at 15 Ok Reg 3146, eff 7-13-98 ; Amended at 19 Ok Reg 2057, eff 6-27-02 ; Amended at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 22 Ok Reg 2368, eff 7-11-05 ; Amended at 23 Ok Reg 2346, eff 6-25-06 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Amended at 25 Ok Reg 2391, eff 7-11-08 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-1-3. Adopted references [REVOKED]

[**Source:** Amended at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3125, eff 7-25-97 ; Amended at 19 Ok Reg 2057, eff 6-27-02 ; Amended at 22 Ok Reg 2368, eff 7-11-05 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-1-3.1. Compliance with intent of chapter [REVOKED]

[**Source:** Added at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

SUBCHAPTER 3. LICENSE REQUIREMENTS [REVOKED]

310:205-3-1. General application and license requirements [REVOKED]

[Source: Amended at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3125, eff 7-25-97 ; Amended at 22 Ok Reg 2368, eff 7-11-05 ; Amended at 23 Ok Reg 2346, eff 6-25-06 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-3-2. Application and license fees, period and display, and examination alternatives or prerequisites [REVOKED]

[Source: Amended at 10 Ok Reg 1983, eff 6-1-93 ; Amended at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3125, eff 7-25-97 ; Amended at 15 Ok Reg 1075, eff 12-15-97 (emergency); Amended at 15 Ok Reg 3146, eff 7-13-98 ; Amended at 16 Ok Reg 2454, eff 6-25-99 ; Amended at 18 Ok Reg 647, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2027, eff 6-11-01 ; Amended at 20 Ok Reg 503, eff 1-6-03 (emergency); Amended at 20 Ok Reg 2354, eff 7-11-03 ; Amended at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 22 Ok Reg 2368, eff 7-11-05 ; Amended at 23 Ok Reg 2346, eff 6-25-06 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Amended at 25 Ok Reg 2391, eff 7-11-08 ; Amended at 28 Ok Reg 2287, eff 8-1-11 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-3-3. Burglar alarm license requirements [REVOKED]

[Source: Amended at 10 Ok Reg 1983, eff 6-1-93 ; Amended at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3125, eff 7-25-97 ; Amended at 15 Ok Reg 1075, eff 12-15-97 (emergency); Amended at 15 Ok Reg 3146, eff 7-13-98 ; Amended at 16 Ok Reg 2454, eff 6-25-99 ; Amended at 18 Ok Reg 647, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2027, eff 6-11-01 ; Amended at 19 Ok Reg 2057, eff 6-27-02 ; Amended at 20 Ok Reg 503, eff 1-6-03 (emergency); Amended at 20 Ok Reg 2354, eff 7-11-03 ; Amended at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 22 Ok Reg 2368, eff 7-11-05 ; Amended at 23 Ok Reg 2346, eff 6-25-06 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Amended at 25 Ok Reg 2391, eff 7-11-08 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-3-4. Fire alarm license requirements [REVOKED]

[Source: Amended at 10 Ok Reg 1983, eff 6-1-93 ; Amended at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3125, eff 7-25-97 ; Amended at 15 Ok Reg 1075, eff 12-15-97 (emergency); Amended at 15 Ok Reg 3146, eff 7-13-98 ; Amended at 16 Ok Reg 2454, eff 6-25-99 ; Amended at 18 Ok Reg 647, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2027, eff 6-11-01 ; Amended at 19 Ok Reg 2057, eff 6-27-02 ; Amended at 20 Ok Reg 503, eff 1-6-03 (emergency); Amended at 20 Ok Reg 2354, eff 7-11-03 ; Amended at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 22 Ok Reg 2368, eff 7-11-05 ; Amended at 23 Ok Reg 2346, eff 6-25-06 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Amended at 25 Ok Reg 2391, eff 7-11-08 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-3-5. Monitoring license requirements [REVOKED]

[Source: Amended at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3125, eff 7-25-97 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Amended at 26 Ok Reg 2002, eff 6-25-09 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-3-6. Vehicle alarm license requirements [REVOKED]

[Source: Amended at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Amended at 14 Ok Reg 3125, eff 7-25-97 ; Amended at 23 Ok Reg 2346, eff 6-25-06]

310:205-3-7. Fire sprinkler license requirements [REVOKED]

[Source: Amended at 15 Ok Reg 1075, eff 12-15-97 (emergency); Amended at 15 Ok Reg 3146, eff 7-13-98 ; Amended at 16 Ok Reg 2454, eff 6-25-99 ; Amended at 19 Ok Reg 2057, eff 6-27-02 ; Amended at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 22 Ok Reg 2368, eff 7-11-05 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Amended at 25 Ok Reg 2391, eff 7-11-08 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-3-8. Locksmith license requirements [REVOKED]

[Source: Added at 24 Ok Reg 584, eff 12-21-06 (emergency); Added at 24 Ok Reg 1908, eff 6-25-07 ; Amended at 25 Ok Reg 2391, eff 7-11-08 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-3-9. Electronic Access Control license requirements [REVOKED]

[Source: Added at 24 Ok Reg 584, eff 12-21-06 (emergency); Added at 24 Ok Reg 1908, eff 6-25-07 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-3-10. Closed Circuit Television license requirements (CCTV) [REVOKED]

[Source: Added at 24 Ok Reg 584, eff 12-21-06 (emergency); Added at 24 Ok Reg 1908, eff 6-25-07 ; Amended at 25 Ok Reg 2391, eff 7-11-08 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-3-11. Nurse Call System license requirements [REVOKED]

[Source: Added at 24 Ok Reg 584, eff 12-21-06 (emergency); Added at 24 Ok Reg 1908, eff 6-25-07 ; Amended at 25 Ok Reg 2391, eff 7-11-08 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

SUBCHAPTER 5. SPECIAL PROVISIONS [REVOKED]

310:205-5-1. Commercial fire alarm tagging requirements [REVOKED]

[Source: Added at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 22 Ok Reg 2368, eff 7-11-05 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-5-2. Fire sprinkler tagging requirements [REVOKED]

[Source: Added at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 22 Ok Reg 2368, eff 7-11-05 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-5-3. Residential alarm tagging requirements [REVOKED]

[Source: Added at 28 Ok Reg 2287, eff 8-1-11 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

SUBCHAPTER 7. ENFORCEMENT [REVOKED]

310:205-7-1. License revocation and suspension [REVOKED]

[**Source:** Added at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

310:205-7-2. Prohibited acts [REVOKED]

[**Source:** Added at 21 Ok Reg 2718, eff 7-12-04 ; Amended at 24 Ok Reg 584, eff 12-21-06 (emergency); Amended at 24 Ok Reg 1908, eff 6-25-07 ; Revoked at 36 Ok Reg 1659, eff 9-13-19]

APPENDIX A. TABLE OF ALARM INDUSTRY LICENSE REQUIREMENTS [REVOKED]

[**Source:** Amended at 10 Ok Reg 1983, eff 6-1-93 ; Revoked and reenacted at 14 Ok Reg 935, eff 1-8-97 through 7-14-97 (emergency); Revoked and reenacted at 14 Ok Reg 3125, eff 7-25-97 ; Revoked and reenacted at 15 Ok Reg 1075, eff 12-15-97 (emergency); Revoked and reenacted at 15 Ok Reg 3146, eff 7-13-98 ; Revoked and reenacted at 19 Ok Reg 2057, eff 6-27-02 ; Revoked and reenacted at 20 Ok Reg 503, eff 1-6-03 (emergency); Revoked and reenacted at 20 Ok Reg 2354, eff 7-11-03 ; Revoked at 22 Ok Reg 2368, eff 7-11-05]

CHAPTER 210. BARBER [TRANSFERRED]

Editor's Note: *Effective 11-1-13, as set forth in House Bill 1467 (2013), "[a]ll powers, duties, responsibilities . . . of the State Board of Health, the State Department of Health, the State Commissioner of Health, and the State Barber Advisory Board relating exclusively to the regulation of licensed barbers in this state as provided in Sections 61.1 et seq. of Title 59 of the Oklahoma Statutes shall be placed under the authority of the State Board of Cosmetology and Barbering" [HB 1467 (2013), § 80(A)]. The following provisions in HB 1467 address the disposition of related rules:* • *Section 80 (not to be codified in the Oklahoma Statutes) provides that "[u]pon the effective date of this legislation, all administrative rules promulgated by the State Board of Health relating to the licensing and regulating of barbers shall be transferred to and become a part of the administrative rules of the State Board of Cosmetology and Barbering" [HB 1467 (2013), § 80(F)]. HB 1467 directed the Office of Administrative Rules to place the transferred rules under the Administrative Code section of the Board of Cosmetology and Barbering [see Editor's Notice published at 32 Ok Reg 108]. Therefore, on 11-1-13, the rules in this Chapter 210 of the Oklahoma State Department of Health's Title 310 [OAC 310:210] were transferred to a new Chapter 15 of the State Board of Cosmetology and Barbering's Title 175 [OAC 175:15]. See Editor's Note at beginning of Chapter 15 of Title 175 [OAC 175:15]. For the text of rules that were effective prior to the transfer of these rules to OAC 175:15 on 11-1-13, see Chapter 210 of the Department of Health's Title 310 [OAC 310:210], as published in the 2011 Edition of the OAC and updated in the 2013 OAC Supplement.* • *Section 81 (amending 59 O.S., § 61.1) authorizes the State Board of Cosmetology and Barbering to "promulgate rules which govern the examining and licensing of barbers, barber apprentices, barber instructors, and barber colleges; . . . the sanitary operation and sanitation of barber shops and barber colleges; and the establishment and levying of administrative fines . . . " [HB 1467 (2013), § 81(A)]. The State Board of Cosmetology and Barbering promulgated permanent amendments to Chapters 1 and 10 in their Title 175 to address the regulation and licensing of barbers, effective 11-1-14. [See OAC 175:1 and 175:10]*

[**Authority:** 59 O.S., §§ 61.1 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [TRANSFERRED]

310:210-1-1. Purpose [TRANSFERRED]

[**Source:** Transferred to 175:15-1-1 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-1-2. Definitions [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Amended at 24 Ok Reg 1926, eff 6-25-07 ; Transferred to 175:15-1-2 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-1-3. State Barber Advisory Board duties [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-1-3 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 3. EXAMINATIONS [TRANSFERRED]

310:210-3-1. Format [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-3-1 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-3-2. Scoring [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-3-2 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-3-3. Examination prerequisite [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Amended at 22 Ok Reg 2382, eff 7-11-05 ; Amended at 23 Ok Reg 2353, eff 6-25-06 ; Amended at 25 Ok Reg 2406, eff 7-11-08 ; Transferred to 175:15-3-3 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-3-4. Fee forfeiture

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-3-4 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-3-5. Standard [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 25 Ok Reg 2406, eff 7-11-08 ; Transferred to 175:15-3-5 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 5. LICENSING [TRANSFERRED]

310:210-5-1. License required [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 24 Ok Reg 1926, eff 6-25-07 ; Amended at 25 Ok Reg 2406, eff 7-11-08 ; Transferred to 175:15-5-1 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-5-2. Licensing fees [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Amended at 25 Ok Reg 2406, eff 7-11-08 ; Transferred to 175:15-5-2 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-5-3. Right of entry [TRANSFERRED]

[**Source:** Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-5-3 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-5-4. License posting [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 24 Ok Reg 1926, eff 6-25-07 ; Transferred to 175:15-5-4 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-5-5. Work station sanitation [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-5-5 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-5-6. Expiration and renewal of license [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Amended at 22 Ok Reg 2382, eff 7-11-05 ; Amended at 25 Ok Reg 2406, eff 7-11-08 ; Transferred to 175:15-5-6 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-5-7. New shop requirements [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-5-7 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-5-8. Barber apprentice and graduate-apprentice employment [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Amended at 22 Ok Reg 2382, eff 7-11-05 ; Amended at 23 Ok Reg 2353, eff 6-25-06 ; Transferred to 175:15-5-8 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-5-9. Reciprocal barber license [TRANSFERRED]

[**Source:** Added at 25 Ok Reg 2406, eff 7-11-08 ; Transferred to 175:15-5-9 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 7. GENERAL SANITATION [TRANSFERRED]

310:210-7-1. Patron contact equipment [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-7-1 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-2. Sanitizers [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-7-2 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-3. Lighting and ventilation [TRANSFERRED]

[**Source:** Transferred to 175:15-7-3 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-4. Walls, ceiling, floors and equipment [TRANSFERRED]

[**Source:** Transferred to 175:15-7-4 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-5. Towels [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-7-5 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-6. Water supply [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-7-6 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-7. Toilets [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-7-7 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-8. Health of personnel [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-7-8 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-9. Cleanliness of personnel [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-7-9 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-10. Food and drink restricted [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-7-10 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-11. Air for removal of hair from patron [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-7-11 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-12. Objectionable establishment [TRANSFERRED]

[Source: Added at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-7-12 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-13. Head lice [TRANSFERRED]

[Source: Added at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Amended at 22 Ok Reg 2382, eff 7-11-05 ; Transferred to 175:15-7-13 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-14. Prohibited products [TRANSFERRED]

[Source: Added at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-7-14 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-15. Kiosk Style Barber Shop [TRANSFERRED]

[Source: Added at 24 Ok Reg 1926, eff 6-25-07 ; Transferred to 175:15-7-15 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-7-16. Product safety and consumer advisory [TRANSFERRED]

[Source: Added at 24 Ok Reg 1926, eff 6-25-07 ; Transferred to 175:15-7-16 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 9. BARBER SCHOOL AND COLLEGE REQUIREMENTS [TRANSFERRED]

310:210-9-1. License required [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-9-1 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-2. School license application [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-9-2 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-2.1. Inspection of new barber schools or colleges [TRANSFERRED]

[Source: Added at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-9-3 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-3. Number instructors required [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Amended at 22 Ok Reg 2382, eff 7-11-05 ; Transferred to 175:15-9-4 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-4. Supervised practice [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-9-5 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-5. Required chairs [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-9-6 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-6. Entrance requirements [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-9-7 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-7. Law and rules available; services rendered [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-9-8 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-8. Barber school equipment [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 22 Ok Reg 2382, eff 7-11-05 ; Transferred to 175:15-9-9 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-9. Chair requirements [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-9-10 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-10. Curriculum for students [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-9-11 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-9-11. Instructor's course curriculum [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 22 Ok Reg 2382, eff 7-11-05 ; Transferred to 175:15-9-12 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

this Chapter)]

SUBCHAPTER 11. BARBER SCHOOL OR COLLEGE MANAGEMENT REQUIREMENTS [TRANSFERRED]

310:210-11-1. Approved nontransferable license [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-11-1 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-2. Instructors [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-11-2 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-3. School or college rules [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-11-3 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-4. Local compliance [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-11-4 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-5. Staff changes [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-11-5 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-6. Instructor license requirements [REVOKED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Revoked at 22 Ok Reg 2382, eff 7-11-05]

310:210-11-7. Instructors are not allowed to render services [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-11-6 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-8. Reserve substitute instructors [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-11-7 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-9. Substitute instructors license [TRANSFERRED]

[**Source:** Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-11-8 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-10. Premises [TRANSFERRED]

[Source: Transferred to 175:15-11-9 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-11. Credit hours [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-11-10 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-12. Daily class records [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Transferred to 175:15-11-11 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-13. Records available from daily time clock [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Amended at 24 Ok Reg 1926, eff 6-25-07 ; Transferred to 175:15-11-12 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-14. School transfer [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-11-13 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-11-15. Out of state class hours not transferred [TRANSFERRED]

[Source: Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-11-14 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 13. REGULATORY ENFORCEMENT [TRANSFERRED]

310:210-13-1. Grounds for suspension or revocation [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-13-1 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:210-13-2. Reapplication after suspension or revocation [TRANSFERRED]

[Source: Amended at 12 Ok Reg 3029, eff 7-27-95 ; Amended at 17 Ok Reg 2035, eff 6-12-00 ; Transferred to 175:15-13-2 by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

**310:210-13-3. Compliance with statute, rules and regulations
[REVOKED]**

[Source: Revoked at 12 Ok Reg 3029, eff 7-27-95]

APPENDIX A. BARBER STUDENT CURRICULUM AND HOURS [TRANSFERRED]

[**Source:** Added at 12 Ok Reg 3029, eff 7-27-95 ; Revoked and reenacted at 17 Ok Reg 2035, eff 6-12-00 ; Revoked and reenacted at 23 Ok Reg 2353, eff 6-25-06 ; Transferred to 175:15, Appendix A by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

APPENDIX B. BARBER INSTRUCTOR CURRICULUM AND HOURS [TRANSFERRED]

[Source: Added at 12 Ok Reg 3029, eff 7-27-95 ; Revoked and reenacted at 22 Ok Reg 2382, eff 7-11-05 ; Transferred to 175:15, Appendix B by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

APPENDIX C. BARBER APPRENTICE CURRICULUM AND HOURS [TRANSFERRED]

[Source: Added at 17 Ok Reg 2035, eff 6-12-00 ; Revoked and reenacted at 22 Ok Reg 2382, eff 7-11-05 ; Revoked and reenacted at 23 Ok Reg 2353, eff 6-25-06 ; Transferred to 175:15 Appendix C, by Laws 2013, c. 229, § 80(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

CHAPTER 215. BEDDING REGULATIONS

[**Authority:** 63 O.S., §§ 1-1001 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:215-1-1. Purpose

The rules in this Chapter implement the Bedding act, 63 O.S. Supp. 1996, Section 1-1001.1 et seq.

[**Source:** Amended at 14 Ok Reg 2254, eff 6-12-97]

310:215-1-2. Definitions

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

"Act" means Title 63 O.S. Supp 1996, Section 1001.1 et seq.

"Bedding" means mattresses, upholstered springs, sleeping bags, pads, comforters, pillows, and cushions. The term "bedding" also includes dual purpose furniture such as sofa beds, studio couches, and futons.

"Cat tail plant fiber" mean plant fibers from the named plant used as fill.

"Cellulose", **"cellulose fiber"**, and **"cellulose"** mean cellulosic products containing not more than four per cent (4%) lignin and twelve per cent (12%) pentosans.

"Cellulose fiber pad" means a pad made of cellulose.

"Chicken feathers" mean feathers of any kind of chicken, which are whole in physical structure.

"Chopped feathers" in conjunction with the name of the fowl from which the feathers came means the feathers which have been processed through a chopping machine which has cut the feathers into small pieces, e.g., "chopped duck feathers."

"Comber" means the tangled fibers removed during the combing process of textile fibers.

"Cotton by-products" mean the by-products removed from the various machine operations necessary in the manufacture of cotton yarn up to but not including the process of spinning, and shall include the following materials commonly known in cotton-mill terms as cotton card strips or cotton vacuum strips, cotton comber, cotton fly, and cotton picker.

"Cotton linters" mean the fibrous growth removed from cottonseed subsequent to the usual process of ginning.

"Cotton waste" means any material of cotton origin containing more than ten per cent (10%) of hull, leaf, stem, and pulp.

"Crushed feathers" in conjunction with the name of the fowl from which the feathers came mean feathers which have been processed through a so-called curling machine which has changed the original form of the feathers, but has not removed the quill, e.g., "crushed duck feathers."

"Down" means the soft undercoating of waterfowl, consisting of the light fluffy filaments grown from one quill-point but without any quill-shaft.

"Duck feathers" means feathers of any kind of duck, which are whole in physical structure, with the natural form and curvature of the feather.

"Excelsior" means curled wood shreds.

"Excelsior pad" means a pad made of curled wood shreds.

"Felt" means material that has been carded in layers or sheets by a garnett or felting machine.

"Filling" **"filling material"** and **"materials"** mean materials used as filling in the manufacture, repair, or renovation of bedding.

"Fly" means the fibers which come off the machines during carding, drawing, or similar textile operations.

"Goose feathers" means feathers of any kind of goose, which are whole in physical structure, with the natural form and curvature of the feather.

"Hair" means the course filamentous epidermal outgrowth of such mammals as horses, cattle, sheep, hogs, and goats.

"Jute fibers" mean jute of which no prior use has been made.

"Jute pad" means a pad made from jute fibers.

"Kapok" means the fibers obtained from the seeds of the kapok tree.

"Label" means a label required to be on or affixed to bedding products by the Act and Regulations and on which the information required is to appear.

"Latex foam rubber" means foam products made from rubber latex which previously has not been coagulated or solidified.

"Mattress" includes padding or cushioning material which is used in conjunction with water bed liners, bladders or cylinders, but does not include water bed liners, bladders or cylinders.

"Mixed cotton" means a mixture of staple cotton, cotton linters, and cotton by-products in any proportion which has not been garnetted or felted.

"Napper" means the lint removed during the process of raising the face of a cloth.

"Noils" means the short fibers removed during the combing process.

"Paper" means wood pulp materials used as fill material.

"Quill" means the main shaft or axis of a feather.

"Quill feather" means a flight feather or tail feather.

"Rubber" as used in these regulations shall apply to synthetic rubber as well as natural rubber.

"Second-hand", as defined in the Act, does not apply to new materials subjected to manufacturing processes or to new materials which are the by-product of manufacturing processes.

"Sisal fibers" means sisal of which no prior use has been made.

"Sisal pad" means a pad made from sisal fibers.

"Sponge rubber" means sponge products made from rubber which has previously been coagulated or solidified.

"Staple cotton" means the staple fibrous growth as removed from the cottonseed in the usual process of ginning (first-cut from the seed) containing no foreign material.

"Steel batting" means steel fibers that have been passed through some form of garnetting machine and carded in layers or sheets.

"Steel fiber pads" means steel fibers that have been passed through some form of garnetting machine and carded in layers or sheets.

"Steel fibers" means steel fibers that have not been garnetted.

"Synthetic fibers" mean manufactured fibers as opposed to natural fibers from animal, fowl, or plant origin.

"Synthetic foam" means a polymerized cellular material made from an organic base other than rubber.

"Textile by-products" means any of the fibrous by-products produced during the processing of textile fibers up to but not including the spinning of yarns.

"Turkey feathers" mean feathers of any kind of turkey, which are whole in physical structure.

"Water-fowl feathers" mean any mixture of goose and duck feathers.

"Wool" or "virgin wool" means the fleece of the sheep or lamb, which has been scoured or scoured and carbonized. It shall not be the by-product of any process of manufacture nor shall it have sustained prior use.

"Wool waste" means all by-products and wastes of machines in any process of manufacture employing only new wool fibers and shall also include wool pills and shank and tag wools.

[Source: Amended at 14 Ok Reg 2254, eff 6-12-97]

310:215-1-3. Adopted statutory terms

The definition of terms contained in the Bedding act shall be applicable also to such terms when used in rules promulgated under the Act.

310:215-1-4. Applicability; general tagging requirements; use of percentages in rules

(a) **Application.** The regulations of this Chapter shall apply to all persons, partnerships, corporations, and associations engaged in the business of manufacturing, repairing, renovating, germicidally treating, and selling items of bedding. These regulations do not apply to persons who make, renovate, and germicidally treat bedding for their own use.

(b) **Labels.**

(1) Each item of bedding shall be labeled in conformity with the requirements of the Act and Regulations. All labels shall be attached at the factory. Space shall be provided on the label for the affixation of a revenue stamp and the permit holder's registration number shall appear on the label. Articles of bedding that are packaged in clear packaging material shall have the label visible without opening the packaging. Articles of bedding that are packaged in packaging material that cannot be seen through

shall attach a duplicate label outside the package.

(2) It shall be unlawful to make any false or misleading statement on the label required by the Act and Regulations; it shall be unlawful for any person to remove, deface, or alter any label or statement thereon, or cause the same to be done, for the purpose of defeating the provisions of the Act and Regulations.

(3) The terms used on the label to describe materials used in filling shall be restricted to those defined in the regulations (Chapter 215) or in the Act.

(4) The presence of an innerspring unit in an article of bedding shall be designated on the label. If the number of coils is stated, the statement must be true and correct.

(5) If an article of bedding contains more than one kind of filling material, the percentage of each material shall be clearly stated on the label.

(6) Filling materials in pre-built border constructions used in the manufacture of mattresses and similar bedding products need not be stated on the label provided the filling material does not exceed ten per cent (10%) of the material in the article to which the border construction is affixed.

(7) When the filling material contained in a quilted ticking affixed to the cover of an article of bedding is in excess of ten per cent (10%) of the weight of the entire filling material of the article of bedding, such material shall be designated on the label and its percentage given.

(8) Burlap, muslin, webbing, and tape, when less than ten per cent of the filling material, need not be stated on the label.

(9) The terms "all," "pure," "100%," or terms of similar import are permitted only if the material is as stated.

(10) Any new stiffening material, such as fiberboard, wood, or paper when present in an amount exceeding ten per cent (10%) by weight of the entire filling material of an article of bedding shall be designated on the label and its percentage given.

(11) Any filling material containing more than 5% oil shall be designated on the label as "oily".

(12) The presence of silicates in excess of 5% in any filling material shall be designated on the bedding-label as "clay" and the actual percentage thereof contained in the filling material shall be stated on the label.

(c) Percentages.

(1) When percentages are required in the regulations of this Chapter it shall mean percentage by weight in lieu of percentage by volume. Wood frames, metal springs, and parts shall be excluded when calculating percentages.

(2) To allow for unintentional variations, a tolerance or variation not in excess of ten per cent (10%) by weight from the amount stated on the label shall be allowed.

SUBCHAPTER 3. LABELING

310:215-3-1. Label requirements and recommendations

The following are label requirements and recommendations for bedding:

(1) Hair.

(A) When used in the manufacture of bedding, hair (including wool products) shall be clean, properly cured, free from epidermis, excreta, or foreign or objectionable substances or odors.

(B) Hair used in the manufacture of bedding shall be identified on the label as to the animal origin of the hair. When hair of different origins is used in a blend, the kind and percentage by weight of each shall be stated on the label.

(C) When any material of whatever origin other than hair is used, in a mixture or blend with hair, the kind and percentage weight of each such material shall be designated on the label.

(2) Feathers and down.

(A) The presence of loose down fibers in excess of ten per cent (10%) shall be designated as "down fibers."

(B) Feather mixtures shall be designated by the name, character, and percentage of each material used or the entire mixture shall be designated by the name of the lowest grade of material used. The grades of materials in descending order are as follows: goose down, duck down, goose feathers, duck feathers, turkey feathers, chicken feathers.

(C) Articles of bedding containing feathers and down shall be labelled to indicate the feathers have been germicidially treated and the permit number of the facility providing the treatment.

(3) Rubber and foam.

(A) Generic terms together with the word "foam" may be used in lieu of the term "synthetic foam." If generic terms are used, they must be true and correct, e.g., "urethane foam," "polystyrene foam," "vinyl foam."

(B) When latex foam rubber, sponge rubber or synthetic foam is cut, broken or shredded, they shall be preceded by the term "pieces of" or "shredded".

(C) When any one of the materials described in (B) of this paragraph have been molded into the form in which they are intended to be used, they may be further defined as "molded".

(D) When any one of the materials described (B) of this paragraph have been either cut or broken into pieces of indefinite size or subjected to a shredding process and subsequently cemented together, whether or not this is

done in a mold, the resulting product shall be further defined as "cemented." The term "molded" shall not be used.

(4) **Synthetic fibers.** Generic terms for manufactured fibers may be used in lieu of the term "synthetic fibers." If generic terms are used, they must be true and correct.

[Source: Amended at 14 Ok Reg 2254, eff 6-12-97]

310:215-3-2. Felt padding

The following requirements apply to labelling felt padding used in bedding:

(1) **Felt.**

(A) The term "felt" or "felted" by itself shall not be used but shall be combined with the name of the material from which it is made. The use of the term "batting" instead of "felt" is permissible, e.g., "blended cotton felt," "jute felt," "wool batting."

(B) Felt shall not include felt scraps or repicked felt.

(C) Felt made of "mixed cotton" may be designated on the tag as "blended cotton felt."

(D) Felt made entirely of staple cotton shall be designated as "staple cotton felt."

(2) **Vinyl treatment.** Felt impregnated with vinyl or any other resin shall be defined as designated on the tag with the words "resin-treated blended cotton felt."

[Source: Amended at 14 Ok Reg 2254, eff 6-12-97]

310:215-3-3. Statutory label requirements

The following described labels are required by these regulations as authorized by the Act:

(1) **All new material.** Bedding meeting all requirements for new materials shall carry the white "New Materials Label," and no other label is required.

(2) **Second-hand material.** The original label shall be removed and a yellow label to be affixed by the manufacturer or renovator only is required on all second-hand materials renovated, remade, manufactured, germicidially treated, or offered for sale regardless of whether they have been renovated or remade. This label is required on all articles manufactured, renovated, or remade, using second-hand materials. A bedding stamp shall be affixed to this label.

(3) **Second-hand material sanitized.** A yellow label is to be attached by the person holding germicidal treatment permit to every article of bedding or material undergoing the process of sterilization, regardless of the conditions requiring sterilization. A bedding stamp must be affixed to this label when treatment is performed for an article intended to be sold at retail.

(4) **Owner's own material.** A yellow label is required on all articles of bedding to renovated or remade for the owner. Bedding stamp must be affixed by the renovator permit holder.

[Source: Amended at 14 Ok Reg 2254, eff 6-12-97]

SUBCHAPTER 5. GERMICIDAL TREATMENT

310:215-5-1. General requirements

(a) A person shall not sell, offer for sale, or include in a sale any article of second-hand bedding or any article of bedding manufactured in whole, or in part, from second-hand material, unless such bedding has been cleaned, stains and odors removed, and germicidally treated by a method approved by the Department. Articles of bedding removed from a retail establishment to be used as bedding and returned to the establishment are considered second-hand bedding.

(b) A person shall not use in the manufacture, renovation or repair of bedding any material which has been obtained from dump grounds, landfills, junk yards, or hospitals within or without the State of Oklahoma.

[Source: Amended at 14 Ok Reg 2254, eff 6-12-97]

310:215-5-2. Methods of treatment

(a) Washing and drying.

(1) **Pillows.** Feather pillows will be considered as having been germicidally treated when the feathers and ticking are kept intact without opening, and washed by a commercial laundry method with subsequent drying to remove moisture.

(2) **Mattresses.** Hair mattresses will be considered as having been germicidally treated when the hair is removed from the ticking and washed by a commercial laundry method and subsequently dried to remove all moisture, and where the ticking is washed and subsequently dried.

(b) **Other methods.** Any other method of germicidal treatment may be used in germicidally treating bedding and materials, provided it has first been approved by the Department. The methods for germicidal treatment of used or soiled articles of bedding for lease or resale, are approved by the Oklahoma State Health Department, as provided by Sections 310:215-5-1 and 310:215-5-2. Any person desiring to use either of these methods of germicidal treatment shall apply to the Consumer Protection Service, Oklahoma State Health Department for a permit and for approval of the techniques they plan to use. The following wording shall be printed or stamped on the "Second-Hand Material, Sanitized" label, below the word "Sanitized": THE SURFACE OF THIS SECOND-HAND ARTICLE HAS BEEN CLEANSED AND GERMICIDALLY TREATED BY THE METHOD INDICATED BELOW.

(c) **Dry/wet physical cleansing.** The following Dry/Wet Physical Cleansing methods for germicidal treatment of used or soiled articles of

bedding for lease or resale shall consist of:

- (1) A physical cleaning technique followed by,
- (2) the application of a germicidal agent and an insecticide and
- (3) adequate drying before lease or resale.

(d) **Dry method.** The dry method shall include the following:

- (1) The article(s) of bedding shall be physically brushed so as to dislodge loose dirt and debris. This brushing shall be followed by a thorough vacuuming so as to remove this dirt and debris.
- (2) An approved germicidal agent shall be applied to thoroughly dampen the surface of the article(s) of bedding.
- (3) An approved insecticide shall be applied to the surface of the article of bedding.
- (4) The article(s) of bedding shall be thoroughly aired and dried before offering for lease or resale.
- (5) This method shall not be used if the article(s) of bedding is stained with body fluids and/or excrement. If particles of soil (not stain) can not be removed by this dry method, the wet method must be used.

(e) **Wet method.** The wet method shall include the following:

- (1) The surface of the article(s) of bedding shall be washed thoroughly with detergent and warm or hot water. This washing may be accomplished by hand brush, rug or furniture shampoo or steam-cleaning type applicators or other similar applicators.
- (2) One or more clear water rinses shall be applied to the surface of the article(s) of bedding so as to remove all accumulated detergent and dislodged soil. The application may be by similar applicators as the wash cycle.
- (3) An approved germicidal agent shall be applied to the article(s) of bedding so as to thoroughly dampen the surface.
- (4) An approved insecticide shall be applied to the article of bedding so as to thoroughly dampen the surface.
- (5) The article(s) of bedding shall be thoroughly aired and dried before offering for lease or resale.

(f) **Germicidal and insecticidal agents.**

- (1) The germicidal and insecticidal agents may be added to the wash water, the rinse water or may be applied separately. These agents must be applied to the article of bedding so as to cause total surface contact. The agents shall be registered with the U.S Environmental Protection Agency and the Oklahoma State Department of Agriculture for these intended purposes.
- (2) Any approved germicidal agent used for treating articles of bedding must have an additive product which provides florescent particles when viewed under ultraviolet light (black light) and magnification. The purpose for this requirement, is to provide a uniform method for detection of the presence of the germicidal treatment agent on articles of bedding, by enforcement officials.
- (3) Records shall be kept by the permit holder to show the amount of germicidal and/or insecticidal agent used on each article of bedding in addition to other applicable records required under Rule VI, Section "L". The words "Physical Cleaning-Dry" or "Physical Cleaning-Wet," shall be used to describe these methods

on the label "Second-hand Material Sanitized" which shall be affixed to each article of bedding.

(g) Treatment devices.

(1) Germicidal treatment devices shall be properly housed to afford protection to the device and to allow for adequate working space around the device. Adequate space shall be provided for storage and segregation of treated and untreated bedding and materials. All rooms shall be clean, and germicidal treatment devices shall be cleaned and maintained in good repair and proper working condition.

(2) Accurate records shall be kept by the operator of the germicidal treatment device, and such records shall show the following information concerning each article treated.

(A) Date germicidally treated

(B) Lot number (chart number)

(C) Tag number (article number)

(D) Name and address of buyer, if any

(3) All records and charts and/or information thereon shall be available to the Department.

[Source: Amended at 14 Ok Reg 2254, eff 6-12-97]

SUBCHAPTER 7. PREMISE, PERMIT AND IDENTIFICATION REQUIREMENTS

310:215-7-1. Sanitary premises

Every person engaged in the business of manufacturing, repairing, or renovating bedding shall keep his place of business in a sanitary condition by complying with the rules that follow.

(1) Adequate housing and floor space shall be provided to prevent crowding of materials and equipment and to allow for the practice of cleanliness and sanitation.

(2) All work rooms shall be well ventilated.

(3) All work rooms shall be lighted.

(4) The floors of all rooms in which materials are stored, processed, or otherwise used in the manufacturing or renovating of bedding, shall be of such construction as to be easily cleaned, and shall be kept clean and in good repair.

(5) Walls and ceilings of all rooms where materials are stored, processed, or otherwise used in the manufacturing or renovating of bedding, shall be of such construction as to be easily cleaned, and shall be kept clean and in good repair.

(6) All buildings, rooms therein, and immediate surroundings shall be kept in neat and clean condition. All rooms and surroundings shall be free of rubbish, trash, discarded equipment, or other unnecessary articles which may promote insanitary conditions.

(7) There shall be no living quarters in the rooms, or opening directly into the rooms, where materials are stored, processed, or otherwise used in the manufacturing of bedding.

(8) Clean toilet facilities of a type approved by the Department shall be provided.

(9) Adequate and clean hand washing facilities shall be provided. One lavatory (wash basin) with adequate and acceptable water supply shall be provided for every twenty (20) employees or portion thereof up to one hundred (100) persons and one lavatory (wash basin) for each additional twenty-five (25) persons or portion thereof. Soap or a suitable cleaning agent shall be provided at each lavatory.

[Source: Amended at 14 Ok Reg 2254, eff 6-12-97]

310:215-7-2. Permits

(a) A person shall not engage in the business of manufacturing, repairing, and selling bedding unless he has obtained an authorizing permit from the Department.

(b) A person shall not germicidally treat bedding unless he has obtained an authorizing permit from the Department.

(c) Permits required by the Act and Regulations must be renewed annually on a fiscal year basis, i.e., July 1.

(d) Permit fees are as follows:

(1) Initial Bedding Permit -\$ 5.00

(2) Renewal Bedding Permit -\$ 5.00

(3) Initial Germicidal Treatment Permit -\$ 25.00

(4) Renewal Germicidal Treatment Permit -\$ 5.00

310:215-7-3. Adhesive revenue stamps

(a) A person shall not manufacture, renovate, and/or sell, or have in his possession with intent to sell, any bedding unless there be affixed to the label required by the Act and Regulations an adhesive stamp prepared and issued by the Department. Adhesive stamps shall be affixed to label by the person manufacturing, renovating, selling, or germicidally treating items of bedding.

(b) Adhesive revenue stamps are valued at 5 cents each and shall be issued to authorized permit holders by the Department in multiples of 100. The smallest quantity of stamps which can be issued is 100 for \$5.00.

(c) Persons applying for initial permits shall also purchase not less than 100 adhesive stamps unless the applicant has stamps on hand as the result of a previously assigned permit.

(d) A non-stamp bedding permit can be obtained for establishments that sell 100 articles or more per quarter in the State.

[Source: Amended at 14 Ok Reg 2254, eff 6-12-97]

310:215-7-4. Material identification

(a) Persons engaged in the manufacture, repair, and renovation of bedding shall keep new and second-hand materials segregated and identified; when new and second-hand materials are mixed, the entire mixture shall be regarded as second-hand.

(b) Persons engaged in the manufacture, repair, renovation and/or germicidal treatment of bedding shall label or mark all second-hand bedding and materials prior to manufacture, renovation, or germicidal treatment to show name and address of owner and reason for possession.

[Source: Amended at 14 Ok Reg 2254, eff 6-12-97]

CHAPTER 220. BUNK BED RULES [REVOKED]

[**Authority:** 63 O.S., §§ 1-104 et seq. and 1-1002.1 et seq.]

[**Source:** Codified 5-27-99 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:220-1-1. Purpose [REVOKED]

[**Source:** Added at 16 Ok Reg 682, eff 1-5-99 (emergency); Added at 16 Ok Reg 1398, eff 5-27-99 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:220-1-2. Definitions [REVOKED]

[**Source:** Added at 16 Ok Reg 682, eff 1-5-99 (emergency); Added at 16 Ok Reg 1398, eff 5-27-99 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:220-1-3. Construction [REVOKED]

[**Source:** Added at 16 Ok Reg 682, eff 1-5-99 (emergency); Added at 16 Ok Reg 1398, eff 5-27-99 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 3. LABELING [REVOKED]

310:220-3-1. Labeling requirements [REVOKED]

[**Source:** Added at 16 Ok Reg 682, eff 1-5-99 (emergency); Added at 16 Ok Reg 1398, eff 5-27-99 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

CHAPTER 225. BOTTLED DRINKING WATER REGULATIONS

[**Authority:** 63 O.S.1981, §§ 1-1915 et seq. and 1-1101 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:225-1-1. Purpose

The rules in this Chapter implement the Bottled Drinking Water Regulations, 63 O.S. 1981, Section 1-1915 et seq. and 1-1101 et seq.

310:225-1-2. Definitions

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

"Approved laboratory" means a laboratory approved by the Commissioner of Health or certified by the U.S. Environmental Protection Agency ("EPA"), or certified (accredited) by a third-party organization acceptable to the Commissioner of Health.

"Approved source" when used in reference to a bottled water plant's product water or water used in the plant's operations, means the source of the water whether it be from a spring, artesian well, drilled well, public water system or any other source that has been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality. Bottled water covered by these rules and regulations must be from a source which is permitted in accordance with the design standards for public water supply facilities.

"Artesian water" means bottled water from a well tapping a confined aquifer in which the water level stands above the water table. "Artesian Water" shall meet the requirements of "Natural Water".

"Bottled water" means water that is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.

"Bottled water plant" means any place or establishment in which bottled water is prepared for sale.

"Carbonated water" or **"sparkling water"** means bottled water containing carbon dioxide.

"Distilled water" means bottled water which has been produced by a process of distillation and meets the definition of purified water in the most recent edition of the United States Pharmacopeia.

"Drinking water" means bottled water obtained from an approved source that has at minimum undergone treatment consisting of filtration (activated carbon or particulate) and ozonation or an equivalent disinfection process.

"Fluoridated water" means bottled water containing fluoride. The label shall specify whether the fluoride is naturally occurring or added. Any water which meets the definition of this paragraph shall contain no less than 0.8 milligrams per liter fluoride ion and otherwise comply with the Food and Drug Administration ("FDA") quality standards in Section

103.35(d) (2) of Title 21 of the Code of Federal Regulations ("C.F.R.").

"Mineral water" means bottled water that contains not less than 500 parts per million total dissolved solids. "Natural Mineral Water" shall meet the requirements of "Natural Water".

"Natural water" means bottled spring, mineral, artesian, or well water which is derived from an underground formation and is not derived from a municipal system or public water supply.

"Plant operator" means any person who owns or operates bottled water plant.

"Purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and that meets the definition of purified water in the most recent edition of the United States Pharmacopeia. Water which meets the definition of this paragraph and is vaporized, then condensed, may be labeled "distilled water".

"Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth. "Spring Water" shall meet the requirements of "Natural Water".

"Water dealer" means any person who imports bottled water or causes bulk water to be transported for bottling for human consumption or other consumer uses.

"Well water" means water from a hole bored, drilled, or otherwise constructed in the ground which taps the water of an aquifer. "Well Water" shall meet the requirement of "Natural Water".

310:225-1-3. Soda water/soft drink exemptions

Bottled soft drinks, soda or seltzer or other products commonly recognized as soft drinks and labeled with a common or usual name other than one of those specified in Section 310:225-1-2 are exempt from the requirements of these regulations. Water that is not in compliance with the requirements of these regulations may not be labeled as "Artesian Water", "Bottled Water", "Distilled Water", "Drinking Water", "Fluoridated Water", "Mineral Water", "Purified Water", "Spring Water", or "Well Water".

[Source: Amended at 8 Ok Reg 3127, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1421, eff 5-1-92]

310:225-1-4. Severability

If any provision or application of any provision of the rules of this Chapter is held invalid, that invalidity shall not affect other provisions or applications of these rules.

SUBCHAPTER 3. PRODUCT QUALITY

310:225-3-1. Source approval

All bottled water shall be from an approved source and shall not contain any constituent in quantities that may be injurious to health, as established through rulemaking by the Oklahoma State Department of Health. All bottled water shall meet the standards prescribed by the FDA

in 21 C.F.R. Section 103.35, except that the total dissolved solids limitation of Section 103.35(d) shall not apply to mineral water.

310:225-3-2. Maximum contaminant level

Except as provided in Section 310:225-3-1, bottled water, including mineral water, shall not exceed any Maximum Contaminant Level ("MCL") established by EPA under the Safe Drinking Water Act if adopted by FDA or by the State Board of Health for any organic or inorganic chemicals.

**SUBCHAPTER 5. GOOD MANUFACTURING PRACTICES
AND OPERATIONAL REQUIREMENTS**

310:225-5-1. Process standards

All bottled water, including mineral water, shall be filtered or processed and packaged in accordance with, and in facilities which comply with, the FDA Good Manufacturing Practice Regulations ("GMPs") 21 C.F.R. Parts 110 and 129.

310:225-5-2. Microbiological control standards

Bottled water production, including transporting, processing, packaging and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for microbiological contamination of the finished product. These conditions shall include the following:

- (1) Bottled water shall be subject to effective germicidal treatment by ozonation or carbonation at a minimum of three volumes of carbon dioxide or other equivalent disinfection;
- (2) Bottled water shall not be transported or stored in bulk tanks or processed or bottled through equipment or lines used for any non-food product.

310:225-5-3. Multi-food equipment

(a) For optimum consumer protection, in order to minimize the potential for microbiological contamination of the finished product, it is recommended that non-carbonated bottled water not be transported, stored, processed or bottled in or through lines or equipment through which any food product other than water is passed.

(b) Bottled water shall not be transported, stored, processed or bottled through lines or equipment through which any food product other than water is passed except under procedures that prevent the potential for microbiological contamination in bottled water.

310:225-5-4. Cleaning and sanitizing procedures

(a) Non-dairy foods.

- (1) Where foods other than milk or dairy products have been transported, stored, processed or bottled, each time before water is transported, stored, processed or bottled through the same

lines or equipment all product contact surfaces shall be thoroughly cleansed and sanitized using appropriate procedures as specified in 21 C.F.R. Section 129.80. Where noncarbonated bottled water is processed or bottled, cleansing and sanitizing of the filler shall be manually, after disassembly, and all product contact surfaces of the filler shall be sanitized with 50 ppm chlorine for one minute at 75 degrees F. or equivalent.

(2) Subject to Department review and approval, for equipment, lines and filler machines designed for cleaning-in-place, in lieu of the aforementioned disassembly, cleaning and sanitizing procedure, said product contact surfaces may be cleaned in place and sterilized with saturated steam at 252 degrees F. for ten minutes.

(b) Dairy foods.

(1) Where milk or other dairy products are processed or bottled through the same lines or equipment as bottled water, the feed line used to convey water to the filler shall be dedicated to water only.

(2) Each time before water is processed or bottled all other product contact surfaces shall be disassembled and manually cleaned in accordance with procedures specified in 21 C.F.R. 129.80 and shall then be sanitized with 50 ppm chlorine for one minute at 75 degrees F., or equivalent.

(3) Subject to Department review and approval, for equipment, lines and filler machines designed for cleaning-in-place, in lieu of the aforementioned disassembly, cleaning and sanitizing procedure, said product contact surface may be cleaned in place and sterilized with saturated steam at 252 degrees F. for ten minutes.

(4) All product contact surfaces of tanks used for storage or transport of both dairy product and water shall be thoroughly cleaned in accordance with 21 C.F.R. 129.80 and sterilized with saturated steam at 252 degrees F. for ten minutes.

(c) Ozone resistant material. Where ozone is used as a germicidal agent for bottled water, all gaskets, o-rings and similar flexible material shall be made of silicone rubber, teflon or other ozone resistant material. These flexible parts shall be replaced whenever they show evidence of surface deterioration.

310:225-5-5. Product recall procedures

Each bottled water plant operator and water dealer shall develop and maintain a procedure for product recall and shall implement said procedure for any product for which the operator or dealer knows or has reason to believe circumstances exist that may adversely affect its safety for the consumer.

SUBCHAPTER 7. WATER MONITORING

310:225-7-1. Approved source sampling and analysis

- (a) The bottled water plant operator shall be responsible for sampling and analysis of all approved sources for the contaminants specified in Section 310:225-3-1 to assure that product water derived from approved sources continues to comply with Section 310:225-3-1. Such monitoring shall be at least annually, except that analysis for microbiological contaminants shall be weekly if the source is other than a public water system.
- (b) Approved sources shall be monitored every five years for the contaminants for which U.S. EPA under the Safe Drinking Water Act or the Department requires source water monitoring.
- (c) Source monitoring shall not be required of a plant using an approved public drinking water supply.
- (d) The required source water sampling shall be performed by qualified personnel and required analysis shall be performed by an approved laboratory. Records of the required sampling and analyses shall be maintained on file at the plant for not less than two years and shall be available for official review upon request of the Department.

310:225-7-2. Possible source contamination

- (a) Where a bottled water plant operator, water dealer or regulatory agency knows or has reason to believe that a contaminant not otherwise monitored is present in the source water because of a spill, release of a hazardous substance or otherwise, and its presence would create a potential health hazard to consumers, the plant operator or water dealer upon receipt of such information shall monitor the source water for said contamination.
- (b) Detection of contaminant(s) in source monitoring required pursuant to this Subchapter shall be followed immediately by a program of periodic monitoring to confirm the presence in the source water of said contaminant(s). If such listed unregulated contaminant(s) is confirmed to be present in the source water at a concentration that exceeds a published U.S. EPA Health Advisory, or a U.S. EPA or Department Action Level for drinking water, the plant operator or water dealer shall employ appropriate treatment techniques to remove or to reduce said contaminant in the product water below said concentration and shall employ a program of periodic monitoring for said contaminant in the source water until such time as said contaminant is not detectable in the source water.

310:225-7-3. Finished product monitoring

To assure that bottled water complies with Section 310:225-3-2, the following product monitoring using representative samples derived from the bottled product shall be performed:

- (1) For microbiological contaminants specified in Section 310:225-3-2 analyze weekly a representative sample from a batch or segment of a continuous production run for each type of bottled water produced by the plant.
- (2) For chemical, physical and radiological contaminants specified in Section 310:225-3-2 analyze annually a representative sample from a batch or segment of continuous product run for each type

of bottled drinking water produced by the plant.

310:225-7-4. Finished product sampling and analysis

(a) The required product water sampling shall be performed by qualified personnel and required analysis shall be performed by approved laboratory.

(b) Records of required sampling and analysis shall be maintained at the plant not less than two years and shall be available for official review upon request of the Department.

SUBCHAPTER 9. LABELING REQUIREMENTS

310:225-9-1. Labeling requirements

All bottled water shall conform to applicable federal and state labeling laws and be labeled in compliance with the following standards:

(1) Mineral water may be labeled "Mineral Water". Bottled water to which minerals are added shall be labeled so as to disclose that minerals are added, and may not be labeled "Natural Mineral Water".

(2) Spring water may be labeled "Spring Water" or "Natural Spring Water".

(3) Water containing carbon dioxide that emerges from the source and is bottled directly with its entrapped gas or from which the gas is mechanically separated and later reintroduced at a level not higher than naturally occurring in the water may bear on its label the words "Naturally Carbonated" or "Naturally Sparkling".

(4) Bottled water which contains carbon dioxide other than that naturally occurring in the source of the product shall be labeled with the words "Carbonated", "Carbonated Added" or "Sparkling" when the carbonation is obtained from a natural or manufactured source.

(5) Well water may be labeled "Well Water" or "Natural Well Water".

(6) Artesian water may be labeled "Artesian Water", or "Natural Artesian Water".

(7) Purified water shall be labeled "Purified Water" and the method of preparation shall be stated on the label, except that purified water produced by distillation may be labeled as "Distilled Water".

(8) Drinking water may be labeled "Drinking Water".

(9) Any bottler, distributor or vendor of bottled water whose corporate name, brand name or trademark contains the words "Spring", "Well", "Artesian", "Mineral", or "Natural" or any derivative of those words shall label each bottle with the type of bottled water as defined in Section 310:225-1-2 in typeface at least equal to the size of the typeface of the corporate name, brand name or trademark, if the type of the bottled water is different from the type stated or implied in the corporate name, brand name or trademark.

(10) The use of word "Spring", or any derivative thereof other than a trademark, trade name or company name to describe water that is not spring water as defined herein shall be prohibited.

(11) A product meeting more than one definition as stated in Section 310:225-1-2 may be identified by any one of the applicable product types defined in Section 310:225-1-2, except where otherwise specifically prohibited.

(12) Supplemental printed information and graphics concerning recognized uses of the water may appear on the label but shall not imply properties of the product or preparation methods which are not factual.

SUBCHAPTER 11. LICENSES TO PROCESS, SELL OR DISTRIBUTE BOTTLED WATER

310:225-11-1. Licenses to process, sell, or distribute bottled water

Any person desiring to operate a bottled water plant, or to sell or distribute bottled water, in Oklahoma shall make application to the State Commissioner of Health for a permit, and obtain a valid license prior to the operation of the bottled water plant or the distribution and sale of bottled water. Application for such license shall be on a form supplied by the Commissioner and shall contain such information as the Commissioner deems necessary to determine that the operation of the bottled water plant or sale of bottled water will in no manner be injurious or hazardous to the health or safety of the people of the state. Each application for a license and license renewal shall be accompanied by the proper fee. The fee paid and license issued shall be for the particular bottled water plant to be operated and shall not be transferred to another person or location.

310:225-11-2. Out-of-state licenses

Out-of-State licenses to process, sell, or distribute bottled water shall be issued, upon receipt of the following:

- (1) Documentation from the State where the facility is located that the facility is in compliance with their laws;
- (2) Receipt of a signed application along with the appropriate fee.

310:225-11-3. Plan review

Before any bottled water plant is constructed, reconstructed, or extensively altered, properly prepared plans shall be approved by the State Commissioner of Health.

310:225-11-4. Access

Representatives of the Oklahoma State Department of Health, after proper identification, shall be permitted to enter any bottled water facility at any reasonable time for the purpose of making inspections to determine compliance with the rules of this Chapter. The representative

shall be permitted to examine the records of the facility to obtain information pertaining to the operation of the facility.

310:225-11-5. License revocation and suspension

Procedures for revocation and suspension of licenses to process, sell, or distribute bottled water are stated in the Oklahoma Administrative Procedures Act.

310:225-11-6. Inspection

As a condition of receiving a license, and annually thereafter, the water bottler shall receive a plant inspection demonstrating compliance with the Good Manufacturing Practices and Operational Requirements of these regulations. Said inspection shall be conducted by the State in which the bottling facility is located, by the FDA, or by a third party inspection organization (such as NSF) acceptable to the Department.

CHAPTER 233. BODY PIERCING AND TATTOOING

[**Authority:** 21 O.S., §§ 842.1 et seq.; 63 O.S., §§ 1-104 et seq.]

[**Source:** Codified 6-25-99]

SUBCHAPTER 1. GENERAL PROVISIONS

310:233-1-1. Purpose

This Chapter implements the provisions of 21 O.S. Sections 842.1, 842.2 and 842.3.

[**Source:** Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Amended at 39 Ok Reg 1224, eff 9-11-22]

310:233-1-2. Definitions

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

"Aftercare" means written instructions given to the client, specific to the body piercing or tattooing procedure(s) rendered, on caring for the body piercing or tattoo and surrounding area.

"Antiseptic" means an agent that destroys disease-causing microorganisms on human skin or mucosa.

"Apprentice" means *any person who is training under the supervision of a licensed tattoo artist. That person cannot independently perform the work of tattooing. Apprentice also means any person who is training under the supervision of a licensed body piercing artist. That person cannot independently perform the work of body piercing* [21:842.1(D)(6)].

"Apprentice program" means an approved body piercing or tattooing training program conducted by an approved sponsor.

"Apprentice sponsor" means an individual approved by the Department to sponsor a body piercing or tattooing apprentice program.

"Artist" means *the person who actually performs the body piercing or tattooing procedure* [21:842.1(D)(5)].

"Aseptic technique" means a hygienic practice which prevents and hinders the direct transfer of microorganisms, regardless of pathogenicity, from one person or place to another person or place.

"Autoclave" means a piece of medical equipment that employs the steam under pressure method of sterilization.

"Bloodborne pathogen certification" means a training program that shall contain a general explanation of epidemiology and symptoms of bloodborne diseases.

"Body piercing" means *a procedure in which an opening is created in a human body solely for the purpose of inserting jewelry or other decoration; provided, however, the term does not include ear piercing* 21:842.1(D)(1).

"Body piercing operator" means *any person who owns, controls, operates, conducts, or manages any permanent body piercing establishment, whether actually performing the work of body piercing or*

not [21:842.1(C)(3)].

"Church" means *an establishment, other than a private dwelling, where religious services are usually conducted* [21:842.3(C)(3)(b)].

"Client" means a person requesting the application of a body piercing or tattoo.

"Contaminated waste" means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030, known as "Occupational Exposure to Bloodborne Pathogens".

"CPR Certification" means Cardiopulmonary Resuscitation and shall include instruction for the basic adult CPR training.

"Department" means the Oklahoma State Department of Health.

"Disinfection" means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling; a process of reducing the number of microorganisms on cleaned procedure surfaces and equipment to a safe level with germicidal solution as has been approved by the Department.

"Ear piercing" means puncturing the lobe of the ear not to include cartilage.

"Ear piercing gun" means a device that pierces an individual's ear lobe using a single-use stud and clasp ear piercing system.

"Equipment" means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with body piercing and tattooing procedures.

"First aid certification" means a training program that includes instruction in injury and acute illness.

"Germicidal solution" means a cleansing agent that kills disease-causing microorganisms on hard surfaces and is a disinfectant or sanitizer registered with the Environmental Protection Agency.

"Germicidal soap" means an agent designed for use on the skin that kills disease-causing microorganisms.

"Handwashing facility" means a sink equipped with hot and cold or tempered running water under pressure, used for washing hands, arms or other portions of the body.

"Hot water" means water that attains at least 100°F.

"Integrator strips" means strips or devices used in pouches or autoclave chambers that prove the condition of sterilization has been met.

"Jewelry" means any personal ornament inserted into a newly pierced area.

"License" means written approval by the Department for an artist to perform body piercing or tattooing or written approval by the Department to operate a body piercing or tattoo establishment.

"Operator" means:

(A) body piercing operator, which is *any person who owns, controls, operates, conducts, or manages any permanent*

body piercing establishment, whether actually performing the work of body piercing or not. A mobile unit, including, but not limited to, a mobile home, recreational vehicle, or any other nonpermanent facility, shall not be used as a permanent body piercing establishment [21 O.S. § 84201(D)(3)]; or

(B) tattoo operator, which is any person who owns, controls, operates, conducts, or manages any permanent tattooing establishment whether performing the work of tattooing or not, or a temporary location that is a fixed location at which an individual tattoo operator performs tattooing for a specified period of not more than seven (7) days in conjunction with a single event or celebration, where the primary function of the event or celebration is tattooing [21 O.S. § 84201(D)(4)].

"Procedure surface" means any part of furniture or fixtures designed to contact the client's body during a body piercing or tattooing procedure or any surface where instruments and equipment have come into contact with the client during the procedure.

"Regulatory authority" means a representative, such as an onsite inspector, of the Department.

"Sharps" means any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized single use piercing or tattooing needles and razor blades.

"Sharps container" means a puncture-resistant, leak-proof container that is labeled or color coded that can be closed for disposal.

"Single use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing and tattooing needles and protective gloves.

"Skills challenge" means a testing mechanism that enables persons who have received training in tattooing and have experience in performing tattooing procedures to challenge the training requirements by satisfactorily completing the written examination.

"Spore test" means a biological monitoring process in which a third party laboratory culturing service is engaged to monitor spore growth on media processed in an autoclave.

"Statim autoclave" means a brand of autoclave utilizing the steam flush pressure pulse method of sterilization.

"Sterilization" means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

"Student" means an individual approved for the curriculum portion of the training program and cannot perform tattoo or body piercing procedures on a human.

"Tattooing" means *the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment; provided that medical micropigmentation, performed pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act, shall not be*

construed to be tattooing [21:842.1(C)(2)].

"Temporary artist license" means a person that is not licensed through the State of Oklahoma that is a body piercing artist or tattoo artist doing temporary work at a licensed body piercing or tattoo establishment not to exceed 30 days.

"Ultrasonic cleaning unit" means a piece of medical equipment utilizing ultrasound energy to thoroughly clean instruments for body piercing or tattooing.

"Universal precautions" means an approach to infection control that treats all human blood and certain human body fluids as if known to be infectious for Human Immunodeficiency Virus (HIV), Hepatitis B Virus (HBV), Hepatitis C Virus (HCV), and other bloodborne pathogens.

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Amended at 39 Ok Reg 1224, eff 9-11-22]

310:233-1-3. Prohibited acts

(a) In addition to the prohibited acts stated in 21 O.S. §§ 842.1, 842.2, and 843.3, an artist can only use an ear-piercing gun on the portion of the earlobe that does not contain any cartilage.

(b) Artist shall not perform body piercing or tattoo procedures:

- (1) Without a valid artist license in the appropriate category issued by the Department;
- (2) Outside of a licensed body piercing or tattooing establishment or event;
- (3) Upon another person if the other person is under the influence of alcohol or a controlled substance;

(c) Tattoo and body piercing establishments shall not:

- (1) Operate or solicit business as a body piercing or tattoo establishment without a valid establishment license, in the appropriate category, issued by the Department;
- (2) Allow eating or drinking by anyone within the procedure areas;
- (3) Allow smoking or vaping of any substance within the establishment;
- (4) Allow a person with an exposed infectious sore to work in any area of the establishment where there is a likelihood that they could contaminate instruments, supplies, or procedure surfaces with body substances or pathogenic organisms; and
- (5) Allow animals of other than fish in a fish tank except service animals used by persons with disabilities as defined in 28 CFR § 36.104.

(d) Tattoo procedures shall not be performed on a person under eighteen (18) years of age.

(e) Body Piercing procedures shall not be performed on a person under eighteen (18) years of age unless the legal parent or legal guardian of such a child gives written consent and is present for the procedure.

(f) No person shall be allowed to purchase or possess tattoo equipment or supplies without being licensed either as an Oklahoma Medical Micropigmentologist or as an Oklahoma tattoo artist.

(g) A mobile unit, including, but not limited to, a mobile home, recreational vehicle, cargo trailer or any other non-permanent facility, shall not be used as a body piercing or tattoo establishment.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

SUBCHAPTER 3. BODY PIERCING ARTIST AND TATTOO ARTIST STANDARDS

310:233-3-1. Records [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-1.1. Hygienic standards

(a) **General.** An artist must comply with all hygienic practices and procedures described in this section.

(b) **Personal Hygiene.** When performing procedures an artist maintains a high degree of personal cleanliness, wears clean clothes, and closed-toe shoes.

(c) **Washing and Drying Hands.** To properly wash and dry hands, an artist will:

- (1) thoroughly wash his/her hands in warm running water that is at least 100 °F with germicidal soap;
- (2) rinse his/her hands in warm running water that is at least 100 °F; and
- (3) dry with disposable paper towels.

(d) **When to Wash and Dry Hands.** An artist will wash and dry his/her hands as described in (c) of this Section:

- (1) immediately before donning gloves to perform a procedure;
- (2) immediately after removing gloves at the conclusion of a procedure;
- (3) when leaving the work area;
- (4) as soon as feasibly possible after potential contact with a contaminated surface; and
- (5) after eating, drinking, vaping, or smoking.

(e) **Disposable Gloves.** An artist wears disposable exam gloves to minimize the possibility of transmitting infection to the client. Exam gloves are put on and removed in accordance with aseptic technique.

(1) At least one new pair of exam gloves is used for each of the following stages:

- (A) Hard surface disinfection;
- (B) Setup of instruments;
- (C) Preparation of the body art area; and
- (D) The procedure.

(2) If the glove is pierced or torn while performing a procedure, then the contaminated gloves are discarded immediately, and the artist's hands are washed and dried as described in (c) of this

Section before a fresh pair of gloves are applied.

(f) **Item or Instrument Contamination.** Any item or instrument that has come into contact with a surface other than the procedure surface or the client during the procedure is discarded and replaced immediately with a new disposable item or a new sterilized instrument.

(g) **Disinfect Surface Area.** All procedure surfaces are disinfected with a germicidal solution immediately after completing a procedure.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-2. Prohibited acts [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Amended at 27 Ok Reg 2507, eff 7-25-10 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-2.1. Preparation and care of the body art area

(a) Before a procedure is performed, the immediate and surrounding area of the skin shall be prepared with an approved antiseptic skin preparation.

(b) Oral piercing shall be prepared with an oral antiseptic mouth rinse.

(c) If shaving is necessary, single use disposable razors shall be used and discarded into a sharps container.

(d) Any utensil used for marking the skin shall be single use and disposed of after the procedure.

(e) Any skin or mucosa surface being prepared for a procedure shall be free of rashes or any visible signs of infection.

(f) Any jewelry inserted into a fresh piercing shall be:

(1) Autoclave sterilized while fully disassembled; and

(2) Inspected and found free of nicks, scratches or irregular surfaces before insertion into a fresh body piercing.

(g) Jewelry shall be made of:

(1) 316L or 316LVM stainless steel;

(2) Solid 14k or 18k yellow or white nickel-free gold;

(3) Niobium;

(4) Titanium or platinum;

(5) Poly Tetra Fluoro Ethylene (PTFE); or

(6) Tygon.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-3. Standards [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Amended at 27 Ok Reg 2507, eff 7-25-10 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-3.1. Reusable equipment

(a) **General.** After each use, non-disposable instruments and reusable equipment must comply with the cleaning and sterilizing processes and procedures stated in this Section.

(b) **Preclean.** To remove residue an instrument is pre-cleaned either manually or mechanically.

(1) Manual scrubbing is performed by thoroughly scrubbing with an appropriate detergent and water solution with items fully submerged. While manually scrubbing, the person will wear appropriate personal protective equipment including:

- (A) full length sleeves;
- (B) elbow-high gloves;
- (C) apron; and
- (D) face mask with eye protection.

(2) Mechanical cleaning consists of following the instructions provided with the device.

(c) **Enzyme Cleaner in Ultrasonic Devise.** After precleaning and rinsing the instruments, they are then placed in an ultrasonic cleaning unit and submerged in a protein-dissolving enzyme cleaner or detergent per the manufacturer's instructions.

(d) **Packaging.** After the instruments have been placed in an ultrasonic cleaner, all packaged, non-disposable instrument are instruments are dried and packed individually in sterilized pouches. These sterilized pouches contain either an indicator or integrator strip. Additionally, the expiration date stated on the pouch cannot exceed 6 months from when the instrument was packed into the sterilized pouch.

(e) **Autoclave.** All packaged, non-disposable instruments are sterilized in a steam autoclave. The autoclave is used, cleaned, and maintained according to the manufacturer's instructions. A copy of the manufacturer's recommended procedures for the autoclave is kept on site and available for inspection.

(g) **Storing.** After properly packaged, instruments are immediately stored in a dry, clean cabinet or tightly covered container reserved for the storage of such instrument. All instruments remain properly stored in their sterile pouches until just before performing a procedure. Sterile equipment can only be handled with clean gloves and cannot be used if the package has been breached or after the expiration date without first repackaging and resterilizing.

(h) **Statim Autoclave Option.**

(1) For establishments utilizing a Statim autoclave, an operator will need to take monthly spore tests that are verified through an independent laboratory to confirm that the Statim autoclave is capable of attaining sterilization.

(2) The reusable items are sterilized in a bulk load without sterilization pouches, just before the procedure.

(3) Items are used immediately after opening the Statim autoclave cassette.

(4) The items contained in the cassette are used for one client only and include the use of an integrator strip.

(i) **Assembling.** When assembling instruments, the artist will wear disposable exam gloves and use aseptic techniques to ensure that the instruments and gloves are not contaminated.

310:233-3-4. Exemptions [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-4.1. Single use items

Single use items cannot be used on more than one client for any reason. After use, all needles, razors and other sharps shall be immediately disposed of in an approved sharps container.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-5. Public notification requirements [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-5.1. Client identification

(a) Acceptable forms of government issued identification shall include the client's name, picture, and date of birth.

(b) To pierce a minor, the identification in (a) of this section is required from the legal parent or legal guardian. Identification for the minor shall include an original birth certificate and a photo ID of the minor, or court documentation verifying legal guardianship and a photo ID of the minor.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-6. Client records [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-6.1. Consent form

(a) A client must sign a consent form before receiving a body piercing or tattoo. The consent form summarizes the procedure information. It shall include:

- (1) The name, and address of the establishment;
- (2) The name, date of birth, and address of the client;
- (3) The date of the procedure;
- (4) Identification and location of procedure(s) performed;
- (5) The artist's name and license number;
- (6) The signature of the artist; and
- (7) The signature of the client or guardian.
- (8) A photocopy of the client's government issued photo identification, or
- (9) A photocopy of the guardian's government issued photo identification if the client is a minor.

(b) In order for the artist to properly evaluate the client's condition prior to a procedure, the following questions shall be asked of the client in the consent form:

- (1) Does the client have a history of:
 - (A) Diabetes;
 - (B) Hemophilia or excessive bleeding;
 - (C) Skin disease, skin lesions or skin sensitivities to soaps or disinfectants;
 - (D) Allergies, adverse reactions or other skin sensitivities;or
- (E) Epilepsy, seizures, fainting or narcolepsy.
- (2) If the client is:
 - (A) Taking medications such as anticoagulant;
 - (B) Pregnant and/or nursing; and
 - (C) When the client last ate.
- (3) Other pertinent medical history or condition that might affect the healing process.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-7. Preparation and care of the body art area [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-7.1. Aftercare instructions

Before starting the procedure, the operator or artist, shall provide verbal and written aftercare instructions regarding the procedure to include:

- (1) The name, address, and telephone number of the establishment;
- (2) The artist name;
- (3) That it is still possible to have transmission of a bloodborne disease or infection as a result of a body piercing or tattoo;
- (4) To consult a physician at the first sign of infection;
- (5) That the establishment complies with this Chapter;
- (6) That complaints may be filed with the department; and
- (7) Caring for the body piercing or tattoo and surrounding area.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-3-8. Records retention

The following information shall be kept on file on the premises of a body-piercing or tattooing establishment and shall be available for inspection by the regulatory authority:

- (1) A complete definition of all body piercing procedures performed;
- (2) An inventory of all instruments and supplies, including body jewelry, sharps used for any and all body piercing or tattooing

procedures, including names of manufacturers and serial or lot numbers, if applicable, which may be satisfied by retaining invoices or orders;

(3) Autoclave testing records as described in OAC 233 3-3.1.

(4) Signed consent forms for all body piercing or tattoo procedures administered;

(5) Client records of procedures performed shall be

(A) Confidential;

(B) Made available to the regulatory authority upon request;

(C) Retained for three (3) years; and

(D) Destroyed by shredding or other appropriate destruction methods after three (3) years.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

SUBCHAPTER 5. SANITATION AND STERILIZATION PROCEDURES [REVOKED]

310:233-5-1. Reusable equipment [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-5-2. Single use items [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

SUBCHAPTER 7. REQUIREMENTS FOR PREMISES

310:233-7-1. Physical construction and maintenance [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-7-1.1. Establishment physical construction

(a) A mobile unit, including, but not limited to, a mobile home, recreational vehicle, cargo trailer or any other non-permanent facility, shall not be used as a body piercing or tattoo establishment.

(b) All walls, floors, and procedure surfaces of an establishment shall be smooth, free of open holes or cracks, washable, in good repair, and clean.

(c) Establishments shall be completely separated by solid walls, with no doors or windows, from any room used for human habitation, where food is prepared or served other than an employee break room, where services other than body piercing or tattooing is provided such as hair,

nails and tanning services, or other such activity which may cause potential contamination of procedure surfaces.

(d) Establishments must comply with all applicable building laws.

(e) Reusable cloth items cannot be used in the licensed establishment.

(f) Establishment shall have an area which may be screened from public view for clients requesting privacy.

(g) Artificial light equivalent to at least twenty (20) foot candles shall be provided in all areas.

(h) A restroom with at least 1 toilet and not fewer than the toilets required by law shall be provided.

(1) The restroom shall be completely enclosed and provided with a self-closing door.

(2) A restroom used by females shall be provided with a covered receptacle for sanitary napkins.

(3) A supply of toilet tissue shall be available at each toilet.

(4) It shall be equipped with a handwashing sink with:

(A) Hot and cold running water, under pressure;

(B) Liquid germicidal soap;

(C) Disposable paper towels; and

(D) A covered waste receptacle.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-7-2. Location requirements and limitations [REVOKED]

[Source: Added at 24 Ok Reg 186, eff 11-1-06 (emergency); Added at 24 Ok Reg 1928, eff 6-25-07 ; Amended at 27 Ok Reg 2507, eff 7-25-10 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-7-2.1. Procedure areas

(a) Multiple procedure areas shall be separated from each other by a wall or rigid divider to visually define the space and limit potential contamination of neighboring procedure areas.

(b) Each procedure area shall:

(1) Have a minimum of forty-five (45) square feet of floor space;

(2) Have a sharps container available;

(3) Be equipped with a handwashing facility with:

(A) Hot and cold running water, under pressure;

(B) Wrist or foot operated controls;

(C) Liquid germicidal soap;

(D) Disposable paper towels; and

(E) A covered waste receptacle.

(c) All procedure area surfaces, including client chairs and benches shall be cleaned and disinfected after each client.

(d) Artificial light equivalent to at least one hundred (100) foot candles of intensity shall be provided.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-7-3. Decontamination room

(a) The establishment shall have a separate:

(1) Fully enclosed room for the decontamination and packaging of contaminated instruments; and

(2) An area or room where the autoclave is housed and utilized that is only exposed to contaminated, packaged instruments that are loaded directly into the autoclave from the decontamination room.

(A) This decontamination room shall contain all equipment and supplies used for decontaminating instruments; and

(B) Will be where all steps of the sterilization process take place until the transfer of the packaged contaminated instruments to the autoclave.

(b) The area or room that contains the autoclave shall not be part of the procedure room or area where clients have access.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-7-4. Waste disposal

(a) Contaminated waste which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled shall be placed in a biohazard bag or container which is properly labeled and disposed of consistent with OAC 252:515.

(b) Sharps ready for disposal shall be placed in a sharps container and disposed of consistent with OAC 252:515.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

SUBCHAPTER 9. LICENSE REQUIREMENTS

310:233-9-1. Body piercing or tattoo license [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Amended at 27 Ok Reg 2507, eff 7-25-10 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-1.1. Artist and establishment license

(a) The license holder must be a minimum of eighteen (18) years of age to be eligible for a license.

(b) A license will need to be renewed annually as it expires one year from the date of issuance, unless it is revoked or suspended by the Department before the expiration date.

(c) Each license shall be posted in a prominent and conspicuous area where it can be readily observed by clients.

(d) A license for a body piercing or tattoo establishment is issued for the physical location of the establishment. The license cannot be transferred to another owner or location.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-2. Artist license [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Amended at 27 Ok Reg 2507, eff 7-25-10 ; Amended at 34 Ok Reg 1276, eff 10-1-17 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-2.1. Event and establishment license application

(a) A completed application shall include:

(1) For the applicant:

- (A) Name;
- (B) Mailing address;
- (C) Telephone number; and
- (D) E-mail address.

(2) For the establishment:

- (A) Name;
- (B) If tattooing, body piercing, or both are to be conducted;
- (C) Information specifying whether the establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (D) Mailing address;
- (E) Physical address;
- (F) Telephone number; and
- (G) E-mail.
- (H) Other information as required by the Department.

(b) **Event.** In addition to the information identified in OAC 310:233-9-3.1, an event application shall be submitted at least thirty (30) days prior to the event and include:

- (1) Event Operator Name;
- (2) The physical location of the event;
- (3) The purpose of the event;
- (4) The start and end time of the event; and
- (5) The names and license numbers of the artists participating.

(c) **Issuance.** The Department will issue a license to the event or establishment after:

- (1) A properly completed application is received;
- (2) The required fees are received; and
- (3) A pre-licensing inspection shows that the event or establishment is in compliance with this Chapter and meets the Department's criteria for licensure.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-3. Prohibitions [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-3.1. Event license

(a) An event license may be issued for body piercing or tattoo procedures for the purposes of:

- (1) Product demonstration;
- (2) Industry trade shows; or
- (3) Educational reasons.

(b) The event shall:

- (1) Be for a specified period not to exceed three (3) consecutive days;
- (2) Be a single event, where the primary function of the event is body piercing or tattooing;
- (3) Be affiliated with an establishment that has a current license issued by the Department;
- (4) Be contained in a completely enclosed, non-mobile environment;
- (5) Have artists that meet the requirements outlined in OAC 310:233-9-4.1; and
- (6) Ensure a safe and sanitary environment by:
 - (A) Providing facilities to properly sterilize instruments; or
 - (B) Only using single use, prepackaged, sterilized equipment.

(c) Temporary licenses are not transferable from one special event to another.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-4. Body piercing or tattoo operators surety bond [REVOKED]

[Source: Added at 24 Ok Reg 186, eff 11-1-06 (emergency); Added at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 27 Ok Reg 2507, eff 7-25-10]

310:233-9-4.1. Individual license and certificate applications

(a) The complete application for any individual license or certificate shall include:

- (1) Name;
- (2) License number if applicable;
- (3) List of Alias;
- (4) Date of birth;
- (5) Sex;
- (6) Residence address;
- (7) Mailing address;
- (8) Email address;
- (9) Telephone number;
- (10) Location of current practice Identified;
- (11) The license type, tattooing or body piercing, Identified;
- (12) Copy of the applicant's certificate of birth;
- (13) Copy of the applicant's government-issued photo identification (e.g. a valid driver's license, passport, etc.);
- (14) Other information as required by the Department; and
- (15) Any applicable fees.

(b) **Documents.** In addition to the information identified in (a) of this section, an initial application for apprentice, permanent, or temporary artist shall include:

- (1) Current certification from a recognized nationally accredited program for:
 - (A) Bloodborne pathogens;
 - (B) First aid certification; and
 - (C) CPR certification.
- (2) Proof of experience such as:
 - (A) Proof of the successful completion of an apprentice program as described in OAC 310:233-9-8.1, or
 - (B) Documentation of two (2) years of appropriate licensure by another government entity such as:
 - (i) Copies of licenses,
 - (ii) Statements from the state's regulatory authority,
 - (iii) Statements from the facility operator where the applicant worked,
 - (iv) Membership in an entity for which practice as an artist is a requisite, or
 - (v) Government forms such as tax returns filed by the artist showing employment as an artist;

(c) **Skills challenge.** A person who has acceptable proof of experience or training as required in (a) or (b) of this section, may be approved by the Department to take the skills challenge to obtain an apprentice or permanent license.

- (1) Within thirty (30) days after receipt of a completed application, the Department shall notify the applicant of its decision to approve or disapprove the applicant to take the examination.
- (2) An applicant who is eligible for the skills challenge must present a letter of notification from the Department to administer the test given by Oklahoma Department of Career and Technology Education.
- (3) The Department shall accept the test administered by the Oklahoma Department of Career and Technology Education with results to be evidenced by a completed testing verification provided to the Department by the Oklahoma Department of Career and Technology Education.
- (4) The written examination will include:
 - (A) Knowledge of Anatomy;
 - (B) Physiology, and Disease;
 - (C) Theory and application;
 - (D) Safety and Aseptic Technique;
 - (E) Professionalism; and
 - (F) Client Consultation Services.
- (5) Minimum passing score for the written examination is 70%.
- (6) A candidate who does not meet this score may retest up to two (2) times, however
 - (A) They must wait at least seven (7) days before retesting; and

- (B) After three attempts are required to repeat the student program.
- (d) **Renewals.** In addition to the information identified in (a) of this section, a renewal of an artist license shall include current certification from a recognized nationally accredited program for:
- (1) Bloodborne pathogens;
 - (2) First aid certification; and
 - (3) CPR certification.
- (e) **Student and apprentice.** In addition to the information identified in (a) of this section, a student or apprentice shall identify their sponsor.
- (f) **Sponsor.** In addition to the information identified in (a) of this section, a sponsor shall provide:
- (1) An approved curriculum; or
 - (2) A proposed curriculum if none has been approved prior.
 - (3) The applicant for a sponsor certification shall meet the following qualifications:
 - (A) Holds a current Oklahoma artist license in the appropriate field;
 - (B) Provides documentation of legally practicing in the appropriate field for at least five (5) years;
 - (C) Supervises no more than one student in each curriculum at any one time;
 - (D) Supervises no more than one apprentice in each curriculum at any one time.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-5. Apprentice sponsor [REVOKED]

[Source: Added at 24 Ok Reg 186, eff 11-1-06 (emergency); Added at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-5.1. License and certificate fees

(a) Tattoo or body piercing artist license and registration fees are as follows:

- (1) Student: \$0;
- (2) Sponsor: \$0;
- (3) Apprentice: \$250.00;
- (4) Initial: \$250.00;
- (5) Renewal: \$250.00;
- (6) Renewal thirty (30) days after expiration: \$350.00; and
- (7) Temporary: \$50.00;
 - (A) Not to exceed seven (7) consecutive days; and
 - (B) Not to exceed thirty (30) total days per year.

(b) Establishment license fees are as follows:

- (1) Tattoo:
 - (A) Initial: \$1,000.00.
 - (B) Renewal: \$500.00.
 - (C) Renewal thirty (30) days after expiration: \$750.00.
 - (D) Event: \$500.00.
- (2) Body piercing:

- (A) Initial: \$500.00.
- (B) Renewal: \$250.00.
- (C) Renewal thirty (30) days after expiration: \$350.00.
- (D) Event: \$250.00.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-6. Apprentice program [REVOKED]

[Source: Added at 24 Ok Reg 186, eff 11-1-06 (emergency); Added at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-6.1. Student curriculum

(a) Curriculum requirements shall be taught over 1500 hours over the course of one year to include the following:

- (1) Microbiology;
- (2) Sanitation and disinfection;
- (3) Safety;
- (4) Bloodborne pathogen standards;
- (5) Professional standards; and
- (6) Body piercing or tattooing procedures based on the field of teaching.

(b) The sponsor shall sign off on the successful completion of the student curriculum with the completion of 1500 hours.

(c) The sponsor shall sign off on the successful completion of the Apprentice program with the completion of one (1) year of supervised, licensed work.

(d) The licensed apprentice procedures shall be under the direct face to face supervision of their apprentice sponsor.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-7. Apprentice [REVOKED]

[Source: Added at 24 Ok Reg 186, eff 11-1-06 (emergency); Added at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-7.1. Suspension or withdrawal of sponsor certificate

(a) A sponsor certificate may be withdrawn or suspended temporarily by the Department for failure of the sponsor to comply with this chapter.

(b) The sponsor shall be notified in writing by the Department of the action and the ability to challenge the decision.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-9-8. License application and review process [REVOKED]

[Source: Added at 24 Ok Reg 186, eff 11-1-06 (emergency); Added at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

SUBCHAPTER 11. ENFORCEMENT

310:233-11-1. General requirements [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-11-1.1. Waivers and variances

- (a) The operator of an establishment may request that a waiver be granted on any nonconforming use that may then exist, on or before the effective date of the rule change, at the license holder's place of operation.
- (b) The operator of an establishment may request that a variance be granted to portions of this chapter.
- (c) Waivers and variances requested pursuant to this Subchapter are subject to approval by the Department.
- (d) An operator must submit a written request detailing:
 - (1) The nature of the nonconforming use;
 - (2) The relevant section of this Chapter; and
 - (3) A timeline for correction of the nonconforming use; and
 - (4) A justification of how any public health concerns will be addressed.
- (e) If a request is approved, then the Department will send a notice of approval. If the operator has not received a notice of approval within sixty (60) calendar days from when the request was submitted, then the request has been denied.
- (f) Waivers and variances are not considered to be part of the license and may be revoked at any time, for any reason, by the Department. The licensee is not entitled to a hearing prior to revocation of a waiver or variance, but will be provided written notice of any revocation along with instructions that the licensee must become compliant by a certain date.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-11-2. Investigation, filing of actions and hearing procedures [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-11-2.1. Time frame for correction

The license holder shall correct violations by a date and time agreed to or specified by regulatory authority but no later than thirty (30) calendar days after the inspection.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-11-3. Suspension or revocation of licenses [REVOKED]

[Source: Added at 16 Ok Reg 1701, eff 3-23-99 (emergency); Added at 16 Ok Reg 2458, eff 6-25-99 ; Amended at 24 Ok Reg 186, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

310:233-11-3.1. Investigation and enforcement

- (a) If the Department determines that a possible violation of the Body Piercing or Tattoo statutes or Rules has occurred, the Department may commence an investigation of the complaint.
- (b) Hearings and disciplinary actions are conducted in accordance with the Administrative Procedures Act and Chapter 2 of this Title.
- (c) The Department will specifically state the violation(s) and request the appropriate remedy. Remedies may include revocation or suspensions of a license, and/or an administrative penalty.
- (d) The total administrative penalty amount assessed for all violations found through an investigation cannot exceed \$10,000.00.
- (e) If the Department determines that a licensee or applicant for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the establishment or artist's license or authorization for sponsoring a student or apprentice.
- (f) An applicant for licensure shall not:
 - (1) Knowingly make a false statement of material fact; or
 - (2) Fail to disclose a fact necessary to correct a misapprehension regarding the application for licensure or the matter under investigation; or
 - (3) Fail to comply with a request for information made by the Department or any designated representative thereof.
- (g) The Department may notify the district attorney of any violation of 21 O.S. §842.1 or this Chapter [21 O.S § 842.3]
- (h) Additionally, an individual can also report criminal acts directly to a district attorney's office.

[Source: Added at 39 Ok Reg 1224, eff 9-11-22]

310:233-11-4. Suspension or withdrawal of apprentice sponsor [REVOKED]

[Source: Added at 24 Ok Reg 186, eff 11-1-06 (emergency); Added at 24 Ok Reg 1928, eff 6-25-07 ; Revoked at 39 Ok Reg 1224, eff 9-11-22]

CHAPTER 234. MEDICAL MICROPIGMENTATION

[**Authority:** 63 O.S., §§ 1-104 and 1-1450 et seq.]

[**Source:** Codified 6-27-02]

SUBCHAPTER 1. GENERAL PROVISIONS

310:234-1-1. Purpose

The rules implement the provisions of the Oklahoma Medical Micropigmentation Regulation Act, 63 O.S. Section 1-1450 et seq.

[**Source:** Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 39 Ok Reg 1241, eff 9-11-22]

310:234-1-2. Definitions

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

"Autoclave bag" means a bag for holding instruments or other items, which are to be put into an autoclave for sterilization.

"Certification" means written approval by the Department for a person to perform medical micropigmentation.

"Committee" means the Consumer Protection Licensing Advisory Council.

"Contaminated waste" means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood and other potentially infectious materials, as defined in the "Bloodborne Pathogens." [29 CFR § 1910.1030]

"Department" means the Oklahoma State Department of Health.

"Equipment" means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with medical micropigmentation procedures.

"Handsink" means a lavatory equipped with hot and cold running water under pressure used solely for washing hands, arms or other portions of the body.

"Hot water" means water that attains and maintains a temperature of 100 °F.

"Instruments used for medical micropigmentation" means handpieces, needles, needle bars and other instruments that may contact a client's body or body fluids during medical micropigmentation.

"Licensing board" means *the Oklahoma State Board of Medical Licensure and Supervision, the State Board of Osteopathic Examiners and/or the Board of Dentistry.* [63 O.S. Section 1-1451(1)]

"Medical micropigmentation" means *a medical procedure in which any color or pigment is applied with a needle or electronic machine:*

(A) *To produce a permanent mark visible through the skin;*

(B) *Above the jawline and anterior to the ear and frontal hairline including but not limited to application of eyeliner, eye shadow, lips, eyebrows, cheeks, and scars; and/or*
(C) *For regimentation of areas involving reconstructive surgery or trauma.* [63 O.S. Section 1-1451(2)]

"Physician" means a person licensed to practice:

(A) *Allopathic medicine and surgery by the Oklahoma State Board of Medical Licensure and Supervision pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act.*

(B) *Osteopathic medicine by the State Board of Osteopathic Examiners pursuant to the Oklahoma Osteopathic Medicine Act, or*

(C) *Dentistry by the Board of Dentistry pursuant to the State Dental Act.* [63 O.S. Section 1-1451(3)].

"Poses a reasonable threat" means *the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.* [63 O.S. Section 1-1451(E)(2)]

"Procedure surface" means any part of equipment designed to contact the client's unclothed body during a medical micropigmentation procedure.

"Sanitize" means a process of reducing the number of microorganisms on cleaned surfaces and equipment to a safe level and has been approved by the Department.

"Sharps" means any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized, single use needles, scalpel blades and razor blades.

"Sharps container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and is labeled with the International Biohazard Symbol.

"Single use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, and protective gloves.

"Skills area evaluation" means an evaluation given at the end of instruction for a particular skills area that consists of two parts: technique and theory. Mastery of technique shall be demonstrated by performing the skills on the job sheet(s) for that skills area in the presence of an approved evaluator (supervising physician or instructor) with 100% accuracy. A candidate demonstrates mastery of micropigmentation theory by scoring 85% or greater on a written test over the material in that skills area.

"Sterilization" means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

"Substantially relates" means *the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily*

related to the occupation. [63 O.S. 1451(E)(1)]

"Ultrasonic" means ultrasonic sound, which is pertaining to acoustic frequencies above the range audible to the human ear, or, above approximately 20,000 cycles per second. There are several types of ultrasonic devices.

"Written certification examination" means the state examination taken upon satisfactory completion of all skills area evaluations. An applicant demonstrates written competency by scoring 70% or greater on the written certification examination.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 24 Ok Reg 1177, eff 4-2-07 (emergency); Amended at 24 Ok Reg 1940, eff 6-25-07 ; Amended at 39 Ok Reg 1241, eff 9-11-22 ; Amended at 40 Ok Reg 1543, eff 9-11-23]

SUBCHAPTER 3. MEDICAL MICROPIGMENTATION CERTIFICATION

310:234-3-1. Practice limitations

On and after May 1, 2002, medical micropigmentation may only be performed in a physician's office by:

- (1) A physician as defined by the Oklahoma Medical Micropigmentation Regulation Act;
- (2) A registered nurse licensed by the Oklahoma Board of Nursing who holds a current certificate issued by the State Commissioner of Health pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act while working under supervision of a physician. The level of supervision shall be determined by the physician in whose office medical micropigmentation is being performed; and
- (3) A person who holds a current certificate issued by the State Commissioner of Health pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act while working under supervision of a physician. The level of supervision shall be determined by the physician in whose office medical micropigmentation is being performed. [63:1-1452]

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 21 Ok Reg 1035, eff 5-13-04]

310:234-3-2. Certification requirements

(a) An individual shall be eligible to apply for a certificate to practice medical micropigmentation by satisfying all of the following criteria:

- (1) Applicant has received a high-school diploma or its equivalent;
- (2) Applicant is at least twenty-one years of age;
- (3) Applicant provides a copy of his/her driver's license or other similar photo identification;
- (4) Applicant provides a copy of his/her credentials and professional resume that documents years of practice and number of procedures performed (if applicable);

(5) Applicant provides proof of satisfactory completion of an OSDH-approved medical micropigmentation training and testing program.

(b) The State Commissioner of Health shall not issue a certificate or renew a certificate to perform medical micropigmentation procedures to persons as specified in Title 63, Section 1-1454(B).

(c) **Certification fees.** Fees to obtain a certificate to practice medical micropigmentation in Oklahoma are as follows:

(1) \$500.00 for a new application for certification;

(2) \$100.00 for a renewal of certification;

(3) \$375.00 for reinstatement of certification if the renewal is 30 days or more after the expiration date; or

(4) \$125.00 for the replacement of a certificate.

(5) Applicant shall be responsible for the cost of the examination or re-examination and background checks relating to licensing or certification.

(d) **Period of validity for certificate.** Certification is valid for one (1) year after date of issuance.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 24 Ok Reg 1177, eff 4-2-07 (emergency); Amended at 24 Ok Reg 1940, eff 6-25-07 ; Amended at 39 Ok Reg 1241, eff 9-11-22]

310:234-3-3. Training and testing

An individual shall satisfy the training and testing requirement for certification by meeting the following criteria: Satisfactory completion of an OSDH-approved medical micropigmentation training program and the certification testing process shall include skills area evaluations and written certification test.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 24 Ok Reg 1177, eff 4-2-07 (emergency); Amended at 24 Ok Reg 1940, eff 6-25-07 ; Amended at 39 Ok Reg 1241, eff 9-11-22]

310:234-3-3.1. Reciprocity

An applicant shall qualify for certification by reciprocity if the applicant:

(1) *Has qualifications and training comparable to those required under the Oklahoma Medical Micropigmentation Regulation Act;*

(2) *Provides documentation verifying two (2) years of experience and a minimum of two hundred (200) procedures;*

(3) *Has successfully completed the Oklahoma certification examination [63 O.S. Section 1-1455(E)]; and*

(4) *Provides documentation verifying possession of licensing or certification from another state in good standing.*

[Source: Added at 21 Ok Reg 238, eff 11-6-03 (emergency); Added at 21 Ok Reg 1035, eff 5-13-04 ; Amended at 24 Ok Reg 1177, eff 4-2-07 (emergency); Amended at 24 Ok Reg 1940, eff 6-25-07 ; Amended at 39 Ok Reg 1241, eff 9-11-22]

310:234-3-4. Certificate by completion of medical micropigmentation training program and certification testing

process

(a) Training in medical micropigmentation obtained through the Oklahoma Department of Career and Technology Education or other training course shall consist of at least 300 hours or equivalent of competency based instruction encompassing both theory and clinical training and is approved by the Department as meeting the training and curriculum requirements of this section.

(b) Medical Micropigmentation training shall be in the following skills area including theory and lab training:

- (1) Safety and Aseptic Technique;
- (2) Knowledge of Facial Anatomy, Physiology, and Disease;
- (3) Theory and Application of Micropigmentation;
- (4) Color Theory;
- (5) Client Consultation Services;
- (6) Professionalism; and
- (7) Micropigmentation procedures (eyeliner, lips, eyebrows, eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma, or repigmentation of the areola):
 - (A) Basic procedures on clients (eyeliner, lips, and eyebrows),
 - (B) Advanced procedures (eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma or repigmentation of the areola).

(c) The instructor for micropigmentation procedures and techniques shall be an Oklahoma Certified Micropigmentologist who has performed procedures for three (3) years that shall include eye procedures, full lip procedures, and eyebrow procedures.

(d) **Skills area evaluations.**

- (1) During the training program, a candidate must satisfactorily complete an evaluation for each skills area. The evaluation verifies that micropigmentation concepts and/or techniques presented in that skills area have been mastered.
- (2) Mastery of medical micropigmentation technique in a skills area shall be demonstrated when the candidate performs all skills presented on all job sheets contained within that skills area to the instructor with 100% accuracy.
- (3) Mastery of medical micropigmentation theory in a skills area shall be demonstrated when the candidate scores 85% on the written test over material covered in that skills area (if applicable).

(e) **Written certification examination.**

- (1) Candidates shall be eligible to sit for the written certification examination upon satisfactory completion of training and skills area evaluations.
- (2) A passing score of 70% shall be required to show competency. A candidate who does not meet this score can retest up to two (2) times. Candidates who do not pass the written certification examination must wait at least seven (7) days before retesting. Candidates who are unable to attain competency after three attempts shall be required to re-enroll in the medical micropigmentation training program.

(f) **Application for certification.** Upon satisfactory completion of the medical micropigmentation training and certification testing process, the applicant is eligible to apply for a Medical Micropigmentation Certificate. In order to apply for a Certification, the candidate must submit the following to OSDH:

- (1) Completed application;
- (2) Copy of the candidate's certificate of birth;
- (3) Copy of the candidate's driver's license or other similar form of photo ID;
- (4) Copy of the candidate's professional credentials; and
- (5) Completed Training and Testing Verification Form.

(g) **Issuance of certificates.** The State Commissioner of Health shall award a certificate to eligible applicants within thirty (30) days of receipt of the completed application and required documents.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 19 Ok Reg 3048, eff 8-22-02 (emergency); Amended at 20 Ok Reg 1613, eff 6-12-03 ; Amended at 21 Ok Reg 238, eff 11-6-03 (emergency); Amended at 21 Ok Reg 1035, eff 5-13-04 ; Amended at 24 Ok Reg 1177, eff 4-2-07 (emergency); Amended at 24 Ok Reg 1940, eff 6-25-07 ; Amended at 39 Ok Reg 1241, eff 9-11-22]

310:234-3-5. Certificate by skills challenge and certification testing [REVOKED]

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 19 Ok Reg 3048, eff 8-22-02 (emergency); Amended at 20 Ok Reg 1613, eff 6-12-03 ; Amended at 24 Ok Reg 1177, eff 4-2-07 (emergency); Amended at 24 Ok Reg 1940, eff 6-25-07 ; Revoked at 39 Ok Reg 1241, eff 9-11-22]

SUBCHAPTER 5. SANITATION AND STERILIZATION PROCEDURES

310:234-5-1. Reusable equipment

(a) After each use, all non-single use, non-disposable instruments used for medical micropigmentation shall be cleaned thoroughly by scrubbing with an appropriate soap or disinfectant solution and hot water or by following the manufacturer's instructions to remove blood and tissue residue, and placed in an ultrasonic unit which shall be operated in accordance with the manufacturer's instructions.

(b) After cleaning, all non-disposable instruments used for body micropigmentation shall be packed individually in peel-packs and subsequently sterilized. All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with the date sterilized.

(c) All cleaned, non-disposable instruments used for medical micropigmentation shall be sterilized in a steam autoclave. The autoclave shall be used, cleaned, and maintained according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of their sterilization unit shall be available for inspection by the Department. Sterile equipment shall not be used if the package has been breached without first repackaging and resterilizing. Sterilizers

shall be located away from areas used for cleaning of non-disposable instruments. If all single use, disposable instruments and products and sterile supplies are used, an autoclave shall not be required.

(d) Each holder of a medical micropigmentation certification shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. These test records shall be retained by the operator for a period of three (3) years and made available to the Department upon request.

(e) After sterilization, the instruments used for medical micropigmentation shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

(f) All instruments used for medical micropigmentation shall remain stored in sterile packages until just before performing a micropigmentation procedure. When assembling instruments used for performing medical micropigmentation procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.

(g) All needles and equipment shall be specifically manufactured for performing medical micropigmentation procedures and shall be used according to manufacturer's instructions.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02]

310:234-5-2. Single use items

Single use items shall not be used on more than one client for any reason. After use, all single use needles and other sharps shall be immediately disposed of in approved sharps containers.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02]

SUBCHAPTER 7. REQUIREMENTS FOR PREMISES

310:234-7-1. Physical facilities

Medical micropigmentation shall only be performed in a physician's office. The applicant or licensed medical micropigmentation person shall provide information to the Department in their application or renewal form stating who the supervising physician is with the dentist or physician('s) signature, address of the dentist or physician's office where the dentist or physician is supervising, and where the Certified Medical Micropigmentologist being supervised is performing medical micropigmentation.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 24 Ok Reg 1177, eff 4-2-07 (emergency); Amended at 24 Ok Reg 1940, eff 6-25-07 ; Amended at 39 Ok Reg 1241, eff 9-11-22]

310:234-7-2. Physical construction and maintenance

- (a) All walls, floors, ceilings and all procedure surfaces where medical micropigmentation is performed shall be smooth, free of open holes or cracks, washable, in good repair, and clean. All procedure surfaces, including client chairs/benches shall be of such construction as to be easily cleaned and sanitized after each client.
- (b) No animals of any kind shall be allowed in the area where medical micropigmentation is performed except service animals used by persons with disabilities.
- (c) The facility shall comply with OAC 158:40 (Plumbing Industry Regulations). In addition, a separate, readily accessible, handsink with hot and cold running water, under pressure, equipped with wrist or foot operated controls and supplied with liquid soap, and disposable paper towels shall be readily accessible to each individual performing medical micropigmentation.
- (d) At least one covered waste receptacle shall be provided in each medical micropigmentation area and each toilet room. All refuse containers shall be lidded, cleanable and kept clean.
- (e) All instruments and supplies shall be stored in clean, dry and covered containers.
- (f) Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.
- (g) The facility shall comply with OAC 158:40 (Electrical Industry Regulations). In addition, the medical micropigmentation room shall have 10-foot candles of light at 30 inches above the floor and 30-foot candles on surfaces where micropigmentation is performed.
- (h) The facility shall comply with OAC 158:50 (Mechanical Industry Regulations).

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 24 Ok Reg 1177, eff 4-2-07 (emergency); Amended at 24 Ok Reg 1940, eff 6-25-07]

SUBCHAPTER 9. STANDARDS FOR MEDICAL MICROPIGMENTATION

310:234-9-1. Records

The following information shall be kept on file three (3) years by the person performing medical micropigmentation and shall be available for inspection by the Department:

- (1) Proof that certified persons performing medical micropigmentation have either completed or were offered and declined, in writing, the hepatitis B vaccination series.
- (2) Current certification by the Department to perform medical micropigmentation.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02]

310:234-9-1.1. Medical Micropigmentation Records

An Oklahoma Certified Micropigmentologist shall provide the Oklahoma State Department of Health with the name, address, phone number, and licensure number of each of their supervising physicians; specifically identifying the Oklahoma State Board of Medical Licensure & Supervision, the Oklahoma State Board of Osteopathic Examiners and/or the Oklahoma State Board of Dentistry as the supervising physician's licensing authority. The Oklahoma Certified Micropigmentologist shall inform the Department of any and all changes thereto.

[Source: Added at 21 Ok Reg 238, eff 11-6-03 (emergency); Added at 21 Ok Reg 1035, eff 5-13-04 ; Amended at 39 Ok Reg 1241, eff 9-11-22]

310:234-9-2. Prohibited acts

- (a) Performing medical micropigmentation outside the confines of a physician's office.
- (b) Performing medical micropigmentation without a current certification or current licensure as a physician.
- (c) Smoking, eating, or drinking by anyone is prohibited in the area where medical micropigmentation is performed.
- (d) No person affected with an infectious disease shall work in any area where medical micropigmentation is performed if there is likelihood that they could contaminate equipment, supplies or working surfaces with body substances or pathogenic organisms.
- (e) Injection of local anesthesia shall only be administered by a certified micropigmentologist who is currently licensed as a nurse, a physician assistant or dental hygienist. The certified micropigmentologist not recognized by law to provide local anesthesia by other regulatory boards shall only administer infiltration by topical local anesthesia. These specified individuals may administer local anesthesia as allowed by their respective certified boards under which they practice.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 27 Ok Reg 2511, eff 7-25-10]

310:234-9-3. Standards

- (a) The person performing medical micropigmentation shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothes when performing medical micropigmentation procedures. Before performing medical micropigmentation procedures, the certified person must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- (b) In performing medical micropigmentation procedures, the certified person shall wear disposable medical gloves to minimize the possibility of transmitting infection to the person being pierced. Gloves must be changed if they become contaminated by contact with any non-clean surfaces or objects or by contact with a third person. The gloves shall be discarded after the completion of each procedure on an individual client and hands shall be washed before donning the next set of gloves. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable medical gloves does not preclude or

substitute for hand washing procedures as part of a good personal hygiene program.

(c) If, while performing a medical micropigmentation procedure, the certified person's glove is pierced, torn or otherwise contaminated, the contaminated gloves shall be discarded immediately and the hands washed thoroughly before a fresh pair of gloves are applied. Any item or instrument that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.

(d) Contaminated waste, which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled, must be placed in a biohazard container, which is marked with the International Biohazard Symbol. Sharps ready for disposal shall be placed in an approved sharps container with the International Biohazard Symbol. Contaminated waste which may release blood, body fluids, dried blood or dried body fluids and sharps must be disposed of consistent with OAC 252:520. Contaminated waste, which does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled, may be placed in a covered receptacle and disposed of through normal disposal methods.

(e) Any skin or mucosa surface being prepared to receive medical micropigmentation shall be free of rash or any visible infection.

(f) Administration of medication or anesthesia, if appropriate, shall comply with 59 O.S. Section 481-524, 59 O.S. Section 328 et seq., 59 O.S. Section 620 et seq., or 59 O.S. Section 567 et seq., or applicable law or rule.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02]

310:234-9-4. Client records

(a) In order to aid the certified person in assessing and determining whether the client is a suitable candidate to receive a given medical micropigmentation procedure, information relative to the following conditions should be sought from the client:

- (1) Reason for procedure;
- (2) History of allergies, drug allergies, adverse reactions or other skin sensitivities; including but not limit to:
 - (A) Drugs,
 - (B) Foods,
 - (C) Latex,
 - (D) Medications, and
 - (E) Topic medications.
- (3) History of high blood pressure;
- (4) History of cancer;
- (5) History of cataracts;
- (6) History of chemo/radiation;
- (7) Diabetes;
- (8) History of epilepsy, seizures, fainting or narcolepsy;
- (9) History of fever blisters;
- (10) History of glaucoma;

- (11) History of heart murmur;
 - (12) History of hemophilia (bleeding);
 - (13) History of hepatitis;
 - (14) History of HIV/Aids;
 - (15) History of artificial joints;
 - (16) History of keloids;
 - (17) Taking medications such as anticoagulants, which interfere with blood clotting;
 - (18) History of mitral valve prolapse;
 - (19) History of pacemaker;
 - (20) Currently pregnant;
 - (21) History of intraocular lens transplants;
 - (22) History of RK/PRK lasik;
 - (23) History of shingles;
 - (24) History of skin disease, skin lesions or skin sensitivities to soaps or disinfectants; and
 - (25) History of artificial valves;
- (b) The certified person shall ask the client to sign a Release Form confirming that the above information was obtained or attempted to be obtained.
- (c) Each certified person shall keep records of all medical micropigmentation procedures administered, including name, date of birth, address of the client, signature of the client, date of the procedure, and identification and location of the medical micropigmentation procedure(s) performed. All client records shall be confidential, they shall be retained for a minimum of three (3) years, and they shall be made available to the Department upon request.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02]

310:234-9-5. Preparation and care of the target area

- (a) Before a medical micropigmentation procedure is performed, the immediate and surrounding area of the skin where the procedure is to be conducted shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single use disposable razors or safety razors with single service blades shall be used and discarded after each use and the reusable holder shall be autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
- (b) In case of blood flow, all products used to check the flow of blood or to absorb blood shall be single use and disposed of immediately after use.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02]

SUBCHAPTER 11. ENFORCEMENT

310:234-11-1. General requirements

The State Commissioner of Health shall not issue a certificate or renew a certificate to perform medical micropigmentation to a person

who has:

- (1) *Been convicted of or pled guilty or nolo contendere to a felony crime that substantially relates to the practice of medical micropigmentation and poses a reasonable threat to public safety;*
- (2) *Been determined to have engaged in unprofessional conduct as defined by the rules promulgated by the State Board of Health;*
- (3) *Made a materially false or fraudulent statement in an application or other document relating to certification pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act; or*
- (4) *Had a health-related license, certificate, or permit suspended, revoked or not renewed or had any other disciplinary action taken, or had an application for a health-related license, certificate, or permit refused by a federal, state, territory, or District of Columbia regulatory authority for intentionally falsifying information.* [63 O.S. Section 1-1454(B)]

[Source: Reserved at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 40 Ok Reg 1543, eff 9-11-23]

310:234-11-2. Suspension or revocation of certification

- (a) A certification issued under the provisions of OAC 310:234 may be suspended by the Department for failure of the holder to comply with the requirements OAC 310:234.
- (b) Whenever a certificate holder has failed to comply with any notice issued under the provisions of OAC 310:234, the certificate holder shall be notified in writing that the certificate is, upon service of this notice, suspended. A hearing shall be provided if a written request for a hearing is filed with the Department.
- (c) Any certification may be permanently revoked after a hearing if the certificate holder is found to have repeated or serious violations of any of the requirements of OAC 310:234 or for interference with Department personnel in the performance of their duties.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02]

310:234-11-3. Administrative penalties

- (a) The Department may assess administrative penalties as follows:
 - (1) Failure to obtain appropriate certification (i.e. performing Micropigmentation without a certificate), \$5,000.00 per violation;
 - (2) Failure to observe procedures to prevent the transmission of a bloodborne pathogen, \$500.00 per violation;
 - (3) Failure to maintain instruments used in medical micropigmentation in a sterile condition, \$500.00 per violation;
 - (4) Failure to install and maintain appropriate facilities for handwashing, \$500.00 per violation;
 - (5) Failure to maintain client records or monthly spore destruction test records, \$500.00 per violation; or
 - (6) Demonstrating unprofessional conduct, which includes but is not limited to:

- (A) Advertising to the public in any manner without the necessary certificate;
- (B) Habitual intemperance or the habitual use of habit-forming drugs;
- (C) All advertising of business in which statements are made which are grossly untrue or improbable and calculated to mislead the public;
- (D) Conviction or confession of a crime involving violation of:
 - (i) The laws of this state, or
 - (ii) The Oklahoma Medical Micropigmentation Regulation Act or this Chapter;
- (E) Failure to maintain an office record for each patient which accurately reflects the treatment of the patient;
- (F) Fraud or misrepresentation in applying for or procuring a micropigmentation certificate;
- (G) Cheating on or attempting to subvert the medical micropigmentation certification examination(s);
- (H) Conduct likely to deceive, defraud, or harm the public;
- (I) Practice or other behavior that demonstrates an incapacity or incompetence to practice medical micropigmentation; or
- (J) Has been finally adjudicated and found guilty or entered a plea of guilty or nolo contendere to a felony crime as described Section 310:234-11-1(1) of this Chapter, whether or not sentence is imposed, and regardless of the pendency of an appeal, penalty of \$500.00 for each violation above in section 310:234-11-3(6).

(b) Penalties shall double for repeat offenses.

(c) Continued non-compliance shall result in administrative action to revoke the certification or to order the person to cease violating the law.

(d) Each day an offense occurs shall be considered a separate offense.

[Source: Added at 19 Ok Reg 378, eff 11-19-01 (emergency); Added at 19 Ok Reg 2067, eff 6-27-02 ; Amended at 40 Ok Reg 1543, eff 9-11-23]

310:234-11-4. Inspection of Complaints

Upon receipt of a complaint by the Department or upon receipt of notice relating to an alleged violation of the Oklahoma Medical Micropigmentation Regulation Act or rules promulgated there under, that involves the practice of micropigmentation in the office of a dentist or physician, the Department shall notify the appropriate licensing board of the complaint and request a joint inspection.

[Source: Added at 24 Ok Reg 1177, eff 4-2-07 (emergency); Added at 24 Ok Reg 1940, eff 6-25-07]

CHAPTER 235. DAIRY WASTE MANAGEMENT REGULATIONS [REVOKED]

[**Authority:** 63 O.S.Supp.1990, §§ 1-301.1 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:235-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2295, eff 6-26-95]

310:235-1-2. Dairy waste management [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2295, eff 6-26-95]

310:235-1-3. Definitions [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2295, eff 6-26-95]

SUBCHAPTER 3. IMPLEMENTATION OF DESIGN APPLICATION PROVISIONS [REVOKED]

310:235-3-1. Implementation schedule [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2295, eff 6-26-95]

310:235-3-2. Design approval [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2295, eff 6-26-95]

310:235-3-3. Land application [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2295, eff 6-26-95]

SUBCHAPTER 5. TEST PROVISIONS FOR COMPONENT DESIGN LOCATIONS [REVOKED]

310:235-5-1. Components of dairy waste management systems [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2295, eff 6-26-95]

310:235-5-2. Waste containment component design [REVOKED]

[Source: Revoked at 12 Ok Reg 2295, eff 6-26-95]

310:235-5-3. Location of nearby facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2295, eff 6-26-95]

310:235-5-4. Modified percolation test [REVOKED]

[Source: Revoked at 12 Ok Reg 2295, eff 6-26-95]

CHAPTER 240. DRUGS, MEDICAL DEVICES AND COSMETICS REGULATIONS

[**Authority:** 63 O.S., §§ 1-1119 and 1-1401 et seq.]

[**Source:** Codified 12-31-91]

310:240-1-1. Purpose

The rules in this Chapter implement the Drugs, Medical Devices and Cosmetics Article of the Public Health Code, 63. O.S., Sections 1-1119 and 1-1401 et seq.

310:240-1-2. Expiration of license

A license for the manufacturing, processing, packing, holding, transporting or brokering of drugs shall expire one year from the date of its issuance unless canceled or revoked prior to its expiration. For purposes of determining the expiration date of all licenses under this section, the date of issuance shall be deemed to be the date that an approved application for licensure is first issued by a duly authorized representative of the Health Department.

[**Source:** Amended at 8 Ok Reg 3101, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1423, eff 5-1-92 ; Amended at 10 Ok Reg 3443, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2615, eff 6-25-94]

310:240-1-3. Incorporation by reference

(a) Title 21, Parts 70, 71, 73 B through D, 74 B through D, 74 APP A, 80 through 82, 200 through 895 Code of Federal Regulations (CFR), as of April 1, 1991, issued under the Federal Food, Drug and Cosmetic Act of April 1, 1986 are hereby incorporated by reference into this Chapter, except parts 500 through 599 that relate to Animal Feeds and Related Products.

(b) For purposes of the provisions adopted by reference, references to the "Secretary" or "Commissioner" shall be deemed to mean the Commissioner of Health for the State of Oklahoma, and "Department" shall be deemed to mean the Oklahoma State Department of Health, unless the context clearly indicates otherwise.

(c) When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference, and the definitions contained therein shall apply.

(d) In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference from the CFR, and the requirements otherwise set forth in this Chapter, the provisions incorporated from the CFR shall prevail except where the regulations set forth in this Chapter are more stringent.

[**Source:** Added at 10 Ok Reg 3443, eff 7-1-93 (emergency); Added at 11 Ok Reg 2615, eff 6-25-94]

CHAPTER 245. ELECTRICAL INDUSTRY REGULATIONS [REVOKED]

[Authority: 59 O.S., §§ 1680 et seq.]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:245-1-1. Purpose [REVOKED]

[Source: Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-1-2. Definitions [REVOKED]

[Source: Amended at 10 Ok Reg 4197, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3817, eff 7-11-94 ; Amended at 12 Ok Reg 503, eff 12-12-94 (emergency); Amended at 12 Ok Reg 3039, eff 7-27-95 ; Amended at 13 Ok Reg 3875, eff 8-7-96 (emergency); Amended at 14 Ok Reg 1745, eff 5-27-97 ; Amended at 18 Ok Reg 1662, eff 5-25-01 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-1-3. Standard of installation [REVOKED]

[Source: Added at 13 Ok Reg 3875, eff 8-7-96 (emergency); Added at 14 Ok Reg 1745, eff 5-27-97 ; Amended at 16 Ok Reg 2465, eff 6-25-99 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE, THE HEARING BOARD AND THE VARIANCE AND APPEALS BOARD [REVOKED]

310:245-3-1. Procedures of the Committee [REVOKED]

[Source: Amended at 12 Ok Reg 503, eff 12-12-94 (emergency); Amended at 12 Ok Reg 3039, eff 7-27-95 ; Amended at 17 Ok Reg 2927, eff 7-13-00 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-3-2. Procedures of the Hearing Board [REVOKED]

[Source: Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-3-3. Procedures of the Variance and Appeals Board [REVOKED]

[Source: Amended at 12 Ok Reg 503, eff 12-12-94 (emergency); Added at 12 Ok Reg 3039, eff 7-27-95 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

SUBCHAPTER 5. LICENSING REQUIREMENTS [REVOKED]

310:245-5-1. Apprentice requirements [REVOKED]

[Source: Amended at 18 Ok Reg 1662, eff 5-25-01 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-5-2. Journeyman requirements [REVOKED]

[Source: Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-5-3. Contractor requirements [REVOKED]

[Source: Amended at 16 Ok Reg 2465, eff 6-25-99 ; Amended at 18 Ok Reg 1662, eff 5-25-01 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

SUBCHAPTER 7. LICENSE CLASSIFICATIONS [REVOKED]

310:245-7-1. Unlimited electrical license [REVOKED]

[Source: Amended at 16 Ok Reg 2465, eff 6-25-99 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-7-2. Residential electrical license [REVOKED]

[Source: Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1598, eff 5-25-00 ; Amended at 18 Ok Reg 1662, eff 5-25-01 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-7-3. Low voltage technicians [REVOKED]

[Source: Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-7-4. Electrical inspectors [REVOKED]

[Source: Amended at 17 Ok Reg 2927, eff 7-13-00 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-7-5. Limited electrical contractor [REVOKED]

[Source: Added at 18 Ok Reg 1662, eff 5-25-01 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

SUBCHAPTER 9. EXAMINATIONS AND LICENSE APPLICATIONS [REVOKED]

310:245-9-1. Examination applications [REVOKED]

[Source: Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-9-2. Examinations [REVOKED]

[Source: Amended at 16 Ok Reg 2465, eff 6-25-99 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-9-3. License and registration fees and renewals [REVOKED]

[Source: Amended at 12 Ok Reg 503, eff 12-12-94 (emergency); Amended at 12 Ok Reg 3039, eff 7-27-95 ; Amended at 13 Ok Reg 3875, eff 8-7-96 (emergency); Amended at 14 Ok Reg 1745, eff 5-27-97 ; Amended at 15 Ok Reg 1082, eff 12-15-97 (emergency); Amended at 15 Ok Reg 3154, eff 7-13-98 ; Amended at 16 Ok Reg 2465, eff 6-25-99 ; Amended at 17 Ok Reg 2927, eff 7-13-00 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

SUBCHAPTER 11. PROHIBITED ACTS [REVOKED]

310:245-11-1. Prohibited acts [REVOKED]

[Source: Revoked at 20 Ok Reg 1616, eff 6-12-03]

SUBCHAPTER 13. PLAN REVIEW AND CODE VARIANCE APPLICATIONS AND FEES, AND CODE APPEALS [REVOKED]

310:245-13-1. Plan review applications and filing fees [REVOKED]

[Source: Amended at 12 Ok Reg 503, eff 12-12-94 (emergency); Amended at 12 Ok Reg 3039, eff 7-17-95 ; Amended at 17 Ok Reg 2927, eff 7-13-00 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-13-2. Code variance applications and filing fee [REVOKED]

[Source: Amended at 12 Ok Reg 503, eff 12-12-94 (emergency); Added at 12 Ok Reg 3039, eff 7-27-95 ; Amended at 17 Ok Reg 2927, eff 7-13-00 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

310:245-13-3. Code interpretation appeals [REVOKED]

[Source: Added at 12 Ok Reg 503, eff 12-12-94 (emergency); Added at 12 Ok Reg 3039, eff 7-2-95 ; Revoked at 20 Ok Reg 1616, eff 6-12-03]

CHAPTER 247. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW REGULATIONS [REVOKED]

[**Authority:** 63 O.S.Supp.1990, §§ 689.1 et seq.]

[**Source:** Codified 5-1-92]

310:247-1-1. Purpose [REVOKED]

[**Source:** Added at 9 Ok Reg 487, eff 12-13-91 (emergency); Added at 9 Ok Reg 1427, eff 5-1-92 ;
Revoked at 12 Ok Reg 2299, eff 6-26-95]

310:247-1-2. Definitions [REVOKED]

[**Source:** Added at 9 Ok Reg 487, eff 12-13-91 (emergency); Added at 9 Ok Reg 1427, eff 5-1-92 ;
Revoked at 12 Ok Reg 2299, eff 6-26-95]

310:247-1-3. Incorporations by reference [REVOKED]

[**Source:** Added at 9 Ok Reg 487, eff 12-13-91 (emergency); Added at 9 Ok Reg 1427, eff 5-1-92 ; Added
at 9 Ok Reg 3477, eff 8-13-92 ; Revoked at 12 Ok Reg 2299, eff 6-26-95]

310:247-1-4. Submission of plans and reports [REVOKED]

[**Source:** Added at 9 Ok Reg 487, eff 12-13-91 (emergency); Added at 9 Ok Reg 3477, eff 8-13-92 ;
Revoked at 12 Ok Reg 2299, eff 6-26-95]

310:247-1-5. Claims of confidentiality [REVOKED]

[**Source:** Added at 9 Ok Reg 487, eff 12-13-91 (emergency); Added at 9 Ok Reg 3477, eff 8-13-92 ;
Revoked at 12 Ok Reg 2299, eff 6-26-95]

310:247-1-6. Address for submitting reporting forms [REVOKED]

[**Source:** Added at 9 Ok Reg 487, eff 12-13-91 (emergency); Added at 9 Ok Reg 3477, eff 8-13-92 ;
Revoked at 12 Ok Reg 2299, eff 6-26-95]

CHAPTER 250. FEE SCHEDULE FOR CONSUMER HEALTH SERVICE

[**Authority:** 63 O.S., §§ 1-104, 1-106.1, and 1-1118]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:250-1-1. Purpose

The rules in this Chapter implement the fee provisions of the public health code, as they exist and may be amended.

310:250-1-2. Processing

Applications for licenses, permits or renewals which are received on the effective date of each of the rules in this Chapter or later shall not be processed until the fees of this Subchapter are paid, as applicable.

[**Source:** Amended at 22 Ok Reg 739, eff 5-12-05]

310:250-1-3. Water and wastewater facility operator certification [REVOKED]

[**Source:** Amended at 10 Ok Reg 1989, eff 7-1-93 ; Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-4. Water treatment facility construction permits [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-5. Public water supply service annual fees [REVOKED]

[**Source:** Amended at 9 Ok Reg 3141, eff 6-22-92 (emergency); Amended at 9 Ok Reg 3551, eff 7-24-92 (emergency); Amended at 10 Ok Reg 1989, eff 7-1-93 ; Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-6. Wastewater treatment facility construction permits [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-7. Public bathing place construction permits [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-8. Water, wastewater and public bathing facility discharge permits [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-9. Water, wastewater and public bathing facilities exempted from fees [REVOKED]

[Source: Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-10. Food and drug operational permits [REVOKED]

[Source: Revoked at 15 Ok Reg 4129, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2468, eff 6-25-99]

310:250-1-11. Lodging establishment operational permits [REVOKED]

[Source: Revoked at 15 Ok Reg 4129, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2468, eff 6-25-99]

310:250-1-12. Solid waste [REVOKED]

[Source: Amended at 9 Ok Reg 3141, eff 6-22-92 (emergency); Amended at 10 Ok Reg 1989, eff 7-1-93 ; Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-13. Late renewal [REVOKED]

[Source: Revoked at 15 Ok Reg 4129, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2468, eff 6-25-99]

310:250-1-14. Local services [REVOKED]

[Source: Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-15. Central office services [REVOKED]

[Source: Amended at 9 Ok Reg 3141, eff 6-22-92 (emergency); Amended at 10 Ok Reg 1989, eff 7-1-93 ; Revoked at 12 Ok Reg 2301, eff 6-26-95]

310:250-1-16. Radiation producing machine permits [REVOKED]

[Source: Revoked at 15 Ok Reg 4129, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2468, eff 6-25-99]

**SUBCHAPTER 3. LICENSE CLASSIFICATIONS AND
ASSOCIATED FEES FOR CONSUMER HEALTH
SERVICES**

310:250-3-1. Food establishments' fees

(a) The following are license classifications and associated fees for food establishments, manufacturers, or wholesalers regulated by Title 63 O.S. § 1-915, Title 63 O.S. § 1-1118, Title 63 O.S. § 1-1119, or Title 63 O.S. § 1-1120 et seq., and the rules promulgated thereunder.

(1) Food service, manufacturing, or wholesale.

(A) Initial - \$425.00

- (B) Renewal - \$335.00
 - (C) Late Renewal - \$375.00
- (2) State Operated, Non-Profit or Health Facilities not meeting exempt status.
 - (A) Initial - \$175.00
 - (B) Renewal - \$125.00
 - (C) Late Renewal - \$150.00
- (3) Seasonal is limited to an establishment that meets the definition of "Seasonal food establishment" outlined in OAC 310:257-1-2 where the license is valid for only one hundred eighty (180) consecutive days. Fee - \$250.00
- (4) Multi-Seasonal is limited to an establishment that meets the definition of "Multi-Seasonal food establishment" outlined in OAC 310:257-1-2 where the license is valid for three hundred and sixty-five (365) consecutive days.
 - (A) Initial - \$425.00
 - (B) Renewal - \$335.00
 - (C) Late Renewal - \$375.00
- (5) The fee for a temporary food establishment, as defined in OAC 310:257-1-2, shall be \$50.00 for the initial day of the temporary event plus \$25.00 for each additional consecutive day. The total fee for a single temporary event license shall not exceed \$250. No temporary event license shall be issued for more than fourteen (14) consecutive days.
 - (A) The total fee for a single temporary event license shall not exceed \$250.
 - (B) No temporary event license shall be issued for more than fourteen (14) consecutive days.
- (6) The fee for a temporary food establishment, as defined in OAC 310:257-1-2, at a county fair as defined in Title 2 O.S. §§ 15-51 et seq., shall be \$50.00 for a maximum of three (3) days.
- (7) The fee for a temporary food establishment, as defined in OAC 310:257-1-2, at a farmer's market as defined in OAC 310:257-1-2 shall be \$50.00 for a maximum of three (3) days.
- (b) An establishment qualifies for a fee exempt license if it is a "food establishment - fee exempt" as that term is defined in OAC 310:257-1-2.
- (c) Late renewal fees apply to any renewal application postmarked and/or received thirty (30) days after the expiration date of the license.
- (d) A license not renewed within ninety (90) days of the date shall be ineligible for the renewal. Thereafter, the establishment shall be required to pay an initial fee. The establishment that has not had a valid license for one (1) year is considered a new establishment.

[Source: Added at 15 Ok Reg 4129, eff 7-29-98 (emergency); Added at 16 Ok Reg 2468, eff 6-25-99 ; Amended at 22 Ok Reg 739, eff 5-12-05 ; Amended at 23 Ok Reg 972, eff 5-11-06 ; Amended at 25 Ok Reg 2408, eff 7-11-08 ; Amended at 26 Ok Reg 1475, eff 7-1-09 ; Amended at 34 Ok Reg 1278, eff 10-1-17 ; Amended at 36 Ok Reg 1675, eff 9-13-19 ; Amended at 37 Ok Reg 1371, eff 9-11-20 ; Amended at 39 Ok Reg 1246, eff 9-11-22]

310:250-3-2. Drug operational permits

The following are associated fees for over-the-counter wholesalers, brokers, and drug manufacturers regulated by the Drugs, Medical

Devices and Cosmetics Article of the Public Health Code, Title 63 O.S. Sections 1-1119 and 1-1401 et seq. and the rules promulgated thereunder. Drug Operational Category includes any over-the-counter wholesalers, brokers and manufacturers of drugs:

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- (A) Initial - \$425.00
- (B) Renewal - \$335.00
- (C) Late Renewal - \$375.00

[Source: Added at 15 Ok Reg 4129, eff 7-29-98 (emergency); Added at 16 Ok Reg 2468, eff 6-25-99 ; Amended at 22 Ok Reg 739, eff 5-12-05 ; Amended at 26 Ok Reg 1475, eff 7-1-09 ; Amended at 34 Ok Reg 1278, eff 10-1-17 ; Amended at 36 Ok Reg 1675, eff 9-13-19]

310:250-3-3. Lodging establishment operational permits

The following are associated fees for lodging establishment operational permits regulated by the lodging establishment statute at Title 63 O.S. § 1-1201 and the rules promulgated thereunder.

- (1) Category A "Hotels and Motels" (Not more than 20 units):
 - (A) Initial - \$300.00
 - (B) Renewal - \$225.00
 - (C) Late Renewal - \$250.00
- (2) Category B "Hotels and Motels" (Not more than 100 units):
 - (A) Initial - \$350.00
 - (B) Renewal - \$275.00
 - (C) Late Renewal - \$300.00
- (3) Category C "Hotels and Motels" (More than 100 units):
 - (A) Initial - \$400.00
 - (B) Renewal - \$325.00
 - (C) Late Renewal - \$350.00

[Source: Added at 15 Ok Reg 4129, eff 7-29-98 (emergency); Added at 16 Ok Reg 2468, eff 6-25-99 ; Amended at 22 Ok Reg 739, eff 5-12-05 ; Amended at 26 Ok Reg 1475, eff 7-1-09 ; Amended at 34 Ok Reg 1278, eff 10-1-17]

310:250-3-4. Late renewal

(a) When a Consumer Health Service's license renewal fee is required by statute or regulation to be paid by a date certain and such fee was paid more than thirty (30) days after the date certain, there shall be assessed a late fee to cover the cost of non-routine processing. The late renewal fee unless specifically set shall equal one-half of the renewal fee for any given type and class, unless the maximum authorized by law would be exceeded thereby.

(b) Late renewal fees apply to renewal applications received by the Department more than thirty (30) days after the expiration date of the license.

(c) If the license holder does not file with the Department a renewal application and fee within ninety (90) days after the expiration date of the license, the Department shall not renew the license. The license may be re-instated with payment of an initial license fee.

[Source: Added at 15 Ok Reg 4129, eff 7-29-98 (emergency); Added at 16 Ok Reg 2468, eff 6-25-99 ; Amended at 22 Ok Reg 739, eff 5-12-05 ; Amended at 34 Ok Reg 1278, eff 10-1-17]

310:250-3-5. Radiation producing machine permits

(a) The annual permit fee for facilities to use radiation machines shall be based on type of facility and the number of x-ray tubes.

(1) All facilities except dental, podiatric and veterinary:

(A) each tube \$95.00; but

(B) a maximum permit fee of \$500.00.

(2) Dental and podiatric facilities:

(A) each tube \$30.00; but

(B) a maximum permit fee of \$500.00.

(3) Veterinary facilities:

(A) each tube \$25.00; but

(B) a maximum permit fee of \$500.00.

(b) Diagnostic radiation producing machine permit renewal fees for applications received by the Department more than thirty (30) days after the expiration date of the current permit shall be assessed a late fee to cover the cost of non-routine processing. The late renewal fee shall equal one-half of the renewal fee, unless the maximum authorized by law would be exceeded. If the permit holder does not file with the Department a renewal application and fee within ninety (90) days after the expiration date of the license, the Department shall not renew the permit. An initial permit application and initial permit fee shall be required.

[Source: Added at 15 Ok Reg 4129, eff 7-29-98 (emergency); Added at 16 Ok Reg 2468, eff 6-25-99 ; Amended at 34 Ok Reg 1278, eff 10-1-17]

310:250-3-6. Public bathing places

(a) The following are license classifications and associated fees for Public Bathing Places:

(1) Public Bathing Category I "Indoor Facility"

(A) Public Bathing Places Initial License Fee - \$125.00

(B) Public Bathing Places Renewal License Fee - \$75.00

(C) Public Bathing Places Re-inspection Fee - \$250.00

(2) Public Bathing Category O "Outdoor Facility"

(A) Public Bathing Places Initial License Fee - \$125.00

(B) Public Bathing Places Renewal License Fee - \$75.00

(C) Public Bathing Places Re-inspection Fee - \$250.00

(3) Pool Category M "Municipality of 5,000 or less population"

(A) Public Bathing Places Annual License Fee - \$50.00

(B) Public Bathing Places Re-inspection Fee - \$250.00

(b) Each filter system for a construction project shall require a separate permit. One project may contain several construction items and require more than one permit. The maximum fee for each public bathing place construction permit will be \$2000.00

(1) New Construction

(A) Pool - Rounded to the nearest 5000 gallons volume - \$100.00 per 5000 gallons (minimum \$500.00 fee)

(B) Spray Pool - Rounded to the nearest 5000 gallons volume - \$100.00 per 5000 gallons (minimum \$500.00 fee)

(C) Spas - Rounded to nearest 100 gallons volume - \$50.00 per 100 gallons (minimum \$250.00 fee)

(2) Modification to Existing Permit

(A) Pool - Rounded to the nearest 5000 gallons volume - \$50.00 per 5000 gallons (minimum \$250.00 fee)

(B) Spray Pool - Rounded to the nearest 5000 gallons volume -50.00 per 5000 gallons (minimum \$250.00 fee)

(C) Spas - Rounded to the Nearest 100 gallons volume - \$25.00 per 100 gallons (minimum \$125.00 fee)

(c) An annual securing fee of \$50.00 will be applied to each public bathing place that is placed out of service and is not maintaining annual licensure. This pertains to a secured public bathing place permanently out of service where the current owner has no intention to reopen and does not fill in the public bathing place. It also applies to a public bathing place closed for longer than a year with the intent of re-opening. A securing fee will be due at the same time as the original license expiration and each year thereafter while the facility remains permanently out of service. When a public bathing place resumes operation, the local county health department shall be notified by the owner and any remaining license fee will be required for that year of operation.

[Source: Added at 22 Ok Reg 2387, eff 7-11-05 ; Amended at 23 Ok Reg 972, eff 5-11-06 ; Amended at 26 Ok Reg 1475, eff 7-1-09 ; Amended at 34 Ok Reg 1278, eff 10-1-17]

310:250-3-7. Application fee

(a) Applicant shall submit the prepared plans and specifications for review and approval as stated in "Food Service Establishment Regulations" OAC 310:257-15-6 thru 310:257-15-17 or OAC 310:260 "Good Manufacturing Practice Regulations". The application fee and plans shall be submitted to the Oklahoma State Department of Health or respective County Health Department in which the establishment shall operate as instructed on a plan review application prescribed by the Department.

(1) Food service, manufacturing, wholesale, or brokers of food - \$425.00

(2) State Operated, Non-Profit or Health Facilities not meeting exempt status - \$425.00

(3) Seasonal establishment - \$425.00

(4) Food establishment - Fee Exempt as an establishment meeting the definition outlined in OAC 310:257-1-2 - \$425.00

(b) Applicant shall submit the prepared plans and specifications for review and approval as stated in OAC 310:260 "Good Manufacturing Practice Regulations". The application fee and plans shall be submitted to the Oklahoma State Department of Health. The drug operational category fee is \$425.00.

(c) Applicant shall submit the prepared plans and specifications for review and approval as stated in OAC 310:285 "Lodging Establishment Regulations". The application fee and plans shall be submitted to the Oklahoma State Department of Health, respective County Health Department in which the establishment shall operate.

(1) Type 51 Class A - "Hotels and Motels"\$425.00

(2) Type 51 Class B - "Hotels and Motels"\$425.00

(3) Type 51 Class C - "Hotels and Motels"\$425.00

[**Source:** Added at 25 Ok Reg 2408, eff 7-11-08 ; Amended at 34 Ok Reg 1278, eff 10-1-17]

APPENDIX A. GROUNDWATER SYSTEM FEES [REVOKED]

[Source: Revoked at 9 Ok Reg 3141, eff 6-22-92 (emergency); Revoked at 9 Ok Reg 3551, eff 7-24-92 (emergency); Revoked at 10 Ok Reg 1989, eff 7-1-93]

CHAPTER 255. FOOD SERVICE ESTABLISHMENT REGULATIONS [REVOKED]

[**Authority:** 63 O.S., §§ 1-1101 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:255-1-1. Purpose [REVOKED]

[**Source:** Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-1-2. Definitions [REVOKED]

[**Source:** Amended at 8 Ok Reg 3109, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1425, eff 5-1-92 ; Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-1-3. Captions [REVOKED]

[**Source:** Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-1-4. Severability [REVOKED]

[**Source:** Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 3. SEASONAL FOOD SERVICE [REVOKED]

310:255-3-1. Seasonal food service [REVOKED]

[**Source:** Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-3-2. Seasonal retail food [REVOKED]

[**Source:** Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 5. FOOD SUPPLIES [REVOKED]

310:255-5-1. General food supply requirements [REVOKED]

[**Source:** Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-5-2. Special food supply requirements [REVOKED]

[Source: Amended at 8 Ok Reg 3109, eff 7-18-91 (emergency); Amended at 9 eff 5-1-92 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 7. FOOD PROTECTION [REVOKED]

310:255-7-1. General food protection requirements [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-7-2. Emergency occurrences [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-7-3. Bulk food [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 9. FOOD STORAGE [REVOKED]

310:255-9-1. General food storage requirements [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-9-2. Refrigerated storage/frozen storage [REVOKED]

[Source: Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-9-3. Hot storage [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 11. FOOD PREPARATION [REVOKED]

310:255-11-1. General food preparation requirements [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-11-2. Raw fruits and raw vegetables [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-11-3. Cooking potentially hazardous foods [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-11-4. Dry milk and dry milk products [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-11-5. Liquid, frozen, dry eggs and egg products [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-11-6. Reheating [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-11-7. Nondairy products [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-11-8. Product thermometers [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-11-9. Thawing potentially hazardous foods [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 13. FOOD DISPLAY, SERVICE, AND TRANSPORTATION [REVOKED]

310:255-13-1. Potentially hazardous food [REVOKED]

[Source: Amended at 9 Ok Reg 3119, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1607, eff 6-1-93 ;
Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-13-2. Dispensing [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-13-3. Re-service [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-13-4. Display equipment [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-13-5. Re-use of tableware [REVOKED]

[Source: Amended at 9 Ok Reg 3119, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1607, eff 6-1-93 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-13-6. Food sample demonstrations and food promotions [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-13-7. Food display [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-13-8. Food transportation [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 15. PERSONNEL [REVOKED]

310:255-15-1. Employee health [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-15-2. Personal cleanliness [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-15-3. Clothing [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-15-4. Employee practices [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 17. EQUIPMENT AND UTENSILS [REVOKED]

310:255-17-1. Materials [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-17-2. Design and fabrication [REVOKED]

[Source: Amended at 9 Ok Reg 3119, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1607, eff 6-1-93 ; Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-17-3. Equipment installations and location [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 19. CLEANING, SANITIZATION AND STORAGE OF EQUIPMENT AND UTENSILS [REVOKED]

310:255-19-1. Equipment and utensil cleaning and sanitization [REVOKED]

[Source: Amended at 8 Ok Reg 3109, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1425, eff 5-1-92 ; Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-19-2. Mechanical cleaning and sanitization [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-19-3. Equipment and utensil storage [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 21. SANITARY FACILITIES AND CONTROLS [REVOKED]

310:255-21-1. Water supply [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-21-2. Sewage [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-21-3. Plumbing [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-21-4. Toilet facilities [REVOKED]

[Source: Amended at 8 Ok Reg 3109, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1425, eff 5-1-92 ; Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-21-5. Lavatory facilities [REVOKED]

[Source: Amended at 8 Ok Reg 3109, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1425, eff 5-1-92 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-21-6. Garbage and refuse [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-21-7. Insect and rodent control [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 23. CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES [REVOKED]

310:255-23-1. Physical facilities [REVOKED]

[Source: Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-23-2. Walls and ceilings [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-23-3. Cleaning physical facilities [REVOKED]

[Source: Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-23-4. Lighting [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-23-5. Ventilation [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-23-6. Dressing rooms and locker areas [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-23-7. Poisonous or toxic materials [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-23-8. Premises [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 25. MOBILE FOOD UNITS, PUSHCARTS, HAWKERS, AND COOKERS [REVOKED]

310:255-25-1. Mobile food units and pushcarts [REVOKED]

[Source: Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-25-2. Commissary [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-25-3. Servicing area and operations [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-25-4. Hawkers [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-25-5. Outdoor cookers [REVOKED]

[Source: Amended at 9 Ok Reg 3119, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1607, eff 6-1-93 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-25-6. Mobile retail food establishments [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 27. TEMPORARY FOOD ESTABLISHMENTS [REVOKED]

310:255-27-1. Temporary food service establishments [REVOKED]

[Source: Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-27-2. Temporary retail food establishments [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

SUBCHAPTER 29. COMPLIANCE PROCEDURES [REVOKED]

310:255-29-1. Licenses [REVOKED]

[Source: Amended at 8 Ok Reg 3109, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1425, eff 5-1-92 ; Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-29-2. Inspections [REVOKED]

[Source: Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-29-3. Examination and condemnation of food [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-29-4. New, converted, and remodeled food establishments [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-29-5. Procedures when infection is suspected [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-29-6. License revocation and suspension [REVOKED]

[Source: Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

310:255-29-7. License classifications and associated fees [REVOKED]

[Source: Amended at 10 Ok Reg 3447, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2619, eff 6-25-94 ; Revoked at 15 Ok Reg 4131, eff 7-29-98 (emergency); Revoked at 16 Ok Reg 2470, eff 6-25-99]

CHAPTER 256. FOOD SERVICE ESTABLISHMENTS [REVOKED]

[**Authority:** 63 O.S., §§ 1-104 and 1-1101 et seq.]
[**Source:** Codified 6-25-99]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:256-1-1. Purpose [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ;
Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-1-2. Definitions [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ;
Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ;
Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ;
Amended at 21 Ok Reg 1971, eff 4-28-04 (emergency); Amended at 21 Ok Reg 2730, eff 7-12-04 ;
Amended at 22 Ok Reg 2387, eff 7-11-05 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-1-3. Incorporated by reference [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ;
Amended at 21 Ok Reg 2730, eff 7-12-04 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-1-4. Exemptions [REVOKED]

[**Source:** Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ;
Amended at 21 Ok Reg 1971, eff 4-28-04 (emergency); Amended at 21 Ok Reg 2730, eff 7-12-04 ;
Revoked at 23 Ok Reg 2357, eff 6-25-06]

SUBCHAPTER 3. MANAGEMENT AND PERSONNEL [REVOKED]

310:256-3-1. Assignment [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ;
Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-2. Demonstration [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ;
Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-3. Person in charge [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ;
Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ;
Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-4. Responsibility of the person in charge to require reporting by food employees and applicants [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-5. Exclusions and restrictions [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-6. Removal of exclusions and restrictions [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-7. Responsibility of a food employee or an applicant to report to the person in charge [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-8. Clean condition [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-9. Cleaning procedure [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-10. When to wash [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-11. Where to wash [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-12. Hand sanitizers [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-13. Maintenance [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-14. Prohibition [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-15. Clean condition [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-16. Eating, drinking, or using tobacco [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-17. Discharges from the eyes, nose, and mouth [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-18. Effectiveness of hair restraints [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-3-19. Handling prohibition [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

SUBCHAPTER 5. FOOD [REVOKED]

310:256-5-1. Safe, unadulterated, and honestly presented [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-2. Compliance with food law [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ;

Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-3. Food in a hermetically sealed container [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-4. Fluid milk and milk products [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-5. Fish [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-6. Molluscan shellfish [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-7. Wild mushrooms [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-8. Game animals [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-9. Temperature [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-10. Additives [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-11. Shell eggs [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-12. Egg and milk products, pasteurized [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-13. Package integrity [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-14. Ice [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-15. Shucked shellfish, packaging and identification [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-16. Shellstock identification [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-17. Shellstock condition [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-18. Molluscan shellfish, original container [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-19. Shellstock, maintaining identification [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-20. Preventing contamination from hands [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-21. Preventing contamination when tasting [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-22. Packaged and unpackaged food - separation, packaging, and segregation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-23. Food storage containers, identified with common name of food [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-24. Pasteurized eggs, substitute for shell eggs for certain recipes [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-25. Protection from unapproved additives [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-26. Washing fruits and vegetables [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-27. Ice used as exterior coolant, prohibited as ingredient [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-28. Storage or display of food in contact with water or ice [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-29. Food contact with equipment and utensils [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-30. In-use utensils, between-use storage [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ;

Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-31. Linens and napkins, use limitation [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-32. Wiping cloths, use [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-33. Gloves, use limitation [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-34. Using clean tableware for second portions and refills [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-35. Refilling returnables [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-36. Food storage [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-37. Food storage, prohibited areas [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-38. Vended potentially hazardous food, original container [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-39. Food preparation [REVOKED]

[**Source:** Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-40. Food display [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-41. Condiments, protection [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-42. Consumer self-service operations [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-43. Returned food, re-service or sale [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-44. Miscellaneous sources of contamination [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-45. Raw animal foods [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Amended at 21 Ok Reg 2730, eff 7-12-04 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-46. Microwave cooking [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-47. Plant food cooking for hot holding [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-48. Parasite destruction [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-49. Records, creation and retention [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-50. Reheating for immediate service [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-51. Reheating for hot holding [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-52. Frozen food [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-53. Potentially hazardous food, slacking [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-54. Thawing [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-55. Cooling [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-56. Cooling methods [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-57. Potentially hazardous food, hot and cold holding [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-58. Ready-to-eat, potentially hazardous food, date marking [REVOKED]

[Source: Reserved at 15 Ok Reg 4157, eff 7-29-98 (emergency); Reserved at 16 Ok Reg 2496, eff 6-25-99 ; Added at 17 Ok Reg 3415, eff 8-29-00 (emergency); Added at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-59. Ready-to-eat, potentially hazardous food, disposition [REVOKED]

[Source: Reserved at 15 Ok Reg 4157, eff 7-29-98 (emergency); Reserved at 16 Ok Reg 2496, eff 6-25-99 ; Added at 17 Ok Reg 3415, eff 8-29-00 (emergency); Added at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-60. Time as a public health control [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-61. Variance requirement [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-62. Reduced oxygen packaging, criteria [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-63. Standards of identity [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-64. Honestly presented [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-65. Food labels [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-66. Other forms of information [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-67. Consumption of raw or undercooked animal foods [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 17 Ok Reg 3415, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Amended at 22 Ok Reg 740, eff 5-12-05 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-68. Discarding or reconditioning unsafe, adulterated, or contaminated food [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-5-69. Pasteurized foods, prohibited re-service, and prohibited food [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

SUBCHAPTER 7. EQUIPMENT, UTENSILS, AND LINENS [REVOKED]

310:256-7-1. Characteristics [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-2. Cast iron, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-3. Lead in ceramic, china, and crystal utensils, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-4. Copper, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-5. Galvanized metal, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-6. Sponges, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-7. Lead in pewter alloys, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-8. Lead in solder and flux, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-9. Wood, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-10. Non-stick coatings, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-11. Non-food-contact surfaces [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-12. Characteristics [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-13. Equipment and utensils [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-14. Food temperature measuring devices [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-15. Food-contact surfaces [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-16. CIP equipment [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-17. "V" threads, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-18. Hot oil filtering equipment [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-19. Can openers [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-20. Non-food-contact surfaces [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-21. Kick plates, removable [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-22. Ventilation hood systems, filters [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-23. Temperature measuring device, food [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-24. Temperature measuring device, ambient air and water [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-25. Pressure measuring devices, mechanical warewashing equipment [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-26. Ventilation hood systems, drip prevention [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-27. Equipment openings, closures and deflectors [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-28. Dispensing equipment, protection of equipment and food [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-29. Vending machine, vending stage closure [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-30. Bearings and gear boxes, leak proof [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-31. Beverage tubing, separation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-32. Ice units, separation of drains [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-33. Condenser unit, separation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-34. Can openers on vending machines [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-35. Molluscan shellfish tanks [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-36. Vending machines, automatic shutoff [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-37. Temperature measuring devices [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-38. Warewashing machine, data plate operating specifications [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-39. Warewashing machines, internal baffles [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-40. Warewashing machines, temperature measuring devices [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-41. Manual warewashing equipment, heaters and baskets [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-42. Warewashing machines, sanitizer level indicator [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-43. Warewashing machines, flow pressure device [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-44. Warewashing sinks and drain boards, self-draining [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-45. Equipment compartments, drainage [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-46. Vending machines, liquid waste products [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-47. Case lot handling equipment, moveability [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-48. Vending machine doors and openings [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-49. Food equipment, certification and classification [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-50. Cooling, heating, and holding capacities [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-51. Manual warewashing, sink compartment requirements [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-52. Drain boards [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-53. Ventilation hood systems, adequacy [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-54. Clothes washers and dryers [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-55. Utensils, consumer self-service [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-56. Food temperature measuring devices [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-57. Temperature measuring devices, manual warewashing [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-58. Sanitizing solutions, testing devices [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-59. Equipment, clothes washers and dryers, and storage cabinets, contamination prevention [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-60. Fixed equipment, spacing or sealing [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-61. Fixed equipment, elevation or sealing [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-62. Good repair and proper adjustment [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-63. Cutting surfaces [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-64. Microwave ovens [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-65. Warewashing equipment, cleaning frequency [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-66. Warewashing machines, manufacturers' operating instructions [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-67. Warewashing sinks, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-68. Warewashing equipment, cleaning agents [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-69. Warewashing equipment, clean solutions [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-70. Manual warewashing equipment, wash solution temperature [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-71. Mechanical warewashing equipment, wash solution temperature [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-72. Manual warewashing equipment, hot water sanitization temperatures [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-73. Mechanical warewashing equipment, hot water sanitization temperatures [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-74. Mechanical warewashing equipment, sanitization pressure [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-75. Manual and mechanical warewashing equipment, chemical sanitization - temperature, pH, concentration, and hardness [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-76. Manual warewashing equipment, chemical sanitization using detergent-sanitizers [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-77. Warewashing equipment, determining chemical sanitizer concentration [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-78. Good repair and proper calibration [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-79. Single-service and single-use articles, required use [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-80. Single-service and single-use articles, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-81. Shells, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-82. Equipment, food-contact surfaces, non food-contact surfaces, and utensils [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-83. Equipment food-contact surfaces and utensils [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-84. Cooking and baking equipment [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-85. Non-food-contact surfaces [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-86. Dry-cleaning [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-87. Precleaning [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-88. Loading of soiled items, warewashing machines [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-89. Wet cleaning [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-90. Washing, procedures for alternative manual warewashing equipment [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-91. Rinsing procedures [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-92. Returnables, cleaning for refilling [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-93. Food-contact surfaces and utensils [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-94. Before use and after cleaning [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-95. Hot water and chemical [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-96. Clean linens [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-97. Specifications [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-98. Storage of soiled linens [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-99. Mechanical washing [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-100. Use of laundry facilities [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-101. Equipment and utensils, air-drying required [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-102. Wiping cloths, air-drying locations [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-103. Food-contact surfaces [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-104. Equipment [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-105. Equipment, utensils, linens, and single-service and single-use articles [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-106. Prohibitions [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-107. Kitchenware and tableware [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-108. Soiled and clean tableware [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-7-109. Preset tableware [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

SUBCHAPTER 9. WATER, PLUMBING AND WASTE [REVOKED]

310:256-9-1. Approved system [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-2. System flushing and disinfection [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-3. Bottled drinking water [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-4. Standards [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-5. Non-drinking water [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-6. Sampling [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-7. Sample report [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-8. Capacity [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-9. Pressure [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-10. Hot water [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 17 Ok Reg 3415, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-11. System [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-12. Alternative water supply [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-13. Approved materials [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-14. Approved system and cleanable fixtures [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-15. Handwashing lavatory, water temperature, and flow [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-16. Backflow prevention, air gap [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-17. Backflow prevention device, design standard [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-18. Conditioning device, design [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-19. Handwashing lavatory - number and capacity [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-20. Toilets and urinals [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-21. Service sink [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-22. Backflow prevention device, when required [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-23. Handwashing lavatory - location [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-24. Backflow prevention device, location [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-25. Conditioning device, location [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-26. Handwashing lavatory - use [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-27. Prohibiting a cross connection [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-28. Scheduling inspection and service for a water system device [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-29. Water reservoir for fogging devices, cleaning [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-30. System maintained in good repair [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-31. Approved mobile materials [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-32. Enclosed system, sloped to drain [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-33. Inspection and cleaning port, protected and secured [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-34. "V" type threads, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-35. Tank vent, protected [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-36. Inlet and outlet, sloped to drain [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-37. Hose, construction and identification [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-38. Filter, compressed air [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-39. Protective cover or device [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-40. Mobile food service establishment tank inlet [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-41. System flushing and disinfection [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-42. Using a pump and hoses, backflow prevention [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-43. Protecting inlet, outlet, and hose fitting [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-44. Tank, pump, and hoses, dedication [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-45. Capacity and drainage [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-46. Establishment drainage system [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-47. Backflow prevention [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-48. Grease trap [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-49. Conveying sewage [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-50. Removing mobile food service establishment wastes [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-51. Flushing a waste retention tank [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-52. Approved sewage disposal system [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-53. Other liquid wastes and rainwater [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-54. Indoor storage area [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-55. Outdoor storage surface [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-56. Outdoor enclosure [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-57. Receptacles [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-58. Receptacles in vending machines [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-59. Outside receptacles [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-60. Storage areas, rooms, and receptacles, capacity and availability [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-61. Toilet room receptacle, covered [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-62. Cleaning implements and supplies [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-63. Storage areas, redeeming machines, receptacles and waste handling units, location [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-64. Storing refuse, recyclables, and returnables [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-65. Areas, enclosures, and receptacles, good repair [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-66. Outside storage prohibitions [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-67. Covering receptacles [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-68. Using drain plugs [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-69. Maintaining refuse areas and enclosures [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-70. Cleaning receptacles [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-71. Frequency [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-72. Receptacles or vehicles [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-9-73. Community or individual facility [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

SUBCHAPTER 11. PHYSICAL FACILITIES [REVOKED]

310:256-11-1. Surface characteristics, indoor [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-2. Surface characteristics, outdoor [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-3. Floors, walls, and ceilings [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-4. Floors, walls, and ceilings, utility lines [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-5. Floor and wall junctures, coved, and enclosed or sealed [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-6. Floor carpeting, restrictions and installation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-7. Floor covering, mats and duckboards [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-8. Wall and ceiling coverings and coatings [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-9. Walls and ceilings, attachments [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-10. Walls and ceilings, studs, joists, and rafters [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-11. Light bulbs, protective shielding [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-12. Heating, ventilating, air conditioning system vents [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-13. Insect control devices, design and installation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-14. Toilet rooms, enclosed [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-15. Outer openings, protected [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-16. Exterior walls and roofs, protective barrier [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-17. Outdoor food vending areas, overhead protection [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-18. Outdoor servicing areas, overhead protection [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-19. Outdoor walking and driving surfaces, graded to drain [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-20. Outdoor refuse areas, graded to drain [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-21. Private homes and living or sleeping quarters, use prohibition [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-22. Living or sleeping quarters, separation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-23. Minimum number [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-24. Handwashing cleanser, availability [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-25. Hand drying provision [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-26. Handwashing aids and devices, use restrictions [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-27. Disposable towels, waste receptacle [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-28. Minimum number [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-29. Toilet tissue, availability [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-30. Intensity [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-31. Mechanical [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-32. Designation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-33. Availability [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-34. Conveniently located [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-35. Convenience and accessibility [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-36. Designated areas [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-37. Segregation and location [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-38. Receptacles, waste handling units, and designated storage area [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-39. Repairing [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-40. Cleaning, frequency and restrictions [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-41. Cleaning floors, dustless methods [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-42. Cleaning ventilation systems, nuisance and discharge prohibition [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-43. Cleaning maintenance tools, preventing contamination [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-44. Drying mops [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-45. Absorbent materials on floors, use limitation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-46. Maintaining and using handwashing lavatories [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-47. Closing toilet room doors [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-48. Using dressing rooms and lockers [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-49. Controlling pests [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-50. Removing dead or trapped birds, insects, rodents, and other pests [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-51. Storing maintenance equipment [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-52. Maintaining premises, unnecessary items and litter [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-11-53. Prohibiting animals [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

SUBCHAPTER 13. POISONOUS OR TOXIC MATERIALS [REVOKED]

310:256-13-1. Identifying information, prominence [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-2. Common name [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-3. Separation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-4. Restriction [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-5. Conditions of use [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-6. Poisonous or toxic material containers [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-7. Sanitizers, criteria [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-8. Chemicals for washing fruits and vegetables, criteria [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-9. Boiler water additives, criteria [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-10. Drying agents, criteria [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-11. Incidental food contact, criteria [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-12. Restricted use pesticides, criteria [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-13. Rodent bait stations [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-14. Tracking powders, pest control and monitoring [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-15. Restriction and storage [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-16. Refrigerated medicines, storage [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-17. Storage, first aid supplies [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-18. Storage, personal items [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-13-19. Separation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

SUBCHAPTER 15. COMPLIANCE AND ENFORCEMENT [REVOKED]

310:256-15-1. Public health protection [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-2. Preventing health hazards, provision for conditions not addressed [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-3. Modifications and waivers [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-4. Documentation of proposed variance and justification [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-5. Conformance with approved procedures [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-6. Food service establishment plans [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-7. Contents of the plans and specifications [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-8. When a HACCP plan is required [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-9. Contents of a HACCP plan [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-10. Trade secrets [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-11. Pre-licensing inspections [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-12. Prerequisite for operation [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-13. Form of submission [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-14. Qualifications and responsibilities of applicants [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-15. Application [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-16. New, converted, or remodeled establishments [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-17. Existing establishments, license renewal, and change of ownership [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-18. Denial of application for license, notice [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-19. Responsibilities of the Department [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-20. Responsibilities of the license holder [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-21. Licenses not transferable [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-22. Establishing inspection interval [REVOKED]

[Source: Reserved at 15 Ok Reg 4157, eff 7-29-98 (emergency); Reserved at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-23. Performance and risk-based [REVOKED]

[Source: Reserved at 15 Ok Reg 4157, eff 7-29-98 (emergency); Reserved at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-24. Allowed at reasonable times after due notice [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-25. Refusal, notification of right to access, and final request for access [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-26. Refusal, reporting [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-27. Inspection order to gain access [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-28. Documenting information and observations [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-29. Specifying time frame for corrections [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-30. Issuing report and obtaining acknowledgment of receipt [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-31. Refusal to sign acknowledgment [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-32. Public information [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-33. Ceasing operations and reporting [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-34. Resumption of operations [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-35. Timely correction [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 through 7-14-03 (emergency)¹; Amended at 21 Ok Reg 2730, eff 7-12-04 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-03 (after the 7-14-03 expiration of the emergency action), the text of 310:256-15-35 reverted back to the permanent text that became effective 6-25-99, as was last published in the 2001 Edition of the OAC, and remained as such until amended by permanent action on 7-12-04.*

310:256-15-36. Verification and documentation of correction [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-37. Time frame for correction [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 through 7-14-03 (emergency)¹; Amended at 21 Ok Reg 2730, eff 7-12-04 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-03 (after the 7-14-03 expiration of the emergency action), the text of 310:256-15-37 reverted back to the permanent text that became effective 6-25-99, as was last published in the 2001 Edition of the OAC, and remained as such until amended by permanent action on 7-12-04.*

310:256-15-38. Obtaining information: personal history of illness, medical examination, and specimen analysis [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-39. Restriction or exclusion of food employee, or summary suspension of license [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-40. Restriction or exclusion order: warning or hearing not required, information required in order [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-41. Release of employee from restriction or exclusion [REVOKED]

[Source: Added at 15 Ok Reg 4157, eff 7-29-98 (emergency); Added at 16 Ok Reg 2496, eff 6-25-99 ; Amended at 17 Ok Reg 3415, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

310:256-15-42. Critical items [REVOKED]

[Source: Added at 17 Ok Reg 3415, eff 8-29-00 (emergency); Added at 18 Ok Reg 1665, eff 5-25-01 ; Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Revoked at 23 Ok Reg 2357, eff 6-25-06]

CHAPTER 257. FOOD ESTABLISHMENTS

[**Authority:** 63 O.S. §§ 1-104 et seq., 1-1101 et seq., and 1-1118 et seq.]

[**Source:** Codified 6-25-06]

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

310:257-1-1. Purpose

The rules in this Chapter implement Article 11, 63 O.S. Section 1-1101 *et seq.* The purpose is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented. This Chapter establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, license issuance, inspection, employee restriction, and license suspension.

[**Source:** Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-1-2. Definitions

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

"Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals. The American National Standards Institute - Conference for Food Protection (ANSI-CFP) Accreditation programs include but are not limited to: National Restaurant Association Solutions; LLC (ServeSafe); Prometric, Inc.; 360training.com; and National Registry of Food Safety Professionals.

(A) Accredited program refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline, and grievance procedures; and test development and administration.

(B) Accredited program does not refer to training functions or educational programs.

"Additive" as used in this Chapter shall have the same meaning for the following terms:

(A) **"Color additive"** has the meaning stated in the Federal Food, Drug, and Cosmetic Act, Section 201(t) and 21 CFR, Part 70.

(B) **"Food additive"** has the meaning stated in the Federal Food, Drug, and Cosmetic Act, Section 201(s) and 21 CFR, Part 170.

"Adulterated" means the definition in 63 O.S. Section 1-1109.

"Approved" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

"Asymptomatic" means without obvious symptoms; not showing or producing indications of a disease or other medical conditions, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice. Asymptomatic includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

" a_w " means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol a_w .

"Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific state of development after which it is removed from incubation before hatching.

"Beverage" means a liquid for drinking, including water.

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

"Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.

"Certified applicator" means any individual who is certified under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 et seq. and/or by the Oklahoma State Department of Agriculture Food and Forestry as authorized to use or supervise the use of any pesticide that is classified for restricted use. Any applicator who holds or applies registered pesticides or uses dilutions of registered pesticides consistent with the product labeling only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides.

"Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

"CFR" means Code of Federal Regulations. Citations in this Chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as 21 CFR 178.1010 refers to Title 21, Part 178, Section 1010.

"CIP" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. It does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

"Code of Federal Regulations" means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government which is

published annually by the U.S. Government Printing Office; and contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

"Commingle" means to combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or to combine shucked shellfish from containers with different container codes or different shucking dates.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing and includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, sausage; and a mixture of 2 or more types of meat that have been reduced in size and combined, such as sausages made from 2 or more meats.

"Commissary" means a facility used to maintain safe and sanitary operations for the cleaning and servicing of pushcarts, mobile retail units, or mobile food establishments; and for the storage of food and single service articles used in those units.

"Common dining area" means a central location in a group residence where people gather to eat at mealtime but does not apply to a kitchenette or dining area located within private living quarters.

"Conditional employee" means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

"Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

"Cook/Chill" means the process of placing food, heated to a temperature as required in OAC 310:257-5-46 or OAC 310:257-5-48, and held at a temperature of 135°F or hotter, into an impermeable bag, then cooling the food to a temperature of 41°F or less as required under OAC 310:257-5-57.

"Co-Op" means an establishment meeting the requirements in the Cooperative Corporations Chapter at 18 O.S. §§ 421 et seq. and selling food products produced as described at 2 O.S. §§ 5-4.1 et seq.

"Core item" means a provision of this Chapter that is not designated as a priority item or priority foundation item and includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design or general maintenance.

"Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

"Counter-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

"Critical control point (CCP)" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

"Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

"Customer self-service" means customer selection and packaging of a bulk food product from a product module.

"Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula, and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

"Dealer" means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

"Department" means the Oklahoma State Department of Health and a health department designated in writing by the State Commissioner of Health to perform official duties or other acts authorized under 63 O.S. § 101 et seq. and this Chapter, or an authorized agent thereof.

"Disclosure" means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Display area" means a location or locations, including physical facilities and equipment, where bulk food is offered for customer self-service.

"Drinking water" means water that meets criteria as specified in 40 CFR, Part 141 National Primary Drinking Water Regulations. It is traditionally known as "potable water." Drinking water includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

"Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that are not Time Temperature Control for Safety Foods and dry goods such as single-service items.

"Easily cleanable" means a characteristic of a surface that allows effective removal of soil by normal cleaning methods; is dependent on the material, design, construction, and installation of the surface; and varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use. Easily cleanable includes a tiered

application of the criteria that qualify the surface as easily cleanable to different situations in which varying degrees of cleanability are required such as the appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or the need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

"Easily movable" means portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and has no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

"Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. Egg does not include a balut and it does not include reptile species such as alligator or an egg product.

"Egg product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs. Egg product does not include food which contains eggs only in a relatively small proportion such as cake mixes.

"Employee" means the license holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

"EPA" means the U.S. Environmental Protection Agency.

"Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine. It does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"Event or celebration" means an occasional scheduled social gathering, with a designated event organizer in charge, which is open to the general public, and that has been organized for a special occasion or purpose, having a limited time or serving a specific function.

"Exclude" means to prevent a person from working as a food employee or entering a food establishment as an employee.

"Farmers Hub" means a designated area as described under 2 O.S. Section 5-3A.1 et seq.

"Farmers Market" means a designated area in which farmers, growers, or producers from a defined region gather on a regularly scheduled basis to sell at retail Non-Time/Temperature Control for Safety farm food products and whole shell eggs to the public as described under 2 O.S. Section 5-3A.1 et seq.

"FDA" means the U.S. Food and Drug Administration.

"Fish" means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. Fish includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

"Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

"Foodborne disease outbreak" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

"Food-contact surface" means a surface of equipment or a utensil with which food normally comes into contact; or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food establishment" means an operation that stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite, commissary, or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(A) Food establishment includes: An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the Department; or an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises.

(B) Food establishment does not include:

- (i) Food processing plant; including those that are located on the premises of a food establishment;
- (ii) A kitchen in a private home that meets exemptions listed at OAC 310:257-1-4;
- (iii) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed the number allowed by 63 O.S. §§ 1201 et seq., and breakfast is the only meal offered;
- (iv) A private home that receives catered or home-delivered food;

- (v) Incidental sales; or
- (vi) A produce stand that offers only whole, uncut and unprocessed fresh fruits, melons, vegetables and legumes and/or whole uncracked and unprocessed tree nuts.

"Food establishment - fee exempt" means a food establishment that utilizes non-paid persons by a nonprofit, civic, charitable, or religious organization primarily for benevolent purposes.

(A) Fee exempt licensees shall comply with the applicable sections of these rules depending upon the type of operation involved; e.g., food service, retail food, combination, temporary, or mobile.

(B) Fee exempt licenses, except temporary licenses, shall not expire but shall remain in full force and effect until revoked, suspended, annulled, or withdrawn by the Commissioner in accordance with applicable law.

(C) A license is not required for a non-profit civic, charitable or religious organization, using non-paid persons to prepare or serve food on its behalf, for occasional fund-raising events sponsored and conducted by the organization.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and provides food for sale or distribution to other business entities such as food processing plants or food establishments.

"Game animal" means an animal, the products of which are food, that is not included in the definitions of 2 O.S. Section 6-183 et seq. (cattle, bison, sheep, swine and goats). Equines are not included due to the provisions of Title 2 O.S. Section 6-192 (prohibits the use of equine for food), 2 O.S. Section 6-251 et seq. (poultry, including any domestic bird whether live or dead), 2 O.S. Section 6-280.1 et seq. (domesticated rabbits whether live or dead), 2 O.S. Section 6-290.3 et seq. (exotic livestock including commercially raised livestock and including but not limited to animals of the families bovidae, cervidae, antilocapridae or in the definitions of fish in this Section).

"General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175 Pesticides classified for restricted use.

"Grade A standards" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.

"HACCP" means Hazard Analysis Critical Control Point.

"HACCP plan" means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

"Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for washing of the hands. Handwashing sink includes an automatic handwashing facility.

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Health practitioner" means a physician licensed to practice medicine, a nurse practitioner, physician assistant, or similar medical professional.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

"Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are:

(A) Immunocompromised; preschool age children or older adults; and

(B) Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Impermeable" means incapable of allowing liquids to pass through the covering.

"Incidental sale" means the sale of food on the premises where food is not a primary reason to frequent the establishment, but where prepackaged, non-Time/Temperature Control for Safety Food from an approved source is offered for purchase as a convenience to the customer, and no product is kept in back stock.

"Injected" means manipulating meat in which a solution has been introduced into its interior by processes which are referred to as "injecting," "pump marinating," or "stitch pumping."

"Intact Meat" means a cut of whole muscle(s) meat that has not undergone comminution, injection, mechanical tenderization or reconstruction.

"Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée. Juice does not include, for purposes of HACCP, liquids, purees, or concentrates that are not used as beverages or ingredients of beverages.

"Kitchenware" means food preparation and storage utensils.

"Law" means applicable local, state, and federal statutes, regulations, and ordinances.

"License" means the document issued by the Department that authorizes a person to operate a food establishment.

"License holder" means the entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person; and possesses a valid license to operate a food

establishment.

"Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

"Major food allergen" means milk, egg, fish (such as bass, flounder, cod, and including crustacean, such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or a food ingredient that contains protein derived from a food specified above.

(A) Major food allergen does not include: Any highly refined oil derived from a food specified in Major Food Allergen definition and any ingredient derived from such highly refined oil; or

(B) Any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, bison, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals.

"Mechanically tenderized" means meat manipulated with deep penetration by processes which may be referred to as: "blade tenderizing," "jaccarding," "pinning," "needling," or using blades, pins, needles, or any mechanical device. Mechanically tenderized does not include processes by which solutions are injected into meat. See the definition for injected.

"mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

"Misbranding" means the definition contained in 63 O.S. Section 1-1110.

"Mobile food establishment" means a facility that prepares food and is vehicle mounted (is Department of Transportation road approved, including wheels and axles), is readily moveable and remains at one physical address for no more than twelve (12) hours at one time.

"Mobile pushcart" means a non-self propelled food unit that can be manually moved by one (1) average adult person.

"Mobile retail food establishment" means a unit which sells packaged foods from a stationary display at a location that is away from the unit but still at the same physical address, such as a table at a fair or farmer's market, for no more than twelve (12) hours, provided the licensed unit is on premise and readily available for inspection and the food has been prepared in a facility that is regulated by the Good Manufacturing Practices in Title 21 of the CFR or regulated as a license holder pursuant to OAC 310:260, Good Manufacturing Practice Regulations, Oklahoma Department of Agriculture, Food and Forestry, the United States Department of Agriculture, or this Chapter. Mobile food establishments selling only prepackaged foods and engaging in no preparation are not required to pay a plan review fee.

"Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

"Multi-seasonal food establishment" means a facility that is under one ownership, is open year-round, and that shall serve snow cones and hot beverages with use of liquid milk.

"Non-continuous cooking" means the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service. Non-continuous cooking does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

"OAC" means Oklahoma Administrative Code.

"Occasional" means not habitual; random, irregularly or infrequent and used for special, occasional social gatherings for an event or celebration acting in a specified capacity from time to time, that does not exceed more than four (4) times per year, unless approved by the Department.

"O.S." means Oklahoma Statute.

"Packaged" means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a food establishment or a food processing plant. Packaged does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer by a food employee upon consumer request.

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of the inspection.

"Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance. It may include items such as medicines; first aid supplies; other items such as cosmetics; and toiletries such as toothpaste and mouthwash.

"pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

"Physical facilities" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

"Plumbing fixture" means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in 4 categories:

- (A) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- (B) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
- (C) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
- (D) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

"Poultry" means any domesticated bird (chickens, turkeys, ducks, geese, ratites, guineas or squabs), whether live or dead, as defined in 9 CFR, Part 381 and any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR, Part 362.

"Premises" means:

- (A) The physical facility, its contents, and the contiguous land or property under the control of the license holder; or
- (B) The physical facility, its contents, and the land or property not under the control of the license holder, unless its facilities and contents are under the control of the license holder and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

"Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

"Priority item" means a provision in this Chapter the application of which contributes directly to the elimination, prevention, or reduction to an acceptable level of hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazards. Priority item includes an item with a quantifiable measure to show control of hazards such as cooking, reheating, cooling or handwashing.

"Priority foundation item" means a provision in this Chapter whose application supports, facilitates, or enables one or more priority items. "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure, or necessary equipment, HACCP plans, documentation or record keeping, and labeling.

"Ratite" means a flightless bird such as an emu, ostrich, or rhea.

"Ready-to-eat food" means

(A) food that is in a form that is edible without additional preparation to achieve food safety, as specified under OAC 310:257-5-46(a)-(c) or OAC 310:257-5-47 or OAC 310:257-5-49, or is a raw or partially cooked animal food and the consumer is advised as specified under OAC 310:257-5-46(d)(1) and (3); or is prepared in accordance with a variance that is granted as specified under OAC 310:257-5-46(d)(4); and may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes and

(B) includes raw animal food that is cooked as specified under OAC 310:257-5-46 or OAC 310:257-5-47, or frozen as specified under OAC 310:257-5-49; raw fruits and vegetables that are washed as specified under OAC 310:257-5-27; fruits and vegetables that are cooked for hot holding, as specified under OAC 310:257-5-48; All Time/Temperature Control for Safety Food that is cooked to the temperature and time required for the specific food under OAC 310:257-5-46 through 310:257-5-48.1 and cooled as specified under OAC 310:257-5-57; Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present are removed; substances derived from plants such as spices, seasonings, and sugar; a bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety; The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; dried meat and poultry products, such as jerky or beef sticks; and foods manufactured according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

"Reduced oxygen packaging" means:

(A) The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21%) at sea level;

(B) A process as specified in paragraph (A) of this definition that involves a food for which hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form;

(C) Reduced oxygen packaging includes vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;

(D) Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;

(E) Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material

(F) Cook chill packaging, as described in OAC 310:257-5-64(d)(E); and

(G) Sous vide packaging, as described in OAC 310:257-5-64(d)(D).

"Refuse" means solid waste not carried by water through the sewage system.

"Regulatory authority" means a representative, such as an onsite inspector, of the Department.

"Reminder" means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Re-Service" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

"Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food, and the food employee does not work with exposed food, clean equipment, utensils, linens; and unwrapped single-service or single-use articles.

"Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR, Part 590.

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175. Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

"Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

"Safe material" means:

(A) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;

(B) An additive that is used as specified in Section 409 of the Federal Food, Drug, and Cosmetic Act; or

(C) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

"Seasonal food establishment" means a facility that is open no more than 180 consecutive days per physical address per year. The seasonal food establishment is limited to serving coffee and snow cones with use of liquid milk, individually packaged ice cream products, uncut raw fruits, uncut raw vegetables, nuts in the shell, and commercially bottled syrup, sorghum, honey, sweet cider, and other non-Time/Temperature Control for Safety Foods. Seasonal food establishments selling only prepackaged foods and engaging in no preparation are not required to pay a plan review fee.

"Service animal" means an animal such as a guide dog, signal dog, or other animal as allowed by the ADA, individually trained to provide assistance to an individual with a disability. Service animals are working animals, not pets. The work or task an animal has been trained to provide must be directly related to the person's disability. Animals whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

"Servicing area" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly, for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

"Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

"Shellstock" means raw, in-shell molluscan shellfish.

"Shiga toxin-producing *Escherichia coli* (STEC)" means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild non-bloody diarrhea, to hemorrhagic colitis (i.e., bloody diarrhea) to hemolytic uremic syndrome (HUS-a type of kidney failure). Examples of serotypes of STEC include: *E. coli* O157:H7; *E. coli* O157:NM; *E. coli* O26:H11; *E. coli* O145:NM; *E. coli* O103:H2; and *E. coli* O111:NM. STEC are sometimes referred to as VTEC (verocytotoxigenic *E. coli*) or as EHEC (Enterohemorrhagic *E. coli*). EHEC are a subset of STEC which can cause hemorrhagic colitis or HUS.

"Shucked shellfish" means molluscan shellfish that have one or both shells removed.

"Single-service articles" means tableware, carry-out utensils, and other items such as: bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. "Single-use articles" includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under OAC 310:257-7-1, OAC 310:257-7-13 and OAC 310:257-7-15 for multiuse utensils.

"Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -23°C (-10°F) to -4°C (25°F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.

"Smooth" means a food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel; A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

"Sous Vide" means a method of cooking in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

"Tableware" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

"Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

"Tempered" means a mixture of hot and cold water between 100°F and 120°F.

"Temporary food establishment" means a food establishment where food is offered for sale or sold at retail from a fixed, temporary facility in conjunction with a single event or celebration not to exceed fourteen (14) consecutive days.

"Time/Temperature Control for Safety Food" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(A) Time/Temperature Control for Safety Food includes:

- (i) An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to

support pathogenic microorganism growth or toxin formation; and

(ii) Except as specified (B)(iv) of this definition, a food that because of the interaction of its aw and pH values is designated in the Product Assessment Required (PA) in Tables 1 or 2 of Appendix A of this Chapter:

(B) Time/Temperature Control for Safety Food does not include:

(i) An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable *Salmonellae*;

(ii) A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;

(iii) A food that because of its aw or pH value, or interaction of aw and pH value, is designated as a non-TCS food as listed in Table 1 or 2 of Appendix A of this Chapter;

(iv) A food that is designated as Product Assessment Required (PA) in Table 1 or 2 of Appendix A of this Chapter and has undergone a Product Assessment showing that the growth or toxin information of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:

(I) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants or nutrients;

(II) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf-life and use, or temperature range of storage and use; or

(III) A combination of intrinsic and extrinsic factors; or

(v) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with (B)(i) - (B)(iv) of this definition above, even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

"USDA" means the U.S. Department of Agriculture.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food,

such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

"Variance" means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Chapter, if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

"Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, key, or by electronic transaction, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

"Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

"Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21 ; Amended at 39 Ok Reg 1247, eff 9-11-22]

310:257-1-3. Incorporated by reference

(a) The following Code of Federal Regulation (CFR) citations are incorporated by reference as published on July 1, 2019:

- (1) Title 9 CFR, Part 424, Subpart (C);
- (2) Title 21 CFR, Part 129;
- (3) Title 21 CFR, Part 170;
- (4) Title 21 CFR, Part 171;
- (5) Title 21 CFR, Part 172;
- (6) Title 21 CFR, Part 173;
- (7) Title 21 CFR, Part 174;
- (8) Title 21 CFR, Part 175;
- (9) Title 21 CFR, Part 176;
- (10) Title 21 CFR, Part 177;
- (11) Title 21 CFR, Part 178;
- (12) Title 21 CFR, Part 179;
- (13) Title 21 CFR, Part 180;
- (14) Title 21 CFR, Part 181;
- (15) Title 21 CFR, Part 182;
- (16) Title 21 CFR, Part 184;
- (17) Title 21 CFR, Part 186;
- (18) Title 21 CFR, Part 333, Subpart E; and
- (19) Title 21 CFR, Section 1240.60 (d).

(b) The United States Food and Drug Administration: National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish,

2017 Revision is adopted by reference.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-1-4. Exemptions

(a) The food establishment definition does not include a food processing plant; a facility that sells only commercially pre-packaged, non-Time/Temperature Control for Safety Foods, from an approved source, which are incidental to the business, and does not have food in storage; a kitchen in a private home that is in compliance with 2 O.S. 5-4.1 et seq; a kitchen in a private home, such as a bed-and-breakfast operation that prepares and offers food to guests if the number of available guest bedrooms does not exceed the number allowed by 63 O.S. §§ 1201 et seq. and breakfast is the only meal offered; a lodging facility that is serving food according to OAC 310:285-3-14, Lodging Establishments; a private home that receives catered or home-delivered food; individual farmers' market vendors that are in compliance with the definition of a farmers' market and hold a food processors license from the Oklahoma Department of Health, small egg packer license, licensed by the Oklahoma Department of Agriculture, Food and Forestry; a produce stand that offers only whole, uncut and unprocessed fresh fruits, melons, vegetables and legumes and/or whole uncracked and unprocessed tree nuts; or other locations specifically exempted in law.

(b) Persons engaged solely in the sale of food products at a County Free fair as defined by Title 2 O.S. §§ 15-67 are not subject to the provisions of this Chapter.

(1) These persons are not exempted from Title 63 O.S. § 1-1118(B)

(3) in regards to licensure.

(2) The consumer shall be informed by a clearly visible placard, at least eight (8) inches by eleven (11) inches, at the sales or service location, which states "This food is prepared in a kitchen that is not inspected by the Oklahoma Department of Health".

[Source: Amended at 19 Ok Reg 2903, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1622, eff 6-12-03 ; Amended at 21 Ok Reg 1971, eff 4-28-04 (emergency); Amended at 38 Ok Reg 1947, eff 9-11-21 ; Amended at 21 Ok Reg 2730, eff 7-12-04 ; Revoked at 23 Ok Reg 2357, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 37 Ok Reg 1372, eff 9-11-20 ; Amended at 39 Ok Reg 1247, eff 9-11-22]

SUBCHAPTER 3. MANAGEMENT AND PERSONNEL

310:257-3-1. Assignment

(a) Except as specified in (b) of this Section, the license holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.

(b) In a food establishment with two or more departments that are the legal responsibility of the same license holder and that are located on the same premises, the license holder may, during specific time periods when

food is not being prepared, packaged, or served, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for the licensed food establishment. (c) The food establishment license holder through the certified food manager or person in charge shall develop and implement standard operating procedures that ensure compliance with OAC 310:257-15-7.

[Source: Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-3-1.1. Certified food protection manager

(a) At least one person may be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an Accredited Program.

(b) This section does not apply to certain types of food establishments deemed by the regulatory authority to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation.

[Source: Added at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-2. Demonstration

Based on the risks inherent to the food operation, during inspections and upon request a certified food manager or person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this Chapter. The person in charge at the time of the inspection shall demonstrate this knowledge by:

- (1) Complying with this Chapter by having no priority items during the current inspection; or
- (2) Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program; or
- (3) Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:
 - (A) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
 - (B) Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;
 - (C) Describing the symptoms associated with the diseases that are transmissible through food;
 - (D) Explaining the significance of the relationship between maintaining the time and temperature of Time/Temperature Control for Safety Food and the prevention of foodborne illness;

(E) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;

(F) Stating the required food temperatures and times for safe cooking of Time/Temperature Control for Safety Food including meat, poultry, eggs, and fish;

(G) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of Time/Temperature Control for Safety Food;

(H) Describing the relationship between the prevention of foodborne illness and the management and control of the following:

(i) Cross contamination,

(ii) Hand contact with ready-to-eat foods,

(iii) Handwashing, and

(iv) Maintaining the food establishment in a clean condition and in good repair;

(I) Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.

(J) Explaining the relationship between food safety and providing equipment that is:

(i) Sufficient in number and capacity, and

(ii) Properly designed, constructed, located, installed, operated, maintained, and cleaned;

(K) Explaining correct procedures for cleaning and sanitizing utensils and food contact surfaces of equipment;

(L) Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;

(M) Identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;

(N) Identifying critical control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this Code;

(O) Explaining the details of how the person in charge and food employees comply with the HACCP Plan if a plan is required by law, this Code, or an agreement between the Department and the food establishment;

(P) Explaining the responsibilities, rights, and authorities assigned by this code to the:

(i) Food employee,

(ii) Conditional employee,

(iii) Person in charge,

(iv) Regulatory authority; and

(Q) Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-3. Person in charge

The person in charge shall ensure that:

- (1) Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters;
- (2) Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;
- (3) Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this Chapter;
- (4) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;
- (5) Employees are visibly observing foods as they are received to determine that they are from approved or lawful sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;
- (6) Employees are verifying that foods delivered to the food establishment during non-operating hours are from approved or lawful sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented;
- (7) Employees are properly cooking Time/Temperature Control for Safety Food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated;
- (8) Employees are using proper methods to rapidly cool Time/Temperature Control for Safety Foods that are not held hot or are not for consumption within four (4) hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;
- (9) Employees are properly maintaining the temperatures of Time/Temperature Control for Safety Foods during hot and cold holding through daily oversight of the employees' routine monitoring of food temperatures;

- (10) Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed that the food is not cooked sufficiently to ensure its safety;
- (11) Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;
- (12) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets;
- (13) Except when otherwise approved, employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;
- (14) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties;
- (15) Food employees and conditional employees are informed, in a verifiable manner, of their responsibility to report, in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under OAC 310:257-3-4(a); and
- (16) Written procedures and plans, where specified by this Chapter and as developed by the food establishment, are maintained and implemented as required.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21 ; Amended at 39 Ok Reg 1247, eff 9-11-22]

310:257-3-4. Responsibility of the license holder, person in charge, and employees

(a) **Employee reporting.** The license holder shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

- (1) **Reportable symptoms.** Has any of the following symptoms:
 - (A) Vomiting,
 - (B) Diarrhea,
 - (C) Jaundice,
 - (D) Sore throat with fever; or
 - (E) A lesion containing pus such as a boil or infected wound that is open or draining and is:
 - (i) On the hands or wrists, unless an impermeable cover such as a fingercot or stall protects the lesion and a single-use glove is worn over the

impermeable cover,

(ii) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or

(iii) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

(2) **Reportable diagnosis.** Has an illness diagnosed by a health practitioner due to:

(A) Norovirus,

(B) Hepatitis A virus,

(C) *Shigella* species,

(D) Shiga toxin-producing *Escherichia coli*,

(E) Typhoid fever (caused by *Salmonella* Typhi), or

(F) *Salmonella* (non-typhoidal);

(3) **Reportable past illness.** Had Typhoid fever, diagnosed by a health practitioner, within the past three (3) months, without having received antibiotic therapy, as determined by a health practitioner;

(4) **Reportable history of exposure.** Has been exposed to or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:

(A) Norovirus within the past forty-eight (48) hours of the last exposure,

(B) Shiga Toxin-Producing *Escherichia coli* or *Shigella* spp. within the past three (3) days of the last exposure,

(C) Typhoid fever within the past fourteen (14) days of the last exposure, or

(D) Hepatitis A virus within the past thirty (30) days of the last exposure; or

(5) **Reportable history of exposure.** Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:

(A) Norovirus within the past forty-eight (48) hours of the last exposure,

(B) Shiga Toxin-Producing *Escherichia coli* or *Shigella* spp. within the past three (3) days of the last exposure,

(C) Typhoid fever (caused by *Salmonella* Typhi) within the past fourteen (14) days of the last exposure, or

(D) Hepatitis A virus within the past thirty (30) days of the last exposure.

(b) **Responsibility of person in charge to notify the regulatory authority.** The person in charge shall notify the regulatory authority within twenty-four (24) hours or the next business day, if the facility or regulatory authority is not open the following day, when a food employee is:

(1) Jaundiced, or

(2) Diagnosed with an illness due to a pathogen as specified under (a)(2) (A) through (F) of this Section.

(c) **Responsibility of the person in charge to prohibit a conditional employee from becoming a food employee.** The person in charge shall ensure that a conditional employee:

(1) **Has symptoms or diagnosis.** Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under (a)(1) through (a)(3) of this Section, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under OAC 310:257-3-6; and

(2) **Had exposure.** Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified under (a)(4) through (a)(5) of this Section, is prohibited from becoming a food employee until the conditional employee meets the criteria as specified under OAC 310:257-3-6(a)(10).

(d) **Responsibility of the person in charge to exclude or restrict.** The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified under (a)(1) through (a)(5) of this Section is:

(1) **Exclusions.** Excluded as specified under OAC 310:257-3-5 (relating to exclusions and restrictions) and in compliance with OAC 310:257-3-6 (relating to removal, adjustment, or retention of exclusions and restrictions); or

(2) **Restrictions.** Restricted as specified under OAC 310:257-3-5 and in compliance with the provisions specified under OAC 310:257-3-6.

(e) **Responsibility of food employees and conditional employees to report.** A food employee or conditional employee shall report to the person in charge, prior to beginning duties in the food establishment, the information as specified under (a) of this Section.

(f) **Responsibility of food employees to comply.** A food employee shall:

(1) **Comply with exclusion.** Comply with the exclusion as specified under OAC 310:257-3-5 and with the provisions specified under OAC 310:257-3-6.

(2) **Comply with restrictions.** Comply with the restrictions as specified under OAC 310:257-3-5 and comply with the provisions specified under OAC 310:257-3-6.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-5. Exclusions and restrictions

Conditions for exclusion or restriction. The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following:

(1) **Symptomatic with vomiting or diarrhea.** Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:

- (A) Symptomatic with vomiting or diarrhea; or
- (B) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, *Shigella* spp, *Salmonella* (nontyphoidal), or Shiga toxin-producing *E. coli*.

(2) Jaundiced or diagnosed with hepatitis A infection.

Exclude a food employee who is:

- (A) Jaundiced and the onset of jaundice occurred within the last seven (7) calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal orally transmitted infection.
- (B) Diagnosed with an infection from hepatitis A virus within fourteen (14) calendar days from the onset of any illness symptoms, or within seven (7) calendar days of the onset of jaundice; or
- (C) Diagnosed with an infection from hepatitis A virus without developing symptoms.

(3) Diagnosed or reported previous illness with Typhoid fever.

Exclude a food employee who is diagnosed with Typhoid fever or reports having had Typhoid fever within the past three (3) months as specified under OAC 310:257-3-4(a)(3).

(4) Diagnosed with an asymptomatic infection from

Norovirus. If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:

- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
- (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(5) Diagnosed with *Shigella* spp. infection and

asymptomatic. If a food employee is diagnosed with an infection from *Shigella* spp., and is asymptomatic:

- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
- (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(6) Diagnosed with Shiga toxin-producing *E. coli* (STEC) and

asymptomatic. If a food employee is diagnosed with an infection from Shiga Toxin Producing *E. coli* and is asymptomatic:

- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
- (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(7) Diagnosed with nontyphoidal *Salmonella* and

asymptomatic. If a food employee is diagnosed with an infection from *Salmonella* (nontyphoidal) and is asymptomatic, restrict the food employee who works in a food establishment serving a highly susceptible population or in a food establishment not serving a highly susceptible population.

(8) Symptomatic with sore throat with fever. If a food employee is ill with symptoms of acute onset of sore throat with

fever:

- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
- (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(9) **Symptomatic with uncovered infected wound or pustular boil.** If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under OAC 310:257-3-4 (a)(1)(E), restrict the food employee.

(10) **Exposed to foodborne pathogen and works in food establishment serving highly susceptible population.** If a food employee is exposed to a foodborne pathogen as specified in OAC 310:257-3-4 or OAC 310:257-3-5, restrict the food employee who works in a food establishment serving a highly susceptible population.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-6. Removal, adjustment, or retention of exclusions and restrictions

(a) **Managing exclusions or restrictions.** The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:

(1) **Conditions for diagnosis other than Typhoid fever or hepatitis A virus.** Except when a food employee is diagnosed with Typhoid fever or an infection from hepatitis A virus:

(A) **Removing exclusion for food employee who was symptomatic and not diagnosed.** Reinstate a food employee who was excluded as specified in OAC 310:257-3-5(a)(1)(A) if the food employee:

- (i) Is asymptomatic for at least twenty-four (24) hours; or
- (ii) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.

(B) **Norovirus diagnosis.** If a food employee was diagnosed with an infection from Norovirus and excluded as specified in OAC 310:257-3-5(a)(1)(B):

- (i) **Adjusting exclusion for food employee who was symptomatic and is now asymptomatic.** Restrict the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in (a)(4)(A) or (a)(4)(B) of this Section are met; or
- (ii) **Retaining exclusion for food employee who was asymptomatic and is now asymptomatic**

and works in food establishment serving highly susceptible population. Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in (a)(4)(A) or (a)(4)(B) of this Section are met; or

(C) **Shigella spp. diagnosis.** If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified in OAC 310:257-3-5(a)(1)(B):

(i) **Adjusting exclusion for food employee who was symptomatic and is now asymptomatic.**

Restrict the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in (a)(5)(A) or (a)(5)(B) of this Section are met; or

(ii) **Retaining exclusion for food employee who was asymptomatic and is now asymptomatic.**

Retain the exclusion for the food employee who is asymptomatic for at least twenty-four (24) hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in (a)(5)(A) or (a)(5)(B) of this Section, or (a)(5)(A) and (a)(3)(A) of this Section are met.

(D) **STEC diagnosis.** If a food employee was diagnosed with an infection from Shiga toxin-producing *Escherichia coli* (STEC) and excluded as specified under OAC 310:257-3-5(a)(1)(B):

(i) **Adjusting exclusion for food employee who was symptomatic and is now asymptomatic.**

Restrict the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in (a)(6)(A) or (a)(6)(B) of this Section are met; or

(ii) **Retaining exclusion for food employee who was symptomatic and is now asymptomatic and works in food establishment serving highly susceptible population.**

Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in (a)(6)(A) or (a)(6)(B) of this Section are met.

(E) **Nontyphoidal Salmonella diagnosis.** If a food employee was diagnosed with an infection from Salmonella (nontyphoidal) and excluded as specified under OAC 310:257- 3-5(a)(1)(B):

(i) **Adjusting exclusion for food employee who was symptomatic and is now asymptomatic.**

Restrict the food employee who is asymptomatic for at least thirty (30) days until conditions for reinstatement as specified under (7)(A) or (B) of this section are met; or

(ii) **Retaining exclusion for food employee that remains symptomatic.** Retain the exclusion for the food employee who is symptomatic until conditions for reinstatement as specified under (7) (A) or (7)(B) of this section are met.

(2) **Hepatitis A virus or jaundice diagnosis - removing exclusions.** Reinstatement a food employee who was excluded as specified in OAC 310:257-3-5(a)(2) if the person in charge obtains approval from the Department and one of the following conditions is met;

(A) **Jaundiced for more than seven (7) days.** The food employee has been jaundiced for more than seven (7) calendar days; or

(B) **Symptoms other than jaundice.** The anicteric food employee has been symptomatic with symptoms other than jaundice for more than fourteen (14) calendar days; or

(C) **Medical documentation - free of hepatitis A virus.** The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of hepatitis A virus infection.

(3) **Typhoid fever diagnosis - removing exclusions.** Reinstatement a food employee who was excluded as specified in OAC 310:257-3-5(a)(3) if:

(A) **Approval from Department.** The person in charge obtains approval from the Department; and

(B) **Medical documentation -free from Typhoid fever.** The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from Typhoid fever.

(4) **Norovirus diagnosis - removing exclusion or restriction.** Reinstatement a food employee who was excluded as specified in OAC 310:257-3-5(a)(1)(B) or OAC 310:257-3-5(a)(4)(A) who was restricted under OAC 310:257-3-5(a)(4)(B) if the person in charge obtains approval from the Department and one of the following conditions is met:

(A) **Written medical documentation - free of Norovirus.** The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the

food employee is free of a Norovirus infection;

(B) **Symptoms resolved and more than forty -eight (48) hours.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than forty-eight (48) hours have passed since the food employee became asymptomatic; or

(C) **Excluded or restricted food employee did not develop symptoms and more than forty-eight (48) hours have passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than forty-eight (48) hours have passed since the food employee was diagnosed.

(5) **Shigella spp. diagnosis - removing exclusion or restriction.** Reinstate a food employee who was excluded as specified in OAC 310:257-3-5(a)(1)(B) or OAC 310:257-3-5(a)(5)(A) or who was restricted in OAC 310:257-3-5(a)(5)(B) if the person in charge obtains approval from the Department and one of the following conditions is met:

(A) **Written medical documentation - free of Shigella spp.** The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Shigella* spp. infection based on test results showing two (2) consecutive negative stool specimen cultures that are taken:

(i) Not earlier than forty-eight (48) hours after discontinuance of antibiotics, and

(ii) At least twenty-four (24) hours apart;

(B) **Symptoms resolved - more than seven (7) days passed.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than seven (7) calendar days have passed since the food employee became asymptomatic; or

(C) **Excluded or restricted food employee did not develop symptoms and more than seven (7) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than seven (7) calendar days have passed since the food employee was diagnosed.

(6) **STEC diagnosis - removing exclusion or restriction.** Reinstate a food employee who was excluded or restricted as specified in OAC 310:257-3-5(a)(1)(B) or OAC 310:257-3-5(a)(6)(A) or who was restricted in OAC 310:257-3-5(a)(6)(B) if the person in charge obtains approval from the Department and one of the following conditions is met:

(A) **Written medical documentation - free of infection.** The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from Shiga toxin-producing *Escherichia coli* (STEC) based on test results

that show 2 consecutive negative stool specimen cultures that are taken:

(i) Not earlier than forty-eight (48) hours after discontinuance of antibiotics; and

(ii) At least twenty-four (24) hours apart;

(B) **Symptoms resolved - more than seven (7) days passed.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than seven (7) calendar days have passed since the food employee became asymptomatic; or

(C) **Excluded or restricted employee did not develop symptoms and more than seven (7) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than seven (7) days have passed since the food employee was diagnosed.

(7) **Nontyphoidal Salmonella - removing exclusion or restriction.** Reinstate a food employee who was excluded as specified under OAC 310:257-3-5(a)(1)(B) or who was restricted as specified under OAC 310:257-3-5(a)(7) if the person in charge obtains approval from the Department and one of the following conditions is met:

(A) **Written medical documentation - free of infection.** The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Salmonella* (nontyphoidal) infection based on test results showing two (2) consecutive negative stool specimen Cultures that are taken:

(i) Not earlier than forty-eight (48) hours after discontinuance of antibiotics, and

(ii) At least twenty-four (24) hours apart;

(B) **Symptoms resolved - more than thirty (30) days passed.** The food employee was restricted after symptoms of vomiting or diarrhea resolved, and more than thirty (30) days have passed since the food employee became asymptomatic; or

(C) **Excluded or restricted employee did not develop symptoms and more than thirty (30) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than thirty (30) days have passed since the food employee was diagnosed.

(8) **Sore throat with fever - removing exclusion or restriction.** Reinstate a food employee who was excluded or restricted as specified in OAC 310:257-3-5(a)(8)(A) or OAC 310:257-3-5(a)(8)(B) if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

(A) Has received antibiotic therapy for *Streptococcus pyogenes* infection for more than twenty-four (24) hours;

- (B) Has at least one (1) negative throat specimen culture for *Streptococcus pyogenes* infection; or
- (C) Is otherwise determined by a health practitioner to be free of a *Streptococcus pyogenes* infection.

(9) **Uncovered infected wound or pustular boil - removing restriction.** Reinstate a food employee who was restricted as specified in OAC 310:257-3-5(a)(9) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

- (A) **Impermeable cover - hand, finger, or wrist.** An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;
- (B) **Impermeable cover - arm.** An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or
- (C) **Impermeable cover - other parts of body.** A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.

(10) **Exposure to foodborne pathogen and works in food establishment serving highly susceptible population - removing restriction.** Reinstate a food employee who was restricted as specified in OAC 310:257-3-5(a)(10) and was exposed to one of the following pathogens as specified in OAC 310:257-3-4(a)(4) or OAC 310:257-3-4(a)(5):

- (A) **Norovirus.** Norovirus and one of the following conditions is met:
 - (i) More than forty-eight (48) hours have passed since the last day the food employee was potentially exposed; or
 - (ii) More than forty-eight (48) hours have passed since the food employee's household contact became asymptomatic
- (B) **Shigella spp., STEC.** *Shigella* spp. or Shiga toxin-producing *Escherichia coli* (STEC) and one of the following conditions is met:
 - (i) More than three (3) calendar days have passed since the last day the food employee was potentially exposed; or
 - (ii) More than three (3) calendar days have passed since the food employee's household contact became asymptomatic.
- (C) **Typhoid fever.** Typhoid fever (caused by *Salmonella* Typhi) and one (1) of the following conditions is met:
 - (i) More than fourteen (14) calendar days have passed since the last day the food employee was potentially exposed; or
 - (ii) More than fourteen (14) calendar days have passed since the food employee's household contact became asymptomatic.

(D) **Hepatitis A virus.** Hepatitis A virus and one of the following conditions is met:

- (i) The food employee is immune to hepatitis A virus infection because of a prior illness from hepatitis A;
- (ii) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A;
- (iii) The food employee is immune to hepatitis A virus infection because of IgG administration;
- (iv) More than thirty (30) calendar days have passed since the last day the food employee was potentially exposed;
- (v) More than thirty (30) calendar days have passed since the food employee's household contact became jaundiced; or
- (vi) The food employee does not use an alternative procedure that allows bare hand contact with ready-to-eat food until at least thirty (30) days after the potential exposure, as specified in (a)(10)(D)(iv) and (a)(10)(D)(v) of this Section, and the food employee receives additional training about:
 - (I) Hepatitis A symptoms and preventing the transmission of infection,
 - (II) Proper handwashing procedures, and
 - (III) Protecting ready-to-eat food from contamination introduced by bare hand contact.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-7. Responsibility of a food employee or an applicant to report to the person in charge [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-3-8. Reporting by the person in charge [RESERVED]

[Source: Reserved at 23 Ok Reg 2358, eff 6-25-06]

310:257-3-9. Clean condition

Food employees shall keep their hands and exposed portions of their arms clean.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-3-10. Cleaning procedure

(a) Except as specified in paragraph (d) of this Section, food employees shall clean their hands and exposed portions of their arms, including

surrogate prosthetic devices, for hands or arms, for at least twenty (20) seconds, using a cleaning compound in a handwashing sink that is equipped as specified under OAC 310:257-9-14 and OAC 310:257-11-23 through OAC 310:257-11-28.

(b) Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hand and arms:

- (1) Rinse under clean, running warm water;
- (2) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer;
- (3) Rub together vigorously for at least ten (10) to fifteen (15) seconds while:
 - (A) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure; and
 - (B) Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers;
- (4) Thoroughly rinse under clean, running warm water; and
- (5) Immediately follow the cleaning procedure with thorough drying using a method as specified in OAC 310:257-11-25.

(c) To avoid re-contaminating hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.

(d) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands or surrogate prosthetic devices.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-11. Special handwash procedures [RESERVED]

[Source: Reserved at 23 Ok Reg 2358, eff 6-25-06]

310:257-3-12. When to wash

Food employees shall clean their hands and exposed portions of their arms immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles and:

- (1) After touching bare human body parts other than clean hands and clean, exposed portions of arms;
- (2) After using the toilet room;
- (3) After caring for or handling service animals or aquatic animals;
- (4) Except as specified in OAC 310:257-3-18(b), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
- (5) After handling soiled equipment or utensils;

- (6) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
- (7) When switching between working with raw food and working with ready-to-eat food;
- (8) Before donning gloves to initiate tasks that involve working with food; and
- (9) After engaging in other activities that contaminate the hands.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-13. Where to wash

Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation, warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-14. Hand antiseptics

(a) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

(1) Comply with one of the following:

(A) Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness; or

(B) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash, and

(2) Consist of only components which the intended use of each complies with one of the following:

(A) A threshold of regulation exemption pursuant to 21 CFR Section 170.39 - Threshold of regulation for substances used in food-contact articles; or

(B) 21 CFR, Part 178 - Indirect Food Additives: Adjuvants; Production Aids, and Sanitizers as regulated for use as a food additive with conditions of safe use; or

(C) A determination of generally recognized as safe (GRAS), partial listings of substances with food uses that are GRAS may be found at 21 CFR, Part 182 - Substances Generally Recognized as Safe, 21 CFR, Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe for use in contact with food, or 21 CFR, Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food, and in FDA's inventory of GRAS notices, or

(D) A prior sanction listed under 21 CFR, Part 181 - Prior Sanctioned Food Ingredients, or

- (E) A food contact notification that is effective, and
- (3) Be applied only to hands that are cleaned as specified in OAC 310:257-3-10.
- (b) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under (a)(2) of this Section, use shall be:
 - (1) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or
 - (2) Limited to situations that involve no direct contact with food by the bare hands.
- (c) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-15. Maintenance

- (a) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.
- (b) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-3-16. Prohibition

Except for a plain ring such as a wedding band, while preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-3-17. Clean condition

Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-3-18. Eating, drinking, or using tobacco

- (a) Except as specified in (b) of this Section, an employee must eat, drink, or use any form of tobacco, medical marijuana, or vape product in designated areas where the following items cannot be contaminated: exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; and other items needing protection.
- (b) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:
 - (1) The employees's hands;
 - (2) The container; and

(3) Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-19. Discharges from the eyes, nose, and mouth

Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-3-19.1. Use of bandages, finger cots, or finger stalls

If used, an impermeable cover such as a bandage, finger cot or finger stall located on the wrist, hand, or finger of a food employee working with exposed food shall be covered with a single-use glove.

[Source: Added at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-20. Effectiveness of hair restraints

(a) Except as provided in (b) of this Section, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(b) This Section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-21. Handling prohibition

(a) Except as specified in (b) of this Section, food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in OAC 310:257-11-54(b)(2-5).

(b) Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as specified under OAC 310:257-3-10 and OAC 310:257-3-12(3).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-3-22. Clean-up of vomiting and diarrheal events

A food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve

the discharge of vomitus or fecal matter onto surfaces in the food establishment. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.

[Source: Added at 38 Ok Reg 1947, eff 9-11-21]

310:257-3-23. Availability of educational materials

The Department shall make available educational materials to assist license holders, persons in charge, and employees in complying with the requirements of this Chapter.

[Source: Added at 38 Ok Reg 1947, eff 9-11-21]

SUBCHAPTER 5. FOOD

310:257-5-1. Safe, unadulterated, and honestly presented

Food shall be safe, unadulterated, and, as specified under OAC 310:257-5-66, honestly presented.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-2. Compliance with food law

- (a) Food shall be obtained from sources that comply with this Chapter.
- (b) Packaged food shall be labeled as specified in 21 CFR, Part 101 Food Labeling, 9 CFR, Part 317 Labeling, Marking Devices, and Containers, and 9 CFR, Part 381 Subpart N Labeling and Containers, and as specified in this chapter.
- (c) Fish, other than those specified under OAC 310:257-5-49(b), that are intended for consumption in their raw or undercooked form and allowed as specified under OAC 310:257-5-46(d)(1), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under OAC 310:257-5-49; or frozen on the premises as specified under OAC 310:257-5-49 and records are retained as specified under OAC 310:257-5-50.
- (d) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified under OAC 310:257-5-46(c) shall be:
 - (1) Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them, to indicate that the steaks meet the definition of whole-muscle, intact beef, or
 - (2) Deemed acceptable by the Department based on other evidence, such as written buyer specifications or invoices that indicates that the steaks explicitly meet the definition of whole-muscle, intact beef, and
 - (3) If individually cut in a food establishment:
 - (A) Cut from whole-muscle intact beef that is labeled by a food processing plant as specified in OAC 310:257-5-2 (e)

- (1) and (e)(2),
 - (B) Prepared so they remain intact, and
 - (C) If packaged for undercooking in a food establishment, labeled as specified in (e)(1) of this Section or identified as specified in (e)(2) of this Section.
- (e) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling instructions as specified in law, including 9 CFR, Section 317.2(l) and 9 CFR, Section 381.125(b).
- (f) Eggs that have not been specifically treated to destroy all viable *Salmonellae* shall be labeled to include safe handling instructions as specified in law, including 21 CFR 101.17(h).
- (g) Alcohol sales and service may only be conducted as allowed by law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21 ; Amended at 39 Ok Reg 1247, eff 9-11-22]

310:257-5-3. Food in a hermetically sealed container

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-4. Fluid milk and milk products

Fluid milk and milk products shall be obtained from sources that comply with Grade A Standards as adopted by the Oklahoma Department of Agriculture Food and Forestry.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-5. Fish

- (a) Fish that are received for sale or service shall be:
- (1) Commercially and legally caught or harvested; or
 - (2) Approved for sale or service.
- (b) Molluscan shellfish that are recreationally caught may not be received for sale or service.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-6. Molluscan shellfish

- (a) Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.
- (b) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-7. Wild mushrooms

(a) Except as specified in (b) of this Section, mushroom species picked in the wild shall not be offered for sale or service by a food establishment.

(b) This Section does not apply to:

- (1) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
- (2) Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-8. Game Animals

(a) Game animals received for sale or service shall be commercially raised livestock for food and:

- (1) Slaughtered and processed under the Exotic Livestock and Exotic Livestock Products Inspection Act (2 O.S. Section 6-290.1 et seq.) or the Oklahoma Rabbit and Rabbit Products Act (2 O.S. Section 6-280.1 et seq.). The rules for rabbit inspection are included in OAC 35:37-9 (relating to Oklahoma Rabbit and Rabbit Products Inspection Regulations). The meat products shall be marked with the appropriate mark of inspection as required in OAC 35:37-9-18 (relating to Form of inspection mark) and OAC 35:37, Appendix D, (relating to Official Marks of Inspection and Other Identification for Rabbits and Rabbit Products); or
- (2) Marked with the appropriate mark of inspection as described in OAC 35:37-11-86 (relating to Official marks and devices to identify inspected and passed carcasses and products of exotic livestock) and OAC 35:37, Appendix E (relating to Official Marks of Inspection and Other Identification for Exotic Livestock and Exotic Livestock Products), for exotic livestock that is commercially raised, including but not limited to animals of the families bovidae, cervidae, and antilocapridae. The rules for exotic livestock inspection are included in OAC 35:37-11 (relating to Exotic Livestock and Exotic Livestock Products); or
- (3) Slaughtered and processed under a voluntary inspection program administered by the USDA for exotic animals, including reindeer, elk, deer, antelope, water buffalo or bison, that are inspected and approved in accordance with 9 CFR Part 352, Exotic Animals and Horses; Voluntary Inspection, or rabbits that are inspected and certified in accordance with 9 CFR Part 354, Voluntary Inspection of Rabbits and Edible Products Thereof; or
- (4) Slaughtered and processed under the U. S. Department of Agriculture Food Safety and Inspection Service Meat Inspection Program or the Oklahoma Department of Agriculture, Food and Forestry - Meat and Poultry Inspection Program if the meat products are from wild hogs that are live caught. All products eligible for consumption shall be legibly marked by the

appropriate regulatory agency with the mark of inspection.

(b) Meat derived from field dressed wild game animals shall not be received for sale or service and can only be donated to individual consumers from approved donation sites provided:

(1) The meat has been processed in an establishment that has been approved by the Oklahoma Department of Wildlife Conservation; and

(2) The meat has been processed in an establishment that has been approved by the Oklahoma Department of Wildlife Conservation and Oklahoma Department of Agriculture, Food and Forestry as a custom processor.

(c) A game animal shall not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17 - Endangered and Threatened Wildlife and Plants.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-9. Temperature

(a) Except as specified in (b) of this Section, refrigerated, Time/Temperature Control for Safety Food shall be at a temperature of 5°C (41°F) or below when received.

(b) If a temperature other than 5°C (41°F) for a Time/Temperature Control for Safety Food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.

(c) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 7°C (45°F) or less.

(d) Time/Temperature Control for Safety Food that is cooked to a temperature and for a time specified under OAC 310:257-5-46 through 310:257-5-48 and received hot shall be at a temperature of 57°C (135°F) or above.

(e) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.

(f) Upon receipt, Time/Temperature Control for Safety Food shall be free of evidence of previous temperature abuse.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-10. Additives

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b) food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR Part 180 Tolerances and Exemptions for Pesticide Chemical Residues In Food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-11. Eggs

Eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-12. Eggs and milk products, pasteurized

- (a) Egg products shall be obtained pasteurized.
- (b) Fluid and dry milk and milk products frozen milk products, such as ice cream, and cheese shall be as specified in 2 O.S. Section 7-401 et seq.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-13. Package integrity

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-14. Ice

Ice for use as a food or a cooling medium shall be made from drinking water.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-15. Shucked shellfish, packaging and identification

- (a) Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the:
 - (1) Name, address, and certification number of the shucker, packer or repacker of the molluscan shellfish; and
 - (2) The "sell by" or "best if used by" date for packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more.
- (b) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under (a) of this Section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d) Molluscan shellfish.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-16. Shellstock identification

(a) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that depurates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and that list:

(1) Except as specified under (c) of this Section, on the harvester's tag or label, the following information in the following order:

- (A) The harvester's identification number that is assigned by the shellfish control authority,
- (B) The date of harvesting,
- (C) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested,
- (D) The type and quantity of shellfish, and
- (E) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days;" and

(2) Except as specified in (d) of this Section, on each dealer's tag or label, the following information in the following order:

- (A) The dealer's name and address, and the certification number assigned by the shellfish control authority,
- (B) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested,
- (C) The same information as specified for a harvester's tag under paragraphs (a)(1)(B)-(D) of this Section, and
- (D) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days."

(b) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under (a) of this Section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

(c) If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.

(d) If the harvester's tag or label is designed to accommodate each dealer's identification as specified under (a)(2)(A) and (B) of this Section, individual dealer tags or labels need not be provided.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-5-17. Shellstock, condition

When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-18. Juice treated

(a) Pre-packaged juice shall:

- (1) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120 Hazard Analysis and Critical Control (HACCP) Systems; and
- (2) Be obtained pasteurized or otherwise treated to attain a five(5)-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24 Process Controls.

(b) Juices that have not been subjected to processing to achieve a five(5)-log destruction of the pathogen of concern shall be restricted to sale at the site of production.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-19. Molluscan shellfish, original container

(a) Except as specified in (b) through (d) of this Section, molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.

(b) For display purposes, shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

- (1) The source of the shellstock on display is identified as specified under OAC 310:257-5-16 and recorded as specified under OAC 310:257-5-20; and
- (2) The shellstock are protected from contamination.

(c) Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

- (1) The labeling information for the shellfish on display as specified under OAC 310:257-5-15 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
- (2) The shellfish are protected from contamination.

(d) Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers where allowed by law if:

- (1) The labeling information for the shellfish is on each consumer self-service container as specified under OAC 310:257-5-15, OAC 310:257-5-67(a) and OAC 310:257-5-67 (b)(1) through (5);
- (2) The labeling information as specified under OAC 310:257-5-15 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;

- (3) The labeling information and dates specified under Subparagraph (d)(2) of this section are maintained for ninety (90) days; and
- (4) The shellfish are protected from contamination.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-20. Shellstock, maintaining identification

- (a) Except as specified under (c)(2) of this Section, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty.
- (b) The date when the last shellstock from the container is sold or served shall be recorded on the tag or label.
- (c) The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for ninety (90) calendar days from the date that is recorded on the tag or label, as specified under (b) of this Section, by:
 - (1) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under (b) of this Section; and
 - (2) If shellstock are removed from their tagged or labeled container:
 - (A) Preserving source identification by using a record keeping system as specified under (c)(1) of this Section, and
 - (B) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers, different harvest dates, or different growing areas as identified on the tag or label before being ordered by the consumer.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-21. Preventing contamination from hands

- (a) Food employees shall wash their hands as specified under OAC 310:257-3-10.
- (b) Except when washing fruits and vegetables as specified in OAC 310:257-5-27 or (d) of this Section, food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli-tissue, spatulas, tongs, single-use gloves, or dispensing equipment. This does not apply to a food employee that contacts exposed, ready-to-eat food with bare hands at a time the ready-to-eat food is being added as an ingredient to food that:
 - (1) Contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperature as specified in OAC 310:257-5-46 or OAC 310:257-5-47; or

(2) Does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 63°C (145°F).

(c) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(d) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if the food establishment obtains prior approval from the regulatory authority and maintains:

(1) A written employee health policy that details how the food establishment complies with OAC 310:257-3-4 through 310:257-3-6 including:

(A) Documentation that food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified under OAC 310:257-3-4,

(B) Documentation that food employees and conditional employees acknowledge their responsibilities as specified under OAC 310:257-3-4, and

(C) Documentation that the person in charge acknowledges the responsibilities as specified under OAC 310:257-3-4(b) through 310:257-3-4(d), OAC 310:257-3-5 and OAC 310:257-3-6;

(2) Documentation that food employees acknowledge that they have received training in:

(A) The risks of contacting the specific ready-to-eat foods with bare hands,

(B) Proper handwashing as specified under OAC 310:257-3-10;

(C) When to wash their hands as specified under OAC 310:257-3-12;

(D) Where to wash their hands as specified under OAC 310:257-3-13;

(E) Proper fingernail maintenance as specified under OAC 310:257-3-15;

(F) Prohibition of jewelry as specified under OAC 310:257-3-16; and

(G) Good hygienic practices as specified under OAC 310:257-3-18 and 310:257-3-19.

(3) Documentation that food employees contacting ready-to-eat food with bare hands use two (2) or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:

(A) Double handwashing,

(B) Nail brushes,

(C) A hand antiseptic after handwashing as specified under OAC 310:257-3-14, or

(D) Other control measures approved by the Department, and

(4) Documentation that corrective action is taken when this Sub-paragraph is not followed.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-22. Preventing contamination when tasting

A food employee may not use a utensil more than once to taste food that is to be sold or served.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-23. Packaged and unpackaged food-separation, packaging, and segregation

(a) Food shall be protected from cross contamination by:

(1) Except as specified in (c) of this Section, separating raw animal foods during storage, preparation, holding, and display from:

- (A) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables; and
- (B) Cooked ready-to-eat food; and
- (C) Fruits and vegetables before they are washed.

(2) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

- (A) Using separate equipment for each type; or
- (B) Arranging each type of food in equipment so that cross contamination of one type with another is prevented; and
- (C) Preparing each type of food at different times or in separate areas;

(3) Cleaning equipment and utensils as specified under OAC 310:257-7-83(a) and sanitizing as specified under OAC 310:257-7-95;

(4) Except as specified in (b) of this Section, storing the food in packages, covered containers, or wrappings;

(5) Cleaning hermetically sealed containers of food of visible soil before opening;

(6) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

(7) Storing damaged, spoiled, or recalled food being held in the food establishment as specified under OAC 310:257-11-38; and

(8) Separating fruits and vegetables, before they are washed as specified under OAC 310:257-5-27 from ready-to-eat food.

(b) Paragraph (a)(4) of this Section does not apply to:

(1) Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;

(2) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized

racks;

(3) Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;

(4) Food being cooled as specified under OAC 310:257-5-58(b)(2); or

(5) Shellstock.

(c) Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-24. Food storage containers, identified with common name of food

Except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, shall be identified with the common name of the food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-25. Pasteurized eggs, substitute for raw eggs for certain recipes

Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or BÉarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:

(1) Cooked as specified under OAC 310:257-5-46(a)(1) or OAC 310:257-5-46(a)(2); or

(2) Included in OAC 310:257-5-46(d).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-26. Protection from unapproved additives

(a) Food shall be protected from contamination that may result from the addition of, as specified in OAC 310:257-5-10:

(1) Unsafe or unapproved food or color additives; and

(2) Unsafe or unapproved levels of approved food and color additives.

(b) A food employee may not:

(1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; or

(2) Except for grapes, serve or sell food specified under (b)(1) of this Section that is treated with sulfiting agents before receipt by

the food establishment.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-27. Washing fruits and vegetables

(a) Except as specified in (b) of this section and except for whole, uncut, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

(b) Fruits and vegetables may be washed by using chemicals as specified under OAC 310:257-13-8.

(c) Devices used for on-site generation of chemicals meeting the requirements specified in 21 CFR Section 173.315, chemicals used in the washing or to assist in the peeling of fruits and vegetables, for the washing of raw, whole fruits and vegetables shall be used in accordance with the manufacturer's instructions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-28. Ice used as exterior coolant, prohibited as ingredient

After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice shall not be used as food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-5-29. Storage or display of food in contact with water or ice

(a) Packaged food shall not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water, except that canned and bottled beverages may be stored in self draining ice.

(b) Except as specified in (c) and (d) of this Section, unpackaged food may not be stored in direct contact with undrained ice.

(c) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water.

(d) Raw poultry and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-30. Food contact with equipment and utensils

Food shall only contact surfaces of:

- (1) Equipment and utensils that are cleaned as specified under OAC 310:257-7-82 through OAC 310:257-7-91 of this Chapter and sanitized as specified under OAC 310:257-7-93 through OAC 310:257-7-95 of this Chapter;
- (2) Single service and single-use articles; or
- (3) Linens, such as cloth napkins, as specified under OAC 310:257-5-32 that are laundered as specified under OAC 310:257-7-96 through 100.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-31. In-use utensils, between-use storage

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

- (1) Except as specified under (2) of this Section, in the food with their handles above the top of the food and the container;
- (2) In food that is not Time/Temperature Control for Safety Food with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;
- (3) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under OAC 310:257-7-83 and OAC 310-257-7-94;
- (4) In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;
- (5) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not Time/Temperature Control for Safety Food; or
- (6) In a container of water if the water is maintained at a temperature of at least 57°C (135°F) and the container is cleaned at a frequency specified under OAC 310:257-7-83 (d)(7).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-32. Linens and napkins, use limitation

Linens, such as cloth napkins, may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-33. Wiping cloths, use limitation

(a) Cloths in use for wiping food spills from tableware and carry out containers that occur as food is being served shall be:

- (1) Maintained dry; and

- (2) Used for no other purpose.
- (b) Cloths in use for wiping counters and other equipment surfaces shall be:
 - (1) Held between uses in a chemical sanitizer solution at a concentration specified under OAC 310:257-7-75; and
 - (2) Laundered daily as specified under OAC 310:257-7-97(d).
- (c) Cloths in use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes.
- (d) Dry wiping cloths and the chemical sanitizing solution specified in (b)(1) of this Section in which wet wiping cloths are held between uses shall be free of food debris and visible soil.
- (e) Containers of sanitizing solutions specified in (b)(1) of this Section in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner to prevent contamination of food, equipment, utensils, linens, single-service or single-use articles.
- (f) Single use disposable sanitizer wipes shall be used in accordance with EPA approved manufacturer's label use instructions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-34. Gloves, use limitation

- (a) If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.
- (b) Except as specified in (c) of this Section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under OAC 310:257-5-46 through OAC 310:257-5-48.1 such as frozen food or a primal cut of meat.
- (c) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.
- (d) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under OAC 310:257-5-46 through OAC 310:257-5-48.1 such as frozen food or a primal cut of meat.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-35. Using clean tableware for second portions and refills

- (a) Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer, to provide second portions or refills.
- (b) Except as specified in (c) of this Section, self-service consumers may not be allowed to use soiled tableware, including single-service articles,

to obtain additional food from the display and serving equipment. This Section shall be deemed to be met if clean tableware is provided at self-service areas and signage is prominently posted that reads in substance: "Oklahoma State Department of Health Rules require the use of clean tableware to get refills."

(c) Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified under OAC 310:257-7-28(1),(2), and (4).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-36. Refilling returnables

(a) Except as provided in paragraphs (b) through (e) of this section, empty containers returned to a food establishment for cleaning and refilling with food shall be cleaned and refilled in a regulated food establishment.

(b) Take-home food containers returned to a food establishment may be refilled at a food establishment with food, if the food container is:

- (1) Designed and constructed for reuse and in accordance with the requirements specified under OAC 310:257-7-1 through 310:257-7-15;
- (2) A container that was initially provided by the food establishment to the consumer, either empty or filled with food by the food establishment, for the purpose of being returned for reuse;

(c) A take-home food container returned to a food establishment may be refilled at a food establishment with beverage if:

- (1) The beverage is not Time/Temperature Control for Safety Food;
- (2) The design of the container and the rinsing equipment and nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;
- (3) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;
- (4) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and
- (5) The container is refilled by:
 - (A) An employee of the food establishment; or
 - (B) The owner of the container if the beverage system includes a contamination-free transfer process as specified under OAC 310:257-7-28 (1), (2) and (4) that cannot be bypassed.

(d) Consumer-owned, personal take-out beverage containers, such as thermally insulated bottles, non-spill coffee cups, and promotional beverage glasses, may be refilled by employees of the food establishment or the consumer if refilling is a contamination-free process as specified under OAC 310:257-7-28 (1), (2) and (4).

(e) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-37. Food storage

(a) Except as specified in (b) and (c) of this Section, food shall be protected from contamination by storing the food:

- (1) In a clean, dry location;
- (2) Where it is not exposed to splash, dust, or other contamination; and
- (3) At least 15 cm (6 inches) above the floor.

(b) Food in packages and working containers may be stored less than 15 cm (6 inches) above the floor on case lot handling equipment as specified under OAC 310:257-7-47.

(c) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-38. Food storage, prohibited areas

Food may not be stored:

- (1) In locker rooms;
- (2) In toilet rooms;
- (3) In dressing rooms;
- (4) In garbage rooms;
- (5) In mechanical rooms;
- (6) Under sewer lines that are not shielded to intercept potential drips;
- (7) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
- (8) Under open stairwells; or
- (9) Under other sources of contamination.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-39. Vended Time/Temperature Control for Safety Food, original container

Time/Temperature Control for Safety Food dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-40. Food preparation

During preparation, unpackaged food shall be protected from environmental sources of contamination.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-41. Food display

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-42. Condiments, protection

(a) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

(b) Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at an approved location, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-43. Consumer self-service operations

(a) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. This paragraph does not apply to:

- (1) Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;
- (2) Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or
- (3) Raw, frozen, shell-on shrimp or lobster.

(b) Consumer self-service operations for ready-to-eat-foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.

(c) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-5-44. Returned food and re-service of food

(a) Except as specified in (b) of this Section, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.

(b) Except as specified under OAC 310:257-5-71(8), a container of food that is not Time/Temperature Control for Safety Food may be re-served from one consumer to another if:

- (1) The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or
- (2) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-45. Miscellaneous sources of contamination

Food shall be protected from contamination that may result from a factor or source not specified under OAC 310:257-5-21 through OAC 310:257-5-44.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-46. Raw animal foods

(a) Except as specified under (b), (c), and (d) of this Section, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

- (1) 63°C (145°F) or above for fifteen (15) seconds for:
 - (A) Raw eggs that are broken and prepared in response to a consumer's order and for immediate service, and
 - (B) Except as specified under (a)(2), (a)(3), (b) and (c) of this Section, fish and intact meat including game animals commercially raised for food as specified under OAC 310:257-5-8 and game animals under a voluntary inspection program as specified under OAC 310:257-5-8;
- (2) 68°C (155°F) for seventeen (17) seconds or 63°C (145°F) for three (3) minutes or 66°C (150°F) for one (1) minute, or 70°C (158°F) for less than one (1) second or instantaneous, see Table 3 of Appendix A of this Chapter and that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under OAC 310:257-5-8, and game animals under a voluntary inspection program as specified under OAC 310:257-5-8; and raw eggs that are not prepared as specified under (a)(1)(A) of this Section; or
- (3) 74°C (165°F) or above for less than one (1) second (instantaneous) for poultry, baluts, wild game animals as specified under OAC 310:257-5-8, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites.

(b) Whole meat roasts including beef, corned beef, lamb, pork and cured pork roasts such as ham, shall be cooked:

(1) As specified in Table 5 of Appendix A of this Chapter, to heat all parts of the food to a temperature and for the holding time that corresponds with the temperature. Holding time may include post-oven heat rise; and

(2) If cooked in an oven, use an oven that is preheated to the temperature specified for the roast's weight and that is held at that temperature in accordance with Table 4 of appendix A of this Chapter.

(c) A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

(1) The food establishment serves a population that is not a highly susceptible population,

(2) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified under OAC 310:257-5-2(e), and

(3) The steak is cooked on both the top and bottom to a surface temperature of 63°C (145°F) or above and a cooked color change is achieved on all external surfaces.

(d) A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in (c) of this Section, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

(1) As specified under OAC 310:257-5-71(3)(A) and (B) the food establishment serves a population that is not a highly susceptible population;

(2) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat; and

(3) The consumer is informed as specified under OAC 310:257-5-69 that to ensure its safety, the food should be cooked as specified under (a) or (b) of this Section; or

(4) The Department grants a variance from (a) or (b) of this Section as specified in OAC 310:257-15-3 based on a HACCP Plan that:

(A) Is submitted by the license holder and approved as specified under OAC 310:257-15-4,

(B) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food, and

(C) Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-47. Microwave cooking

Raw animal foods cooked in a microwave oven shall be:

- (1) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- (2) Covered to retain surface moisture;
- (3) Heated to a temperature of at least 74°C (165°F) in all parts of the food; and
- (4) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-48. Plant food cooking for hot holding

Plant foods that are cooked for hot holding shall be cooked to a temperature of 57°C (135°F).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-48.1. Non-Continuous Cooking of Raw Animal

Raw animal foods that are cooked using a non-continuous cooking process shall be:

- (1) Subject to an initial heating process that is no longer than sixty (60) minutes in duration;
- (2) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked Time/Temperature Control for Safety Food under OAC 310:257-5-57(a);
- (3) After cooling, held frozen or cold, as specified for Time/Temperature Control for Safety Food under OAC 310:257-5-59(a)(2);
- (4) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature and for a time specified under OAC 310:257-5-46 (a) through (c);
- (5) Cooled according to the time and temperature parameters specified for cooked Time/Temperature Control for Safety Food under OAC 310:257-5-57(a) if not either hot held as specified under OAC 310:257-5-59(a), served immediately, or held using time as a public health control as specified under OAC 310:257-5-62 after complete cooking; and
- (6) Prepared and stored according to written procedures that:
 - (A) Have obtained prior approval from the Department;
 - (B) Are maintained in the food establishment and are available to the Department upon request;
 - (C) Describe how the requirements specified under (a) through (e) of this Section are to be monitored and documented by the license holder and the corrective actions to be taken if the requirements are not met;
 - (D) Describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified under (d) of this Section prior to being offered for sale or service;

and

(E) Describe how the foods, after initial heating but prior to cooking as specified in (d) of this Section, are to be separated from ready-to-eat foods as specified under OAC 310:257-5-23.

[Source: Added at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-49. Parasite destruction

(a) Except as specified in (b) of this Section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:

- (1) Frozen and stored at a temperature of -20°C (-4°F) or below for a minimum of 168 hours (seven (7) days) in a freezer;
- (2) Frozen at -35°C (-31°F) or below until solid and stored at -35°C (-31°F) or below for a minimum of fifteen (15) hours; or
- (3) Frozen at -35°C (-31°F) or below until solid and stored at -20°C (-4°F) or below for a minimum of twenty-four (24) hours;

(b) Subsection (a) of this Section does not apply to:

- (1) Molluscan shellfish;
- (2) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern) ;
- (3) Aquacultured fish, such as salmon, that:
 - (A) If raised in open water, are raised in net pens, or
 - (B) Are raised in land-based operations such as ponds or tanks, and
 - (C) Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish;
- (4) Fish eggs that have been removed from the skein and rinsed; or
- (5) A scallop product consisting only of the shucked adductor muscle.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-50. Records, creation and retention

(a) Except as specified in OAC 310:257-5-49(b) and (b) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records of the food establishment for ninety (90) calendar days beyond the time of service or sale of the fish.

(b) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under OAC 310:257-5-49 may substitute for the records specified under (a) of this Section.

(c) If raw, raw marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and

fed as specified in OAC 310:257-5-49(b)(3), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in OAC 310:257-5-49(b)(3) shall be obtained by the person in charge and retained in the records of the food establishment for ninety (90) calendar days beyond the time of service or sale of the fish.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-51. Preparation for immediate service

Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-52. Reheating for hot holding

- (a) Except as specified under (b) and (c) and in (e) of this Section, Time/Temperature Control for Safety Food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) for fifteen (15) seconds.
- (b) Except as specified under (c) of this Section, Time/Temperature Control for Safety Food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) and the food is rotated or stirred, covered, and allowed to stand covered for two (2) minutes after reheating.
- (c) Ready-to-eat Time/Temperature Control for Safety Food that has been commercially processed and packaged in a food processing plant that is inspected by the Department that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) when being reheated for hot holding.
- (d) Reheating for hot holding specified under (a) through (c) of this Section shall be done rapidly and the time the food is between the temperature of 5°C (41°F) and the temperatures specified under (a) through (c) of this Section may not exceed two (2) hours.
- (e) Remaining unsliced portions of meat roasts that are cooked as specified under OAC 310:257-5-46(b) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under OAC 310:257-5-46(b).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-53. Treating juice

Juice packaged in a food establishment shall be:

- (1) Treated under a HACCP Plan as specified in OAC 310:257-15-9 to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or

- (2) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance:
- (A) As specified under OAC 310:257-5-67, and
 - (B) As specified in 21 CFR, Section 101.17(g) Food labeling, warning, notice, and safe handling statements, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following: "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems."

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-54. Frozen food

Stored frozen foods shall be maintained frozen.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-55. Time/Temperature Control for Safety Food, slacking

Frozen Time/Temperature Control for Safety Food that is slacked to moderate the temperature shall be held:

- (1) Under refrigeration that maintains the food temperature at 5°C (41°F) or less; or
- (2) At any temperature if the food remains frozen.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-56. Thawing

Except as specified in (4) of this Section, Time/Temperature Control for Safety Food shall be thawed:

- (1) Under refrigeration that maintains the food temperature at 5°C (41°F) or less; or
- (2) Completely submerged under running water:
 - (A) At a water temperature of 21°C (70°F) or below,
 - (B) With sufficient water velocity to agitate and float off loose particles in an overflow, and
 - (C) For a period of time that does not allow thawed portions of ready-to-eat food to rise above 5°C (41°F), or
 - (D) For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under OAC 310:257-5-46(a) or (b) to be above 5°C (41°F), for more than four (4) hours including:
 - (i) The time the food is exposed to the running water and the time needed for preparation for cooking, or
 - (ii) The time it takes under refrigeration to lower the food temperature to 5°C (41°F);
- (3) As part of a cooking process if the food that is frozen is:

- (A) Cooked as specified under OAC 310:257-5-46 through OAC 310:257-5-48, or
- (B) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process;
- (4) Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order; or
- (5) Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:
 - (A) Prior to its thawing under refrigeration as specified in paragraph (1) of this section; or
 - (B) Prior to, or immediately upon completion of its thawing using procedures specified in paragraph (2) of this section.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-57. Cooling

- (a) Cooked Time/Temperature Control for Safety Food shall be cooled:
 - (1) Within 2 hours from 57°C (135°F) to 21°C (70°F); and
 - (2) Within a total of 6 hours from 57°C (135°F) to 5°C (41°F) or less.
- (b) Time/Temperature Control for Safety Food shall be cooled within 4 hours to 5°C (41°F) or less, if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.
- (c) Except as specified in (d) of this Section, a Time/Temperature Control for Safety Food received in compliance with laws allowing a temperature above 5°C (41°F) during shipment from the supplier as specified in 310:257-5-9(b), shall be cooled within 4 hours to 5°C (41°F) or less.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-58. Cooling methods

- (a) Cooling shall be accomplished in accordance with the time and temperature criteria specified under OAC 310:257-5-57 by using one or more of the following methods based on the type of food being cooled:
 - (1) Placing the food in shallow pans;
 - (2) Separating the food into smaller or thinner portions;
 - (3) Using rapid cooling equipment;
 - (4) Stirring the food in a container placed in an ice water bath;
 - (5) Using containers that facilitate heat transfer;
 - (6) Adding ice as an ingredient; or
 - (7) Other effective methods.
- (b) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:
 - (1) Arranged in the equipment to provide maximum heat transfer through the container walls; and

(2) Loosely covered, or uncovered if protected from overhead contamination as specified under OAC 310:257-5-37(a)(2), during the cooling period to facilitate heat transfer from the surface of the food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-59. Time/Temperature Control for Safety Food, hot and cold holding

(a) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 310:257-5-62 and except as specified in (b) of this Section, Time/Temperature Control for Safety Food shall be maintained:

(1) At 57°C (135°F) or above, except that roasts cooked to a temperature and for a time specified under 310:257-5-46(b) or reheated as specified in 310:257-5-52(e) may be held at a temperature of 54°C (130°F); or

(2) At a temperature of 5°C (41°F) or less .

(b) Eggs that have not been treated to destroy all viable *Salmonellae* shall be stored in refrigerated equipment that maintains an ambient air temperature of 5°C (41° F) or less.

(c) Time/Temperature Control for Safety Food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under (a) of this Section, while contained within specially designed equipment that complies with the design and construction requirements as specified in 310:257-7-28(5).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-5-60. Ready-to-eat, Time/Temperature Control for Safety Food, date marking

(a) Except when packaging food using a reduced oxygen packaging method as specified in OAC 310:257-5-64, and except as specified in (e) and (g) of this Section, refrigerated, ready-to-eat, Time/Temperature Control for Safety Food prepared and held in a food establishment for more than twenty-four (24) hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded when held at a temperature of 5°C (41°F) or less for a maximum of seven (7) days. The day of preparation shall be counted as day one (1).

(b) Except as specified in(e) through (g) of this Section, refrigerated, ready-to-eat, Time/Temperature Control for Safety Food prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than twenty-four (24) hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in (a) of this Section and:

(1) The day the original container is opened in the food establishment shall be counted as day one (1); and

(2) The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

(c) A refrigerated, ready-to-eat, Time/Temperature Control for Safety Food ingredient or a portion of a refrigerated, ready to eat, Time/Temperature Control for Safety Food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

(d) A date marking system that meets the criteria stated in (a) and (b) of this Section may include:

(1) Using a method approved by the Department for refrigerated, ready-to-eat Time/Temperature Control for Safety Food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;

(2) Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in (a) of this Section;

(3) Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in (b) of this Section; or

(4) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the regulatory authority upon request.

(e) Subsections (a) and (b) of this Section do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

(f) Subsection (b) of this Section does not apply to the following foods prepared and packaged by a food processing plant inspected by a state or federal agency having jurisdiction over the facility:

(1) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with OAC 310:260, or 21 CFR Part 110;

(2) Hard cheeses containing not more than 39% Moisture as defined in 21 CFR, Part 133 Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;

(3) Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR, Part 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and Monterey jack;

(4) Cultured dairy products as defined in 21 CFR, Part 131 Milk and cream, such as yogurt, sour cream, and buttermilk;

(5) Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products defined in 21 CFR, Part 114 Acidified foods;

(6) Shelf stable, dry, fermented sausages, such as pepperoni and Genoa salami; and

(7) Shelf stable salt-cured products such as prosciutto and Parma (ham).

(g) Paragraph (a) and (b) of this Section shall not apply to Shellstock.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-61. Ready-to-eat, Time/Temperature Control for Safety Food, disposition

(a) A food specified in OAC 310:257-5-60(a) or OAC 310:257-5-60(b) shall be discarded if it:

- (1) Exceeds the temperature and time combinations specified in OAC 310:257-5-60 (a), except time that the product is frozen;
- (2) Is in a container or package that does not bear a date or day;
- or
- (3) Is inappropriately marked with a date or day that exceeds a temperature and time combination as specified in OAC 310:257-5-60 (a).

(b) Refrigerated, ready-to-eat, Time/Temperature Control for Safety Food prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in OAC 310:257-5-60(a).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-62. Time as a public health control

(a) Except as specified under (d) of this Section, if time without temperature control is used as the public health control for a working supply of Time/Temperature Control for Safety Food before cooking, or for ready-to-eat Time/Temperature Control for Safety Food that is displayed or held for sale or service, written procedures shall be prepared in advance, maintained in the food establishment and made available to the Department upon request that specify:

- (1) Methods of compliance with (b)(1) through (4) or (c)(1) through (5) of this Section; and
- (2) Methods of compliance with OAC 310:257-5-57 for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(b) If time without temperature control is used as the public health control up to a maximum of four (4) hours:

- (1) The food shall have an initial temperature of 5°C (41°F) or less when removed from cold holding temperature control, or 57°C (135°F) or greater when removed from hot holding temperature control;
- (2) The food shall be marked or otherwise identified to indicate the time that is four (4) hours past the point in time when the food is removed from temperature control;

- (3) The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within four (4) hours from the point in time when the food is removed from temperature control; and
 - (4) The food in unmarked containers or packages, or marked to exceed a 4-hour limit shall be discarded.
- (c) If time without temperature control is used as the public health control up to a maximum of six (6) hours:
- (1) The food shall have an initial temperature of 5°C (41°F) or less when removed from temperature control and the food temperature may not exceed 21°C (70°F) within a maximum time period of six (6) hours;
 - (2) The food shall be monitored to ensure the warmest portion of the food does not exceed 21°C (70°F) during the 6-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 21°C (70°F) during the 6-hour holding period;
 - (3) The food shall be marked or otherwise identified to indicate:
 - (A) The time when the food is removed from 5°C (41°F) or less cold holding temperature control, and
 - (B) The time that is six (6) hours past the point in time when the food is removed from cold holding temperature control;
 - (4) The food shall be:
 - (A) Discarded if the temperature of the food exceeds 21°C (70°F), or
 - (B) Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six (6) hours from the point in time when the food is removed from 5°C (41°F) or less cold holding temperature control; and
 - (5) The food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit shall be discarded.
- (d) A food establishment that serves a highly susceptible population shall not use time as specified in (a), (b) or (c) of this Section as the public health control for raw eggs.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-5-63. Variance requirement

A food establishment shall obtain a variance from the Department as specified in OAC 310:257-15-3 and under OAC 310:257-15-4 before:

- (1) Smoking food as a method of food preservation rather than as a method of flavor enhancement;
- (2) Curing food;
- (3) Using food additives or adding components such as vinegar:
 - (A) As a method of food preservation rather than as a method of flavor enhancement, or
 - (B) To render a food so that it is not a Time/Temperature Control for Safety Food;

- (4) Packaging Time/Temperature Control for Safety Food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under OAC 310:257-5-64;
- (5) Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;
- (6) Custom processing animals that are for personal use as food and not for sale or service in a food establishment;
- (7) Sprouting seeds or beans; or
- (8) Preparing food by another method that is determined by the Department to require a variance.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-64. Reduced oxygen packaging without a variance, criteria

- (a) Except for a food establishment that obtains a variance as specified under OAC 310:257-5-63, a food establishment that packages Time/Temperature Control for Safety Food using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.
- (b) Except as specified under paragraph (f) of this Section, a food establishment that packages Time/Temperature Control for Safety Food using a reduced oxygen packaging method shall implement a HACCP plan that contains the information specified under OAC 310:257- 15-9(2) and OAC 310:257-15-9(4) and that:
 - (1) Identifies the food to be packaged;
 - (2) Except as specified in (c) through (e) of this Section, requires that the packaged food shall be maintained at 5°C (41°F) or less and meet at least one of the following criteria:
 - (A) Has an aw of 0.91 or less,
 - (B) Has a pH of 4.6 or less,
 - (C) Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR, Part 424.21. Use of food ingredients and sources of radiation, and is received in an intact package, or
 - (D) Is a food with a high level of competing organisms such as raw meat or raw poultry or raw vegetables;
 - (3) Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
 - (A) Maintain the food at 5°C (41°F) or below, and
 - (B) Discard the food if within thirty (30) calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;
 - (4) Limits the refrigerated shelf life to no more than thirty (30) calendar days from packaging to consumption, except the time

the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

(5) Includes operational procedures that:

(A) Prohibit contacting ready-to-eat food with bare hands as specified under OAC 310:257-5-21(b),

(B) Identify a designated work area and the method by which:

(i) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and

(ii) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation, and

(C) Delineate cleaning and sanitization procedures for food-contact surfaces;

(6) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:

(A) Concepts required for a safe operation,

(B) Equipment and facilities, and

(C) Procedures specified under paragraph (b) (5) of this Section, OAC 310:257- 15-9(2) and OAC 310:257-15-9(4); and

(7) Is provided to the Department prior to implementation as specified under OAC 310:257-15-(8)(b).

(c) Except for fish that is frozen before, during, and after packaging and bears a label indicating that it is to be kept frozen until time of use, a food establishment may not package fish using a reduced oxygen packaging method.

(d) Except as specified under paragraphs (c) and (f) of this Section, a food establishment that packages Time/Temperature Control for Safety Food using a cook-chill or sous vide process shall:

(1) Provide to the Department prior to implementation, a HACCP Plan that contains the information as specified under OAC 310:257-15-9;

(2) Ensure the food is:

(A) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer;

(B) Cooked to heat all parts of the food to a temperature and for a time as specified under OAC 310:257-5-46 through 48;

(C) Protected from contamination before and after cooking as specified under OAC 310:257-5-21 through OAC 310:257-5-45;

(D) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below 57°C (135°F);

(E) Cooled to 5°C (41°F) in the sealed package or bag as specified under 310:257-5-57 and:

- (i) Cooled to 1°C (34°F) within forty-eight (48) hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within thirty (30) days after the date of packaging;
- (ii) Held at 5°C (41°F) or less for no more than seven (7) days, at which time the food must be consumed or discarded; or
- (iii) Held frozen with no shelf life restriction while frozen until consumed or used;

(F) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily;

(G) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation; and

(H) Labeled with the product name and the date packaged; and

(3) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP Plan and:

(A) Make such records available to the regulatory authority upon request; and

(B) Hold such records for at least six (6) months; and

(4) Implement written operational procedures as specified in (b)

(5) of this Section and a training program as specified in (b)(6) of this Section.

(e) Except as specified in paragraph (f) of this Section, a food establishment that packages cheese using a reduced oxygen packaging method shall:

(1) Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133:150 Hard cheeses, 21 CFR Section 133.169 Pasteurized process cheese or 21 CFR Section 133.187 Semisoft cheeses;

(2) Have a HACCP Plan that contains the information specified in OAC 310:257-15-9(2), OAC 310-15-9(4), and specified in (b)(1), (b)(3)(A), (b)(5) and (b)(6) of this Section;

(3) Labels the package on the principal display panel with the "use by" date that does not exceed thirty (30) days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; and

(4) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within thirty (30) calendar days of its packaging.

(f) A HACCP Plan is not required when a food establishment uses a reduced oxygen packaging method to package Time/Temperature Control

for Safety Food that is always:

- (1) Labeled with the production time and date;
- (2) Held at five 5°C (41°F) or less during refrigerated storage; and
- (3) Removed from its package in the food establishment within forty-eight (48) hours after packaging.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-65. Standards of identity

Packaged food shall comply with standard of identity requirements in 21 CFR 131-169 and 9 CFR 319 Definitions and Standards of Identity or Composition.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-66. Honestly presented

- (a) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
- (b) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-5-67. Food labels

- (a) Food packaged in a food establishment, shall be labeled as specified in law, including 21 CFR, Part 101 - Food Labeling, and 9 CFR, Part 317 Labeling, Marking Devices, and Containers.
- (b) Label information shall include:
 - (1) The common name of the food, or absent a common name, an adequately descriptive identity statement;
 - (2) If made from two or more ingredients, a list of ingredients and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors, and chemical preservatives, if contained in the food;
 - (3) An accurate declaration of the quantity of contents;
 - (4) The name and place of business of the manufacturer, packer, or distributor; and
 - (5) The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient.
 - (6) Except as exempted in the Federal Food, Drug, and Cosmetic Act Section 403(q)(3)-(5), nutrition labeling as specified in 21 CFR, Part 101 - Food Labeling and 9 CFR, Part 317 Subpart B Nutrition Labeling.
 - (7) For any salmonid fish containing canthaxanthin or astaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the

use of canthaxanthin or astaxanthin.

(c) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

(1) The manufacturer's or processor's label that was provided with the food; or

(2) A card, sign, or other method of notification that includes the information specified under (b)(1), (2), (5), and (6) of this Section.

(d) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

(1) A health, nutrient content, or other claim is not made;

(2) There are no state or local laws requiring labeling; and;

(3) The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-68. Other forms of information

(a) If required by law, consumer warnings shall be provided.

(b) Food establishment or manufacturers' dating information on foods may not be concealed or altered.

(c) For homemade food products produced under 2 O.S. 5-4.1 et seq. that are to be sold in a food establishment, a disclosure that states: "This product was produced in a private residence that is exempt from government licensing and inspection. This product may contain allergens." shall be:

(1) Posted at the point of sale; or

(2) If used to produce another food product, cited on the menu.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 39 Ok Reg 1247, eff 9-11-22]

310:257-5-69. Consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens

(a) Except as specified in OAC 310:257-5-46(c) and OAC 310:257-5-46(d) (4) and under OAC 310:257-5-71 (3), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the license holder shall inform consumers of the significantly increased risk of consuming such foods by way of disclosure and reminder, as specified in paragraphs (b) and (c) of this Section, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(b) Disclosure shall include:

(1) A description of the animal-derived foods, such as "oysters on the half shell (raw oysters), raw-egg Caesar salad," and "hamburgers" (can be cooked to order); or;

(2) Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(c) Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

(1) "Regarding the safety of these items, written information is available upon request;"

(2) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness;" or

(3) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions."

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-5-70. Discarding or reconditioning unsafe, adulterated, or contaminated food

(a) A food that is unsafe, adulterated, or not honestly presented as specified under OAC 310:257-5-1 shall be discarded or reconditioned according to an approved procedure.

(b) Food that is not from a source approved by law shall be discarded.

(c) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under 310:257-3-5 shall be discarded.

(d) Food that is contaminated by food employees, consumers or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.

(e) Food may be examined or sampled by the Department as often as necessary for enforcement of these rules and regulations. The Department may place an embargo on food in accordance with the provisions of Title 63 O.S. Section 1-1105.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 39 Ok Reg 1247, eff 9-11-22]

310:257-5-71. Pasteurized foods, prohibited re-service, and prohibited food

In a food establishment that serves a highly susceptible population:

(1) The following criteria apply to juice:

(A) For the purposes of this paragraph only, children who are age nine (9) or less and receive food in a school, day care setting or similar facility that provides custodial care are included as highly susceptible populations;

(B) Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR, Section 101.17(g) Food Labeling, (pertaining to warning, notice and safe handling statements for juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens,) or

packaged juice or beverage containing juice, that bears a warning label as specified under OAC 310:257-5-53 (2) may not be served or offered for sale; and
(C) Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified in OAC 310:257-15-9 and as specified under 21 CFR, Part 120 - Hazard Analysis and Critical Control Point (HACCP) systems, Subpart B Pathogen Reduction, Section 120.24 Process controls.

(2) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of:

- (A) Foods such as Caesar salad, hollandaise or BÉarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages, and
- (B) Except as specified in (6) of this Section, recipes in which more than one egg is broken and the eggs are combined;

(3) The following foods may not be served or offered for sale in a ready-to-eat form:

- (A) Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare,
- (B) A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue, and
- (C) Raw seed sprouts.

(4) Food employees may not contact ready-to-eat foods as specified under OAC 310:257-5-21(b) and OAC 310:257-5-21(d).

(5) Time only, as the public health control as specified in OAC 310:257-5-62(d), shall not be used for raw eggs.

(6) Subparagraph (2)(B) of this Section does not apply if:

- (A) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under OAC 310:257-5-46(a)(1), and served immediately, such as an omelet, soufflé, or scrambled eggs;
- (B) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or
- (C) The preparation of the food is conducted under a HACCP plan that:
 - (i) Identifies the food to be prepared,
 - (ii) Prohibits contacting ready-to-eat food with bare hands,
 - (iii) Includes specifications and practices that ensure:
 - (I) Salmonella Enteritidis growth is controlled before and after cooking, and
 - (II) Salmonella Enteritidis is destroyed by cooking the eggs according to the

- temperature and time specified in OAC 310:257-5-46(a)(2),
 - (iv) Contains the information specified under OAC 310:257-15-9 including procedures that:
 - (I) Control cross contamination of ready-to-eat food with raw eggs, and
 - (II) Delineate cleaning and sanitization procedures for food-contact surfaces, and
 - (v) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.
- (7) Except as specified in paragraph (8) of this Section, food may be re-served as specified in OAC 310:257-5-44(b).
- (8) Food shall not be re-served under the following conditions:
- (A) Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation shall not be re-served to others outside; and
 - (B) Packages of food from any patients, clients, or other consumers shall not be re-served to persons in protective environment isolation.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

SUBCHAPTER 7. EQUIPMENT, UTENSILS AND LINENS

310:257-7-1. Characteristics

Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

- (1) Safe;
- (2) Durable, corrosion-resistant, and nonabsorbent;
- (3) Sufficient in weight and thickness to withstand repeated warewashing;
- (4) Finished to have a smooth, easily cleanable surface; and;
- (5) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-2. Cast iron, use limitation

- (a) Except as specified in (b) and (c) of this Section, cast iron may not be used for utensils or food-contact surfaces of equipment.
- (b) Cast iron may be used as a surface for cooking.

(c) Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-3. Lead in ceramic, china, and crystal utensils, use limitation

Ceramic, china, crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the utensil categories as contained in Table 6 of Appendix A of this Chapter.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-4. Copper, use limitation

(a) Except as specified in (b) of this Section, copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.

(b) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-5. Galvanized metal, use limitation

Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-6. Sponges, use limitation

Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-7. Lead in pewter alloys, use limitation

Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-8. Lead in solder and flux, use limitation

Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-9. Wood, use limitation

(a) Except as specified in (b), (c), and (d) of this Section, wood and wood wicker may not be used as a food-contact surface.

(b) Hard maple or an equivalently hard, close-grained wood may be used for:

(1) Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(2) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110°C (230°F) or above.

(c) Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

(d) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(1) Untreated wood containers; or

(2) Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800 Preservatives for wood.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-10. Nonstick coatings, use limitation

Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-11. Nonfood-contact surfaces

Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-12. Characteristics

Materials that are used to make single-service and single-use articles:

- (1) May not:
 - (A) Allow the migration of deleterious substances, or
 - (B) Impart colors, odors, or tastes to food; and
- (2) Shall be:
 - (A) Safe, and
 - (B) Clean.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-13. Equipment and utensils

Equipment used in a food establishment shall be designated as "commercial" or "commercial grade" by the manufacturer if the equipment is used to meet or maintain temperature for time/temperature control for safety food. Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions. This section does not apply to the following equipment if cleanability and maintenance requirements are met:

- (1) Microwave ovens that meet the safety standards specified in 21 CFR 1030.10 Microwave ovens, used to heat food for immediate service or as part of a continuous cooking process.
- (2) Residential freezers used for long term storage, or
- (3) Custom built large equipment such as a smoker.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-14. Food temperature measuring devices

Food temperature measuring device may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-15. Food-contact surfaces

(a) Multiuse food-contact surfaces shall be:

- (1) Smooth;
- (2) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;
- (3) Free of sharp internal angles, corners, and crevices;
- (4) Finished to have smooth welds and joints; and
- (5) Except as specified in (b) of this Section, be accessible for cleaning and inspection by one of the following methods:
 - (A) Without being disassembled,
 - (B) By disassembling without the use of tools, or
 - (C) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning

personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches.

(b) OAC 310:257-7-15 (a) (5) of this Section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-16. CIP equipment

(a) CIP equipment shall meet the characteristics specified under OAC 310:257-7-15 and shall be designed and constructed so that:

- (1) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces, and;
- (2) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and;

(b) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-17. "V" threads, use limitation

Except for hot oil cooking or filtering equipment, "V" type threads may not be used on food-contact surfaces.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-18. Hot oil filtering equipment

Hot oil filtering equipment shall meet the characteristics specified under OAC 310:257-7-15 or OAC 310:257-7-16 and shall be readily accessible for filter replacement and cleaning of the filter.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-19. Can openers

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-20. Nonfood-contact surfaces

Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-21. Kick plates, removable

Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

- (1) Removable by one of the methods specified under Subparagraph OAC 310:257-7-15(a)(5) or capable of being rotated open; and
- (2) Removable or capable of being rotated open without unlocking equipment doors.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-22. Ventilation hood systems, filters

Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-23. Temperature measuring devices, food

- (a) Food temperature measuring device devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to within 1°C in the intended range of use.
- (b) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to within 2°F in the intended range of use.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-24. Temperature measuring devices, ambient air and water

- (a) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to within 1.5°C in the intended range of use.
- (b) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to within 3°F in the intended range of use.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-25. Pressure measuring devices, mechanical warewashing equipment

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of seven (7) kilopascals (one (1) pound per square inch) or smaller and shall be accurate to within fourteen (14) kilopascals (two (2) pounds per square inch) in the range indicated on the manufacturer's data plate.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-26. Ventilation hood systems, drip prevention

Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-27. Equipment openings, closures and deflectors

(a) A cover or lid for equipment shall overlap the opening and be sloped to drain.

(b) An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least 5 millimeters (two-tenths of an inch).

(c) Except as specified under (d) of this Section, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.

(d) If a watertight joint is not provided:

(1) The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and

(2) The opening shall be flanged as specified under (b) of this Section.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-7-28. Dispensing equipment, protection of equipment and food

In equipment that dispenses or vends liquid food or ice in unpackaged form:

(1) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

(2) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

(3) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

(A) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or

- (B) Available for self-service during hours when it is not under the full-time supervision of a food employee; and
- (4) The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.
- (5) Dispensing equipment in which Time/Temperature Control for Safety Food in a homogenous liquid form is maintained outside of the temperature control requirements as specified under OAC 310:257-5-59(a) shall:
 - (A) Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment; and
 - (B) Conform to the requirements for this equipment as specified in American National Standards Institute (ANSI) 18-2006 Manual Food and Beverage Dispensing Equipment.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-29. Vending machine, vending stage closure.

The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not Time/Temperature Control for Safety Food such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

- (1) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or
- (2) Available for self-service during hours when it is not under the full-time supervision of a food employee.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-7-30. Bearings and gear boxes, leakproof

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant can not leak, drip, or be forced into food or onto food-contact surfaces.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-31. Beverage tubing, separation

Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-32. Ice units, separation of drains

Liquid waste drain lines may not pass through an ice machine or ice storage bin.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-33. Condenser unit, separation

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-34. Can openers on vending machines

Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-35. Molluscan shellfish tanks

(a) Except as specified under (b) of this Section, molluscan shellfish life support system display tanks may not be used to store or display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

(b) Molluscan shellfish life-support system display tanks that are used to store or display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the Department as specified in OAC 310:257-15-3 and a HACCP plan that:

(1) Is submitted by the license holder and approved as specified under OAC 310:257-15-4; and

(2) Ensures that:

(A) Water used with fish other than molluscan shellfish does not flow into the molluscan tank,

(B) The safety and quality of the shellfish as they were received are not compromised by the use of the tank, and;

(C) The identity of the source of the shellstock is retained as specified under OAC 310:257-5-20.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-36. Vending machines, automatic shutoff

(a) A machine vending Time/Temperature Control for Safety Food shall have an automatic control that prevents the machine from vending food:

(1) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under Subchapter 5; and

- (2) If a condition specified under (a) (1) of this Section occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Subchapter 5.
- (b) When the automatic shutoff within a vending machine that contains Time/Temperature Control for Safety Food is activated:
- (1) In a refrigerated vending machine, the ambient air temperature may not exceed 5°C (41°F) for more than thirty (30) minutes immediately after the machine is filled, serviced, or restocked; or
- (2) In a hot holding vending machine, the ambient air temperature may not be less than 57°C (135°F) for more than 120 minutes immediately after the machine is filled, serviced, or restocked.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-37. Temperature measuring devices

- (a) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.
- (b) Except as specified in (c) of this Section, cold or hot holding equipment used for Time/Temperature Control for Safety food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.
- (c) Paragraph (b) of this Section does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.
- (d) Temperature measuring devices shall be designed to be easily readable.
- (e) Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 1°C or 2°F in the intended range of use.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-38. Warewashing machine, data plate operating specifications

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

- (1) Temperatures required for washing, rinsing, and sanitizing;

- (2) Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
- (3) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-39. Warewashing machines, internal baffles

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-40. Warewashing machines, temperature measuring devices

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

- (1) In each wash and rinse tank; and
- (2) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-41. Manual warewashing equipment, heaters and baskets

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

- (1) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 77°C (171°F); and
- (2) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-42. Warewashing machines, automatic dispensing of detergents and sanitizers

A warewashing machine shall be equipped to:

- (1) Automatically dispense detergents and sanitizers; and
- (2) Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-43. Warewashing machines, flow pressure device

- (a) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and
- (b) If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.
- (c) Paragraphs(a) and (b) of this Section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09]

310:257-7-44. Warewashing sinks and drainboards, self-draining

Sinks and drainboards of warewashing sinks and machines shall be self-draining.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-45. Equipment compartments, drainage

Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-46. Vending machines, liquid waste products

- (a) Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.
- (b) Vending machines that dispense liquid food in bulk shall be:
 - (1) Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and
 - (2) Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.
- (c) Shutoff devices specified under (b)(2) of this Section shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-47. Case lot handling equipment, moveability

Equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-48. Vending machine doors and openings

(a) Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than 1.5 millimeters or one-sixteenth inch by:

- (1) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than 1.5 millimeters or one-sixteenth inch. Screening of 12 or more mesh to 2.5 centimeters (12 mesh to 1 inch) meets this requirement;
- (2) Being effectively gasketed;
- (3) Having interface surfaces that are at least 13 millimeters or one-half inch wide; or
- (4) Jambs or surfaces used to form an L-shaped entry path to the interface.

(b) Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-49. Food equipment, certification and classification

Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI) - accredited certification program such as NSF and for commercial use will be deemed to comply with Sections OAC 310:257-7-1 through OAC 310:257-7-49 of this Subchapter or be approved by the Department.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-50. Cooling, heating, and holding capacities

Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under Subchapter 5.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-51. Manual warewashing, sink compartment requirements

(a) Except as specified in (c) or (f) of this Section, a mechanical warewashing machine or a sink with at least three (3) compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

(b) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in (c) of this Section shall be used. The sink system shall be made of equipment and materials intended for the use of

warewashing.

(c) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved.

Alternative manual warewashing equipment may include:

- (1) High-pressure detergent sprayers;
- (2) Low- or line-pressure spray detergent foamers;
- (3) Other task-specific cleaning equipment;
- (4) Brushes or other implements;
- (5) 2-compartment sinks as specified under (d) and (e) of this Section; or
- (6) Receptacles that substitute for the compartments of a multicompartment sink in the case of temporary food establishments.

(d) Before a 2-compartment sink is used:

- (1) The food establishment shall be a retail establishment that does not serve or prepare unpackaged Time/Temperature Control for Safety Foods;
- (2) The license holder shall have its use approved; and
- (3) The license holder shall limit the number of kitchenware items cleaned and sanitized in the 2-compartment sink, and shall limit warewashing to batch operations for cleaning kitchenware at the end of a shift, and shall:
 - (A) Make up the cleaning and sanitizing solutions immediately before use and drain them immediately after use, and
 - (B) Use a detergent-sanitizer to sanitize and apply the detergent-sanitizer in accordance with the manufacturer's label instructions and as specified under OAC 310:257-7-76, or
 - (C) Use a hot water sanitization immersion step as specified under OAC 310:257-7-91(3).

(e) A 2-compartment sink may not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

(f) Food establishments that sell only prepackaged foods have no food preparation, and have no equipment or utensils that require cleaning are exempt from the requirements of a warewashing sink.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-52. Drainboards

Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-53. Ventilation hood systems, adequacy

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings and to prevent the collection of smoke and noxious odors in the food service establishment. Ventilation hoods meeting the requirements listed in OAC 158:50, Mechanical Industry Regulations, shall be installed above commercial heat-processing equipment that causes grease vapors and smoke. This equipment includes but is not limited to deep fat fryers, broilers, griddles, and fry grills.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-7-54. Clothes washers and dryers

(a) Except as specified in (b) of this Section, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.

(b) If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under OAC 310:257-7-102, a mechanical clothes washer and dryer need not be provided.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-55. Utensils, consumer self-service

A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-56. Food temperature measuring devices

(a) Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Subchapter 5.

(b) A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-7-57. Temperature measuring devices, manual and mechanical warewashing

(a) In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

(b) In hot water mechanical warewashing operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the utensil surface temperature.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-58. Sanitizing solutions, testing devices

A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-58.1. Cleaning agents and sanitizers, availability

(a) Cleaning agents that are used to clean equipment and utensils as specified under OAC 310:257-7-82 through OAC 310:257-7-91 shall be provided and available for use during all hours of operation.

(b) Except for those that are generated on-site at the time of use, chemical sanitizers that are used to sanitize equipment and utensils as specified under OAC 310:257-7-93 through OAC 310:257-7-95 shall be provided and available for use during all hours of operation.

[Source: Added at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-59. Equipment, clothes washers and dryers, and storage cabinets, contamination prevention

(a) Except as specified in (b) of this Section, equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be located:

- (1) In locker rooms;
- (2) In toilet rooms;
- (3) In garbage rooms;
- (4) In mechanical rooms;
- (5) Under sewer lines that are not shielded to intercept potential drips;
- (6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
- (7) Under open stairwells; or
- (8) Under other sources of contamination.

(b) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

(c) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-60. Fixed equipment, spacing or sealing

(a) Equipment that is fixed because it is not easily movable shall be installed so that it is:

- (1) Spaced to allow access for cleaning along the sides, behind, and above the equipment;
- (2) Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch;

or

(3) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(b) Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

(1) Sealed to the counter; or

(2) Elevated on legs as specified under OAC 310:257-7-61(d).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-61. Fixed equipment, elevation or sealing

(a) Except as specified in (b) and (c) of this Section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a 15 centimeter (6 inch) clearance between the floor and the equipment.

(b) If no part of the floor under the floor-mounted equipment is more than 15 centimeters (6 inches) from the point of cleaning access, the clearance space may be only 10 centimeters (4 inches).

(c) This Section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

(d) Except as specified in (e) of this Section, counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 10 centimeter (4 inch) clearance between the table and the equipment.

(e) The clearance space between the counter and counter-mounted equipment may be:

(1) 7.5 centimeters (3 inches) if the horizontal distance of the counter top under the equipment is no more than 50 centimeters (20 inches) from the point of access for cleaning; or

(2) 5 centimeters (2 inches) if the horizontal distance of the counter top under the equipment is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-7-62. Good repair and proper adjustment

(a) Equipment shall be maintained in a state of repair and condition that meets the requirements specified under Sections OAC 310:257-7-1 through OAC 310:257-7-49.

(b) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

(c) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-63. Cutting surfaces

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-64. Microwave ovens [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-65. Warewashing equipment, cleaning frequency

A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified under OAC 310:257-7-52 shall be cleaned:

- (1) Before use;
- (2) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and
- (3) If used, at least every twenty-four (24) hours.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-66. Warewashing machines, manufacturers' operating instructions

- (a) A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.
- (b) A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-67. Warewashing sinks, use limitation

- (a) A warewashing sink may not be used for handwashing as specified under OAC 310:257-3-13.
- (b) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under OAC 310:257-7-65 before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under OAC 310:257-7-93, OAC 310:257-7-94, and OAC 310:257-7-95 before and after using the sink to wash produce or thaw food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-68. Warewashing equipment, cleaning agents

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in OAC 310:257-7-51(c), shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-69. Warewashing equipment, clean solutions

The wash, rinse, and sanitize solutions shall be maintained clean.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-70. Manual warewashing equipment, wash solution temperature

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-71. Mechanical warewashing equipment, wash solution temperature

(a) The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

- (1) For a stationary rack, single temperature machine, 74°C (165°F);
- (2) For a stationary rack, dual temperature machine, 66°C (150°F);
- (3) For a single tank, conveyor, dual temperature machine, 71°C (160°F); or
- (4) For a multitank, conveyor, multitemperature machine, 66°C (150°F).

(b) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 49°C (120°F).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-72. Manual warewashing equipment, hot water sanitization temperatures

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 77°C (171°F) or above.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-73. Mechanical warewashing equipment, hot water sanitization temperatures

(a) Except as specified in (b) of this Section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 90°C (194°F), or less than:

(1) For a stationary rack, single temperature machine, 74°C (165°F); or

(2) For all other machines, 82°C (180°F).

(b) The maximum temperature specified under (a) of this Section, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-74. Mechanical warewashing equipment, sanitization pressure

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than 35 kilopascals (5 pounds per square inch) or more than 200 kilopascals (30 pounds per square inch).

[Source: Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-7-75. Manual and mechanical warewashing equipment, chemical sanitization - temperature, pH, concentration, and hardness

A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at exposure times specified under OAC 310:257-7-95(3) shall meet the criteria specified under OAC 310:257-13-7, shall be used in accordance with the EPA registered label use instructions, and shall be used as follows:

(1) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as contained in Table 7 of Appendix A of this Chapter

(2) An iodine solution shall have a:

(A) Minimum temperature of 20°C (68°F),

(B) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective, and

(C) Concentration between 12.5 mg/L and 25 mg/L;

(3) A quaternary ammonium compound solution shall:

(A) Have a minimum temperature of 24°C (75°F),

(B) Have a concentration as specified under OAC 310-257-13-7 and as indicated by the manufacturer's use directions included in the labeling, and

- (C) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions;
- (4) If another solution of a chemical specified under (1) through (3) of this Section is used, the license holder shall demonstrate to the regulatory authority that the solution achieves sanitization and the use of the solution shall be approved; or
- (5) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions, and
- (6) If a chemical sanitizer is generated by a device located on-site at the food establishment, the chemical sanitizer shall be used as specified in paragraphs (1) through (4) of this Section and shall be produced by a device that:
 - (A) Complies with the regulation as specified in Sections 2(q)(1) and 12 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA);
 - (B) Complies with 40 CFR Part 152.500 Requirements for Devices and 40 CFR, Section 156.10 Labeling Requirements;
 - (C) Displays the EPA device manufacturing facility registration number on the device; and
 - (D) Is operated and maintained in accordance with manufacturer's instructions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-76. Manual warewashing equipment, chemical sanitization using detergent-sanitizers

If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-77. Warewashing equipment, determining chemical sanitizer concentration

Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-78. Good repair and calibration

(a) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under Sections OAC 310:257-7-1 through OAC 310:257-7-49 or shall be discarded.

(b) Food temperature measuring device shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

(c) Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-79. Single-service and single-use articles, required use

A food establishment, without facilities specified under OAC 310:257-7-82 through 310:257-7-95 for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-80. Single-service and single-use articles, use limitation

- (a) Single-service and single-use articles may not be reused.
- (b) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-81. Shells, use limitation

Mollusk and crustacea shells may not be used more than once as serving containers.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-82. Equipment, food-contact surfaces, nonfood-contact surfaces, and utensils

- (a) Equipment food-contact surfaces and utensils shall be clean to sight and touch.
- (b) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.
- (c) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-83. Equipment food-contact surfaces and utensils

- (a) Equipment food-contact surfaces and utensils shall be cleaned and sanitized:
 - (1) Except as specified in (b) of this Section, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;
 - (2) Each time there is a change from working with raw foods to working with ready-to-eat foods;

- (3) Between uses with raw fruits and vegetables and with Time/Temperature Control for Safety Food;
- (4) Before using or storing a food temperature measuring device; and
- (5) At any time during the operation when contamination may have occurred.

(b) Paragraph (a)(1) of this Section does not apply if the food-contact surface or utensil is in contact with a succession of different types of raw meat and poultry each requiring a higher cooking temperature as specified under OAC 310:257-5-46 than the previous type.

(c) Except as specified in (d) of this Section, if used with Time/Temperature Control for Safety Food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four (4) hours.

(d) Surfaces of utensils and equipment contacting Time/Temperature Control for Safety Food may be cleaned less frequently than every four (4) hours if:

- (1) In storage, containers of Time/Temperature Control for Safety Food and their contents are maintained at temperatures specified under Subchapter 5 and the containers are cleaned when they are empty;
- (2) Utensils and equipment used to prepare food in a refrigerated room or area that is maintained at one of the temperatures as specified in Table 8 of Appendix A of this Chapter, shall be cleaned at the frequency that corresponds to the temperature established in Table 8 of Appendix A of this Chapter. The cleaning frequency and the ambient temperature of the refrigerated room or area, as established in Table 8 of Appendix A of this Chapter, shall be documented by the food establishment.
- (3) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat Time/Temperature Control for Safety Food that is maintained at the temperatures specified under Subchapter 5, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every twenty-four (24) hours;
- (4) Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under Subchapter 5;
- (5) Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;
- (6) The cleaning schedule is approved based on consideration of:
 - (A) Characteristics of the equipment and its use,
 - (B) The type of food involved,
 - (C) The amount of food residue accumulation, and
 - (D) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

(7) In-use utensils are intermittently stored in a container of water in which the water is maintained at 57°C (135°F) or more and the utensils and container are cleaned at least every twenty-four (24) hours or at a frequency necessary to preclude accumulation of soil residues.

(e) Except when dry cleaning methods are used as specified under OAC 310:257-7-86, surfaces of utensils and equipment contacting food that is not Time/Temperature Control for Safety Food shall be cleaned:

- (1) At any time when contamination may have occurred;
- (2) At least every twenty-four (24) hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;
- (3) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and
- (4) In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:
 - (A) At a frequency specified by the manufacturer, or
 - (B) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-84. Cooking and baking equipment

(a) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every twenty-four (24) hours. This Section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in OAC 310:257-7-83(d)(6).

(b) The cavities and door seals of microwave ovens shall be cleaned at least every twenty-four (24) hours by using the manufacturer's recommended cleaning procedure.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-85. Nonfood-contact surfaces

Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-86. Dry cleaning

- (a) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not Time/Temperature Control for Safety Food.
- (b) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-87. Precleaning

- (a) Food debris on equipment and utensils shall be scraped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.
- (b) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-88. Loading of soiled items, warewashing machines

Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

- (1) Exposes the items to the unobstructed spray from all cycles;
- and
- (2) Allows the items to drain.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-89. Wet cleaning

- (a) Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.
- (b) The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-90. Washing, procedures for alternative manual warewashing equipment

If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in OAC 310:257-7-51(c) in accordance with the following procedures:

- (1) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;

- (2) Equipment components and utensils shall be scraped or rough cleaned to remove food particle accumulation; and
- (3) Equipment and utensils shall be washed as specified under OAC 310:257-7-89(a).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-91. Rinsing procedures

Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

- (1) Use of a distinct, separate water rinse after washing and before sanitizing if using:
 - (A) A 3-compartment sink as specified in OAC 310:257-7-51,
 - (B) Alternative manual warewashing equipment equivalent to a 3-compartment sink as specified in OAC 310:257-7-51(c), or
 - (C) A 3-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;
- (2) Use of a detergent-sanitizer as specified under OAC 310:257-7-76 if using:
 - (A) Alternative warewashing equipment as specified in OAC 310:257-7-51(c) that is approved for use with a detergent-sanitizer, or
 - (B) A warewashing system for CIP equipment;
- (3) Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a 2-compartment sink operation;
- (4) If using a warewashing machine that does not recycle the sanitizing solution as specified under (5) of this Section, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:
 - (A) Integrated in the application of the sanitizing solution, and
 - (B) Wasted immediately after each application; or
- (5) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-92. Returnables, cleaning for refilling [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Revoked at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-93. Food-contact surfaces and utensils

Equipment food-contact surfaces and utensils shall be sanitized.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-94. Before use after cleaning

Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-95. Hot water and chemical

After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:

- (1) Hot water manual operations by immersion for at least thirty (30) seconds and as specified under OAC 310:257-7-72;
- (2) Hot water mechanical operations by being cycled through equipment that is set up as specified under OAC 310:257-7-66, OAC 310:257-7-73, and OAC 310:257-7-74 and achieving a utensil surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator; or
- (3) Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under OAC 310:257-7-75. Contact times shall be consistent with those on the EPA-registered label use instructions by providing:
 - (A) Except as specified under paragraph (3)(B) of this Section, a contact time of at least ten (10) seconds for a chlorine solution specified under OAC 310:257-7-75(1),
 - (B) A contact time of at least seven (7) seconds for a chlorine solution of 50 mg/L that has a pH of ten (10) or less and a temperature of at least 38°C (100°F) or a pH of eight (8) or less and a temperature of at least 24°C (75°F),
 - (C) A contact time of at least thirty (30) seconds for other chemical sanitizing solutions, or
 - (D) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in OAC 310:257-1-2.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-96. Clean linens

Clean linens shall be free from food residues and other soiling matter.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-97. Specifications

- (a) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.
- (b) Cloth gloves used as specified under OAC 310:257-5-34(d) shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, poultry and fish.
- (c) Linens that are used as specified under OAC 310:257-5-32 and cloth napkins shall be laundered between each use.
- (d) Wet wiping cloths shall be laundered daily.
- (e) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-98. Storage of soiled linens

Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-99. Mechanical washing

- (a) Except as specified in (b) of this Section, linens shall be mechanically washed.
- (b) In food establishments in which only wiping cloths are laundered as specified under OAC 310:257-7-54(b), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified under OAC 310:257-7-65.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-100. Use of laundry facilities

- (a) Except as specified in (b) of this Section, laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment.
- (b) Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-101. Equipment and utensils, Air-drying required

After cleaning and sanitizing, equipment and utensils:

- (1) Shall be air-dried or used after adequate draining as specified in 40 CFR 180.940(a), before contact with food. Stacking of wet items shall be prohibited; and
- (2) Shall not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean

and dry.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-7-102. Wiping cloths, air-drying locations

Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified under OAC 310:257-7-54(b) shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This Section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under OAC 310:257-7-75.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-103. Food-contact surfaces

Lubricants, as specified under OAC 310:257-13-11 shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-104. Equipment

Equipment shall be reassembled so that food-contact surfaces are not contaminated.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-105. Equipment, utensils, linens, and single-service and single-use articles

(a) Except as specified in (d) of this Section, cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:

- (1) In a clean, dry location;
- (2) Where they are not exposed to splash, dust, or other contamination; and
- (3) At least 15 cm (6 inches) above the floor.

(b) Clean equipment and utensils shall be stored as specified under (a) of this Section and shall be stored:

- (1) In a self-draining position that allows air drying; and
- (2) Covered or inverted.

(c) Single-service and single-use articles shall be stored as specified under (a) of this Section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

(d) Items that are kept in closed packages may be stored less than 15 cm (6 inches) above the floor on dollies, pallets, racks, and skids that are designed as specified under OAC 310:257-7-47.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-106. Prohibitions

(a) Except as specified in (b) of this Section, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be stored:

- (1) In locker rooms;
- (2) In toilet rooms;
- (3) In garbage rooms;
- (4) In mechanical rooms;
- (5) Under sewer lines that are not shielded to intercept potential drips;
- (6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
- (7) Under open stairwells; or
- (8) Under other sources of contamination.

(b) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-107. Kitchenware and tableware

(a) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented.

(b) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

(c) Except as specified under (b) of this Section, single-service articles that are intended for food-or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-108. Soiled and clean tableware

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-7-109. Preset tableware

If tableware is preset:

- (1) Except as specified in paragraph two (2) of this Section, tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted;
- (2) Preset tableware may be exposed if:

- (A) Unused settings are removed when the consumer is seated; or
 - (B) Settings not removed when a consumer is seated are cleaned and sanitized before any further use
- () .

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-7-110. Rinsing equipment and utensils after cleaning and sanitizing

After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:

- (1) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under OAC 310:257-7-26 through 310:257-7-48 and as specified under OAC 310:257-7-62 through 310:257-7-77; and
- (2) The rinse is applied only after the equipment and utensils have been sanitized by the applications of hot water or by the applications of a chemical sanitizer solution whose EPA - Registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine.

[Source: Added at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

SUBCHAPTER 9. WATER, PLUMBING AND WASTE

310:257-9-1. Approved System

A license holder shall obtain potable water from:

- (1) A public water system; or
- (2) A nonpublic water system that is constructed, maintained, and operated according to law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-2. System flushing and disinfection

A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-3. Bottled drinking water [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-4. Quality, standards [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-5. Nondrinking water

- (a) A nondrinking water supply shall be used only if its use is approved.
- (b) Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-6. Sampling

Except when used as specified under OAC 310:257-9-5, water from a non-public water system shall be sampled and tested at least annually and as required by OAC 252:624 Minor Public Water Supply Systems.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-7. Sample report

The most recent sample report for the non-public water system shall be retained on file in the food establishment.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-8. Quantity and availability, capacity

- (a) The water source and system shall be of sufficient capacity to meet the peak water demands of the food establishment. Mobile and seasonal food establishments shall have a minimum water capacity of at least ten (10) gallons. Pushcarts shall have a minimum water capacity of at least five (5) gallons.
- (b) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-9. Pressure

- (a) Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under OAC 310:257-9-11(1) and (2) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.
- (b) Mobile and seasonal food establishments shall have a water system under pressure that produces a flow of at least two (2) gallons per minute.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-10. Distribution, delivery, and retention, system

Water shall be received from the source through the use of:

- (1) An approved public water main; or
- (2) One or more of the following that shall be constructed, maintained, and operated according to law:
 - (A) Non-public water main, water pumps, pipes, hoses, connections, and other appurtenances,
 - (B) Water transport vehicles, and
 - (C) Water containers.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-11. Alternative water supply

Water meeting the requirements specified under OAC 310:257-9-1 through OAC 310:257-9-9 shall be made available for a temporary food establishment without a permanent water supply, and for a food establishment or mobile food establishment with a temporary interruption of its water supply through:

- (1) A supply of containers of commercially bottled drinking water;
- (2) One or more closed portable water containers;
- (3) An enclosed vehicular water tank;
- (4) An on-premises water storage tank; or
- (5) Piping, tubing, or hoses connected to an adjacent approved source.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-12. Materials, approved

- (a) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law.
- (b) A water filter shall be made of safe materials.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-13. Approved system and cleanable fixtures

- (a) A plumbing system shall be designed, constructed, and installed according to law.
- (b) A plumbing fixture such as a handwashing facility, toilet, or urinal shall be easily cleanable.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-14. Handwashing facility, installation

- (a) A handwashing lavatory shall be equipped to provide water at a temperature of at least 38°C (100°F) through a mixing valve or combination faucet.
- (b) A steam mixing valve shall not be used at a handwashing lavatory.
- (c) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen (15) seconds without the need to reactivate the

faucet.

(d) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.

(e) Where faucets are supplied with tempered water, the maximum water temperature shall be no greater than 120°F.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-15. Backflow prevention, air gap

An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and shall not be less than 25 mm (1 inch).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-16. Backflow prevention device, design standard

A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-17. Conditioning device, design

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-18. Numbers and capacities, handwashing facilities

(a) Except as specified in paragraphs (b) and (c) of this Section, at least one (1) handwashing lavatory, a number of handwashing lavatories necessary for their convenient use by employees in areas specified under OAC 310:257-9-23, and not fewer than the number of handwashing lavatories required by law shall be provided. A sink system shall be made of equipment and materials intended for the use of hand washing. The sink system shall be installed so that hand washing cannot contaminate clean utensils.

(b) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing lavatories in a food establishment that has at least one (1) handwashing lavatory.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-19. Toilets and urinals

At least one (1) toilet and not fewer than the toilets required by law shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified in law. Chemical portable toilets, if approved, may be substituted for this requirement for temporary, seasonal, and mobile food establishments.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-20. Service sink

(a) At least one(1) service sink or one(1) curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(b) If alternate floor cleaning methods are approved, and waste mop water is not generated, the service sink specified under (a) of this Section is not required.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-21. Backflow prevention device, when required

A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

- (1) Providing an air gap as specified under OAC 310:257-9-15; or
- (2) Installing an approved backflow prevention device as specified under OAC 310:257-9-16.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-22. Backflow prevention device, carbonator

(a) If not provided with an air gap as specified under OAC 310:257-9-15, a dual check valve with an intermediate vent preceded by a screen of not less than 100 mesh to 25.4mm (100 mesh to 1 inch) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.

(b) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under (a) of this Section.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-23. Location and placement, handwashing facilities

A handwashing facility shall be located:

- (1) To allow convenient use by employees in food preparation, food dispensing, and warewashing areas; and;

(2) In, or immediately adjacent to, toilet rooms.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-24. Backflow prevention device, location

A backflow prevention device shall be located so that it may be serviced and maintained.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-25. Conditioning device, location

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-26. Using a handwashing facility.

- (a) A handwashing facility shall be maintained so that it is accessible at all times for employee use.
- (b) A handwashing facility shall not be used for purposes other than handwashing.
- (c) An automatic handwashing facility shall be used in accordance with manufacturer's instructions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-27. Prohibiting a cross connection

- (a) A person shall not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality.
- (b) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-28. Scheduling inspection and service for a water system device

A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-29. Water reservoir of fogging devices, cleaning

(a) A reservoir that is used to supply water to a device such as a produce fogger shall be:

- (1) Maintained in accordance with manufacturer's specifications; and
- (2) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under (b) of this Section, whichever is more stringent.

(b) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

- (1) Draining and complete disassembly of the water and aerosol contact parts;
- (2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;
- (3) Flushing the complete system with water to remove the detergent solution and particulate accumulation; and;
- (4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L hypochlorite solution.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-30. System maintained in good repair

A plumbing system shall be:

- (1) Repaired according to law; and
- (2) Maintained in good repair.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-31. Materials, approved

Materials that are used in the construction of a water tank and appurtenances shall be:

- (1) Safe;
- (2) Durable, corrosion-resistant, and nonabsorbent; and
- (3) Finished to have a smooth, easily cleanable surface.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-32. Enclosed system, sloped to drain

A potable water tank shall be:

- (1) Enclosed from the filling inlet to the discharge outlet; and
- (2) Sloped to an outlet that allows complete drainage of the tank; and
- (3) At least the capacity as specified in OAC 310:257-9-8.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-33. Inspection and cleaning port, protected and secured

If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

- (1) Flanged upward at least 13 mm (one-half inch); and
- (2) Equipped with a port cover assembly that is:
 - (A) Provided with a gasket and a device for securing the cover in place, and;
 - (B) Flanged to overlap the opening and sloped to drain.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-34. "V" type threads, use limitation

A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-35. Tank vent, protected

If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

- (1) 16 mesh to 25.4 mm (16 mesh to 1 inch) screen or equivalent when the vent is in a protected area; or
- (2) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-36. Inlet and outlet, sloped to drain

- (a) A water tank and its inlet and outlet shall be sloped to drain.
- (b) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil or grease.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-37. Hose, construction and identification

A hose used for conveying potable water that is to be used for culinary purposes shall be:

- (1) Safe;
- (2) Durable, corrosion-resistant, nonabsorbent and made of food grade materials;
- (3) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
- (4) Finished with a smooth interior surface; and
- (5) Clearly and durably identified as to its use if not permanently attached.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-38. Filter, compressed air

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-39. Protective cover or device

A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-40. Mobile food establishment tank inlet

A mobile food establishment's water tank inlet shall be:

- (1) 19.1 mm (three-fourths (3/4) inch) in inner diameter or less; and
- (2) Provided with a hose connection of a size or type that will prevent its use for any other service.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-41. System flushing and sanitization

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-42. Using a pump and hoses, backflow prevention

A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-43. Protecting inlet, outlet, and hose fitting

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under OAC 310:257-9-39.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-44. Tank, pump, and hoses, dedication

(a) Except as specified in (b) of this Section, a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose.

(b) Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-45. Capacity and drainage

A sewage holding tank in a mobile or seasonal food establishment shall be:

- (1) Sized fifteen percent (15%) larger in capacity than the water supply tank;
- (2) Sloped to a drain that is twenty-five (25) mm (one (1) inch) in inner diameter or greater, equipped with a shut-off valve; and
- (3) If connected to a permanent water supply, the establishment shall be connected to a permanent sewage system.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-46. Establishment drainage system

Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under OAC 310:257-9-13(a).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-47. Backflow prevention

- (a) Except as specified in (b) through (d) of this Section, a direct connection shall not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.
- (b) Subsection (a) of this Section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.
- (c) If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.
- (d) If allowed by law, a warewashing sink may have a direct connection.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-48. Grease trap

If used, a grease trap or interceptor shall be located to be easily accessible for cleaning.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-49. Conveying sewage

Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses,

and connections that are constructed, maintained, and operated according to law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-9-50. Removing mobile food establishment wastes

Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-51. Flushing a waste retention tank

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-52. Approved sewage disposal system

Sewage shall be disposed through an approved facility that is:

- (1) A public sewage treatment plant; or
- (2) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-9-53. Other liquid wastes and rainwater

Condensate drainage and other non-sewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-54. Indoor storage area

If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified under OAC 310:257-11-1, OAC 310:257-11-3 through OAC 310:257-11-10, OAC 310:257-11-15, and OAC 310:257-11-16.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-55. Outdoor storage surface

An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-56. Outdoor enclosure

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-57. Receptacles

(a) Except as specified in (b) of this Section, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.

(b) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-58. Receptacles in vending machines

A refuse receptacle shall not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-59. Outside receptacles

(a) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.

(b) Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

(c) Equipment and receptacles for refuse, recyclables, and returnables used with materials containing food residue and designed to be used by establishment patrons shall be used as originally designed and maintained so that accumulation of debris and insect and rodent attraction are minimized.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-60. Storage areas, rooms, and receptacles, capacity and availability

(a) An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

(b) A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

(c) If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-61. Toilet room receptacle, covered

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-62. Cleaning implements and supplies

(a) Except as specified in (b) of this Section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

(b) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-63. Storage areas, redeeming machines, receptacles and waste handling units, location

(a) An area designated for refuse, recyclables, returnables, and, except as specified in (b) of this Section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles so a public health hazard or nuisance is not created.

(b) A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.

(c) The location of receptacles and waste handling units for refuse, recyclables, and returnables shall not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-64. Storing refuse, recyclables, and returnables

Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-65. Areas, enclosures, and receptacles, good repair

Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-66. Outside storage prohibitions

(a) Except as specified in (b) of this Section, refuse receptacles not meeting the requirements specified under OAC 310:257-9-57(a) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue shall not be stored outside.

(b) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-67. Covering receptacles

Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

- (1) Inside the food establishment if the receptacles and units:
 - (A) Contain food residue and are not in continuous use; or
 - (B) After they are filled; and
- (2) With tight-fitting lids or doors if kept outside the food establishment.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-9-68. Using drain plugs

Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-69. Maintaining refuse areas and enclosures

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under OAC 310:257-11-53, and clean.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09]

310:257-9-70. Cleaning receptacles

(a) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under OAC 310:257-9-49.

(b) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-9-71. Frequency

Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-72. Receptacles or vehicles

Refuse, recyclables, and returnables shall be removed from the premises by way of:

- (1) Portable receptacles that are constructed and maintained according to law; or
- (2) A transport vehicle that is constructed, maintained, and operated according to law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-9-73. Community or individual facility

Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

SUBCHAPTER 11. PHYSICAL FACILITIES

310:257-11-1. Indoor areas, surface characteristics

(a) Except as specified in (b) of this Section, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

- (1) Smooth, durable, and easily cleanable for areas where food establishment operations are conducted. In food preparation and warewashing areas, the Light Reflectivity Value (LRV) of walls and ceiling surfaces shall be fifty percent (50%) or greater to aid in thorough cleaning of these areas.
- (2) Closely woven and easily cleanable carpet for carpeted areas; and

(3) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

(b) In a temporary food establishment:

(1) If graded to drain, a floor may be concrete, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other suitable approved materials that are effectively treated to control dust and mud; and

(2) Walls and ceilings shall be constructed of a material that protects the interior from the weather and windblown dust and debris.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-2. Outdoor areas, surface characteristics

(a) The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

(b) Exterior surfaces of buildings and mobile food establishments shall be of weather-resistant materials and shall comply with law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-3. Floors, walls, and ceilings

Except as allowed in OAC 310:257-11-6, and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-4. Floors, walls, and ceilings, utility lines

(a) Utility service lines and pipes shall not be unnecessarily exposed.

(b) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(c) Exposed horizontal utility service lines and pipes shall not be installed on the floor.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-5. Floor and wall junctures, coved, and enclosed or sealed

(a) In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than one (1) mm (one thirty-second 1/32

inch).

(b) The floors in food establishments in which water flush cleaning methods are used shall be provided with drains, be graded to drain, and the floor and wall junctures shall be coved and sealed.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-6. Floor carpeting, restrictions and installation

(a) A floor covering such as carpeting or similar material shall not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

(b) If carpeting is installed as a floor covering in areas other than those specified under (a) of this Section, it shall be:

- (1) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and
- (2) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-7. Floor covering, mats and duckboards

Mats and duckboards shall be designed to be removable and easily cleanable.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-8. Wall and ceiling coverings and coatings

(a) Wall and ceiling covering materials shall be attached so that they are easily cleanable.

(b) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-9. Walls and ceilings, attachments

(a) Except as specified in (b) of this Section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.

(b) In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-10. Walls and ceilings, studs, joists, and rafters

Studs, joists, and rafters shall not be exposed in areas subject to moisture. This requirement does not apply to temporary food establishments.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-11. Light bulbs, protective shielding

(a) Except as specified in (b) of this Section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.

(b) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

- (1) The integrity of the packages can not be affected by broken glass falling onto them; and
- (2) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

(c) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-12. Heating, ventilating, air conditioning system Vents

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-13. Insect control devices, design and installation

(a) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(b) Insect control devices shall be installed so that:

- (1) The devices are not located over a food preparation area; and
- (2) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, linens; and unwrapped single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-14. Toilet rooms, enclosed

A toilet room shall be completely enclosed and provided with a tight-fitting and self-closing door, except for the following situations:

- (1) when a toilet room is located outside of the food establishment and does not open directly into the food establishment, such as a toilet room provided by the management of a shopping mall; or
- (2) when a toilet room that utilizes an offset entrance maze:
 - (A) protects exposed food, clean equipment, utensils, linens; and unwrapped single-service and single-use articles to contamination, and
 - (B) offensive odors are controlled.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-15. Outer openings, protected

(a) Except as specified in (b), (c), (d) and (e) of this Section, outer openings of a food establishment shall be protected against the entry of insects and rodents by:

- (1) Filling or closing holes and other gaps along floors, walls, and ceilings;
- (2) Closed, tight-fitting windows; and
- (3) Solid, self-closing, tight-fitting doors.

(b) Paragraph (a) of this Section does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

(c) Exterior doors used as exits need not be self-closing if they are:

- (1) Solid and tight-fitting;
- (2) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
- (3) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

(d) Except as specified in (b) and (e) of this Section, if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and doors as specified under (a) of this Section, the openings shall be protected against the entry of insects and rodents by:

- (1) 16 mesh to 25.4mm (16 mesh to 1 inch) screens; or
- (2) Properly installed air curtains which adequately exclude flying insects; or
- (3) Other effective means.

(e) Paragraph (d) of this Section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting conditions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-16. Exterior walls and roofs, protective barrier

Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-11-17. Outdoor food vending areas, overhead protection

Except for machines that vend canned beverages, if located outside, a machine used to vend food shall be provided with overhead protection.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-11-18. Outdoor servicing areas, overhead protection

Servicing areas shall be provided with overhead protection except that areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-19. Outdoor walking and driving surfaces, graded to drain

Exterior walking and driving surfaces shall be graded to drain.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-20. Outdoor refuse areas graded to drain

Outdoor refuse areas shall be constructed in accordance with law and shall be graded to drain to collect and dispose of liquid waste that result from the refuse and from cleaning the area and waste receptacles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-21. Private homes and living or sleeping quarters, use prohibition

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters shall not be used for conducting food establishment operations.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-22. Living or sleeping quarters, separation

Living or sleeping quarters located on the premises of a food establishment such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

**310:257-11-23. Handwashing facilities, minimum number
[REVOKED]**

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-24. Handwashing cleanser, availability

Each handwashing sink or group of two (2) adjacent sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-25. Hand drying provision

Each handwashing sink or group of adjacent sinks shall be provided with at least one of the following:

- (1) Individual, disposable towels;
- (2) A continuous towel system that supplies the user with a clean towel;
- (3) A heated-air hand drying device; or
- (4) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-26. Handwashing aids and devices, use restrictions

A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, shall not be provided with the handwashing aids and devices required for a handwashing sink as specified under OAC 310:257-11-24 and OAC 310:257-11-25 and OAC 310:257-9-60(c).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-27. Handwashing signage

A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing lavatories used by food employees and shall be clearly visible to food employees.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-28. Disposable towels, waste receptacle [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-29. Toilets and urinals, minimum number [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-30. Toilet tissue, availability

A supply of toilet tissue shall be available at each toilet.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-31. Lighting, intensity

The light intensity shall be:

- (1) At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;
- (2) At least 215 lux (20 foot candles):
 - (A) At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;
 - (B) Inside equipment such as reach-in and under-counter refrigerators;
 - (C) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and
- (3) At least 540 lux (50 foot candles) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-11-32. Ventilation, mechanical

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-33. Designation

- (a) Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.
- (b) Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-34. Service sinks, availability [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

**310:257-11-35. Handwashing facilities, conveniently located
[REVOKED]**

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-36. Toilet rooms, convenience and accessibility

Toilet rooms shall be conveniently located and accessible to employees during all hours of operation.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-37. Employee accommodations, designated areas

Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-38. Distressed merchandise, segregation and location

Products that are held by the license holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-39. Receptacles, waste handling units, and designated storage areas [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-40. Premises, structures, attachments, and fixtures, repairing

The physical facilities shall be maintained in good repair.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-41. Cleaning, frequency and restrictions

(a) The physical facilities shall be cleaned as often as necessary to keep them clean.

(b) Cleaning shall be done during periods when the least amount of food is exposed such as after closing. This requirement does not apply to cleaning that is necessary due to a spill or other accident.

(c) Mobile pushcarts and mobile food establishments shall return daily to the commissary for servicing and cleaning, if not associated with an event or celebration.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-11-42. Cleaning floors, dustless methods

(a) Except as specified in (b) of this Section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

(b) Spills, drippage, or vomit and diarrheal events on floors that occur between normal floor cleaning times may be cleaned:

(1) Without the use of dust-arresting compounds; and

(2) In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-43. Cleaning ventilation systems, nuisance and discharge prohibition

(a) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(b) If vented to the outside, ventilation systems may not create a public health hazard or nuisance or unlawful discharge.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-44. Cleaning maintenance tools, preventing contamination

Food preparation sinks, handwashing lavatories, and warewashing equipment shall not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-45. Drying mops

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-46. Absorbent materials on floors, use limitation

Except as specified in OAC 310:257-11-42(b), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-47. Cleaning of plumbing fixtures

Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-11-48. Closing toilet room doors

Toilet room doors as specified under OAC 310:257-11-14 shall be kept closed except during cleaning and maintenance operations.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-49. Using dressing rooms and lockers

(a) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.

(b) Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-50. Controlling pests

The premises shall be maintained free of insects, rodents, and other pests. Insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:

- (1) Routinely inspecting incoming shipments of food and supplies;
- (2) Routinely inspecting the premises for evidence of pests;
- (3) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under OAC 310:257-13-5, OAC 310:257-13-13, and OAC 310:257-13-14 and
- (4) Eliminating harborage conditions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-11-51. Removing dead or trapped birds, insects, rodents, and other pests

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-52. Storing maintenance tools

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

- (1) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
- (2) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-53. Maintaining premises, unnecessary items and litter

The premises shall be free of:

- (1) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
- (2) Litter.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-11-54. Prohibiting animals

(a) Except as specified in (b), (c) and (d) of this Section, live animals shall not be allowed on the premises of a food establishment.

(b) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:

- (1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
- (2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
- (3) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;
- (4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:
 - (A) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas,
 - (B) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present, and
 - (C) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and
- (5) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals;

(c) Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result;

(d) Dogs and cats may be allowed in outdoor dining areas, provided the dog or cat is controlled by the owner or handler of the animal and the following conditions are met:

- (1) A separate entrance/exit is present where pets do not enter through the food establishment to reach the outdoor dining area;
- (2) No food preparation shall be allowed in the outdoor dining area, including the mixing of drinks and ice;
- (3) Customer multi-use or reusable utensils such as plates, silverware, glasses, and bowls shall not be stored, displayed, or pre-set at the outdoor dining area;
- (4) Containers used to provide food and water to the animal by the food establishment shall only be distributed in single-use, disposable containers;
- (5) Employees shall be prohibited from having direct contact with the animals;
- (6) The outdoor dining area shall be cleanable, durable and constructed of impervious materials;
- (7) The outdoor dining areas shall be maintained to remove and eliminate any animal excrement;
- (8) In cases where animal excrement or other animal fluids (urine, saliva, vomit) are deposited, an employee shall immediately clean and sanitize the affected areas; and
- (9) The outdoor dining area shall not be fully enclosed. Any fully enclosed dining area shall be considered a part of the interior of the facility.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

SUBCHAPTER 13. POISONOUS OR TOXIC MATERIALS

310:257-13-1. Identifying information, prominence

Containers of poisonous or toxic materials, first aid supplies, medicine, and personal care items shall bear a legible manufacturer's label.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-13-2. Common name

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-13-3. Storage separation

Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and

(2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-13-4. Presence and use, restriction

(a) Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment and the immediate premise, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food establishment.

(b) Paragraph (a) of this Section does not apply to packaged poisonous or toxic materials that are for retail sale.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-13-5. Conditions of use

Poisonous or toxic materials shall be:

(1) Used according to:

- (A) Law and this Chapter,
- (B) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment,
- (C) The conditions of certification, if certification is required, for use of the pest control materials, and
- (D) Additional conditions that may be established by the Department; and

(2) Applied so that:

- (A) A hazard to employees or other persons is not constituted, and
- (B) Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted use pesticide, this is achieved by:
 - (i) Removing the items,
 - (ii) Covering the items with impermeable covers, or
 - (iii) Taking other appropriate preventive actions, and
 - (iv) Cleaning and sanitizing equipment and utensils after the application.

(3) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC Section 136(e) Certified Applicator, of the Federal Insecticide, Fungicide and Rodenticide Act, or a person under the direct supervision of a certified

applicator.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-13-6. Poisonous or toxic material containers

A container previously used to store poisonous or toxic materials shall not be used to store, transport, or dispense food.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-13-7. Sanitizers, criteria

Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to food-contact surfaces shall:

- (1) Meet the requirements specified in 40 CFR Section 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions), or
- (2) Meet the requirements as specified in 40 CFR Section 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-13-8. Chemicals for washing, treatment, storage, and processing of fruits and vegetables, criteria

Chemicals, including those generated on-site, used to wash or peel raw, whole, uncut fruits and vegetables or used in the treatment, storage, and processing of fruits and vegetables shall:

- (1) Be an approved food additive listed for this intended use in 21 CFR, Part 173, or
- (2) Be generally recognized as safe (GRAS) for this intended use, or
- (3) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification), and
- (4) Meet the requirements in 40 CFR, Part 156 Labeling Requirements for Pesticide and Devices.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-13-9. Boiler water additives, criteria

Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310 Boiler Water Additives.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-13-10. Drying agents, criteria

Drying agents used in conjunction with sanitization shall:

(1) Contain only components that are listed as one of the following:

- (A) Generally recognized as safe for use in food as specified in 21 CFR, Part 182 - Substances Generally Recognized as Safe, or 21 CFR, Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe,
- (B) Generally recognized as safe for the intended use as specified in 21 CFR, Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe,
- (C) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to food as described in 21 CFR Section 170.30 Eligibility for classification as generally recognized as safe (GRAS),
- (D) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 174-178,
- (E) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR Section 170.39 Threshold of regulation for substances used in food-contact articles,
- (F) Subject of an effective Food Contact Notification as described in the 21 USC Section 348, or
- (G) Approved for use as a drying agent under a prior sanction as described in 21 USC §301; and

(2) When sanitization is with chemicals, the approval required as specified under (1)(E) or (1)(G) of this Section or the regulation as an indirect food additive required as specified under (1)(D) of this Section, shall be specifically for use with chemical sanitizing solutions.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-13-11. Incidental food contact, criteria

Lubricants shall meet the requirements specified in 21 CFR 178.3570 Lubricants with incidental food contact, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-13-12. Restricted use pesticides, criteria

Restricted use pesticides specified under OAC 310:257-13-5 (3) shall meet the requirements specified in 40 CFR 152 Subpart I - Classification of Pesticides.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-13-13. Rodent bait stations

Rodent bait shall be contained in a covered, tamper-resistant bait station.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-13-14. Tracking powders, pest control and monitoring

(a) Except as specified in (b) of this Section, a tracking powder pesticide shall not be used in a food establishment.

(b) If used, a nontoxic tracking powder such as talcum or flour shall not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-13-15. Restriction and storage

(a) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a food establishment.

(b) Medicines that are in a food establishment for the employees' use shall be labeled as specified under OAC 310:257-13-1 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-13-16. Refrigerated medicines, storage

Medicines belonging to employees or to children in a school setting that require refrigeration and are stored in a food refrigerator shall be:

- (1) Stored in a package or container and kept inside a covered, leak-proof container that is identified as a container for the storage of medicines; and
- (2) Located so they are inaccessible to children.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-13-17. Storage

First aid supplies that are in a food establishment for the employees' use shall be:

- (1) Labeled as specified under OAC 310:257-13-1; and
- (2) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-13-18. Storage

Except as specified under OAC 310:257-13-16 and OAC 310:257-13-17, employees shall store their personal care items in facilities as specified under OAC 310:257-11-33(b).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-13-19. Separation

Poisonous or toxic materials shall be stored and displayed for retail sale so they can not contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and
- (2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

SUBCHAPTER 15. COMPLIANCE AND ENFORCEMENT

310:257-15-1. Public health protection [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-2. Preventing health hazards, provision for conditions not addressed [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-2.1. Public health protection

- (a) The regulatory authority shall apply this Chapter to promote its underlying purpose of safeguarding public health and ensuring that food is safe, unadulterated, and honestly presented when offered to the consumer.
- (b) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements in addition to the requirements contained in this Chapter that are authorized by law.
- (c) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the license applicant or license holder and a copy shall be maintained in the Department file for the food establishment.

[Source: Added at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-3. Modifications and waivers [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-3.1. Variances and waivers

(a) Whenever the Department adopts new rules or amends existing language in this Chapter, the owner of a food establishment may request that a waiver be granted on any nonconforming use that may then exist, on or before the effective date of the rule change, at the license holder's place of operation, based on the following considerations:

- (1) Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
- (2) Whether food-contact surfaces comply with OAC 310:257-7-1 through OAC 310:257-7-13;
- (3) Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with OAC 310:257-7-50; and
- (4) The existence of a documented agreement with the license holder that the facilities or equipment will be replaced as specified under OAC 310:257-15-20(6).

(b) Waivers or variances requested pursuant to this Subchapter are subject to approval by the Department. A license holder must submit a written application on a form provided by the Department. Any request shall be deemed denied unless the license holder subsequently receives notice of approval from the Department.

(c) If the license holder replaces the equipment or reconstructs the portion of the facility that is the subject of the waiver, the new equipment or construction must conform to the rules of this Chapter.

(d) Waivers or variances may be reviewed and reconsidered for each successive licensing period.

(e) Waivers or variances are not considered to be part of the license and may be revoked at any time, for any reason, by the Department. The licensee is not entitled to a hearing prior to revocation, but will be provided written notice of any revocation along with instructions that the licensee must come into compliance by a certain date.

[Source: Added at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-4. Documentation of proposed waiver or variance and justification

(a) Waiver or variance requests are subject to review by the Department. During this process, the regulatory authority may confirm the following in writing:

- (1) The nature and extent of any nonconforming use;
 - (2) That the equipment or portion of the facility in question is in an operable and sanitary condition, and can be maintained in satisfactory condition; and
 - (3) That no public health threats or food-related illness will result if the waiver or variance is granted.
- (b) If a HACCP plan is required, as specified in OAC 257-15-8, the license holder must supply the regulatory authority with the information specified in OAC 310:257-15-9 as it is relevant to the variance requested.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-5. Conformance with approved procedures

If the Department grants a variance as specified in OAC 310:257-15-3.1, or a HACCP plan is otherwise required as specified under OAC 310:257-15-8, the license holder shall:

- (1) Comply with the HACCP plans and procedures that are submitted as specified under OAC 310:257-15-9 and approved as a basis for the variance, and
- (2) Maintain and provide to the regulatory authority, upon request, records specified under OAC 310:257-15-9(5) and 6(B) that demonstrate that the following are routinely employed:
 - (A) Procedures for monitoring critical control points,
 - (B) Monitoring of the critical control points,
 - (C) Verification of the effectiveness of an operation or process, and
 - (D) Necessary corrective actions if there is failure at a critical control point.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-6. When Plans are required

A license applicant or license holder shall submit to the Department, payment of plan review fees and properly prepared plans and specifications for review and approval before:

- (1) The construction of a food establishment;
- (2) The conversion of an existing structure for use as a food establishment;
- (3) The remodeling of a food establishment or a change of type of food establishment or food operation ; or
- (4) If the regulatory authority determines that plans and specifications are necessary to ensure compliance with this Chapter.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-7. Contents of the Plans and Specifications

The plans and specifications for a food establishment shall include:

- (1) Intended menu;
- (2) Anticipated volume of food to be stored, prepared, and sold or served;
- (3) Proposed equipment types, manufacturer and model numbers (if available);
- (4) Proposed floor plan;
- (5) Evidence that standard operating procedures that ensure compliance with the requirements of this Chapter are developed or are being developed; and
- (6) Other information that may be required by the regulatory authority for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-8. When a HACCP plan is required

(a) Before engaging in an activity that requires a HACCP plan, a license applicant or holder shall submit to the Department for approval a properly prepared HACCP plan as specified under OAC 310:257-15-9 and the relevant provisions of this Chapter if:

- (1) Submission of a HACCP plan is required;
- (2) A variance is required as specified under OAC 310:257-5-63, OAC 310:257-7-35(b), or OAC 310:257-5-46 (d)(4); or
- (3) The Department determines that a food preparation or processing method requires a variance based on a plan submittal specified under OAC 310:257-15-7, an inspectional finding, or a variance request.

(b) Before engaging in reduced oxygen packaging without a variance as specified under OAC 310:257-5-64, a license applicant or license holder shall submit a properly prepared HACCP plan to the Department.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-9. Contents of a HACCP plan

For a food establishment that is required under OAC 310:257-15-8 to have a HACCP plan, the plan and specifications shall indicate:

- (1) The name of the license applicant or holder, the food establishment address, and contact information.
- (2) A categorization of the types of Time/Temperature Control for Safety foods that are to be controlled under the HACCP plan;
- (3) A flow diagram or chart for each specific food or category type that identifies:

- (A) Each step in the process
 - (B) The hazards and controls for each step in the flow diagram or chart;
 - (C) The steps that are CCPs;
 - (D) The ingredients, materials, and equipment used in the preparation of that food; and
 - (E) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved.
- (4) Food employee and supervisory training plan that addresses the food safety issues of concern;
- (5) A CCP summary for each specific food or category type that clearly identifies:
- (A) Each CCP,
 - (B) The critical limits for each CCP,
 - (C) The method and frequency for monitoring and controlling each CCP by the food employee designated by the person in charge,
 - (D) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring CCPs,
 - (E) Action to be taken by the person in charge if the critical limits for each CCP are not met, and
 - (F) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and
- (6) Supporting documents such as:
- (A) Copies of blank records forms that are necessary to implement the HACCP plan;
 - (B) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.
- (7) Any other information required by the Department.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-10. Trade secrets

The regulatory authority shall treat as confidential information that meets the criteria specified in law for a trade secret and is contained on inspection reports and any plans and specifications submitted.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-11. Preoperational inspections

The regulatory authority may conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard operating procedures as specified under OAC 310:257-15-7(5), and is in compliance with law and this Chapter.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-12. Prerequisite for operation

A person may not operate a food establishment without a valid license to operate issued by the Commissioner of Health.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16]

310:257-15-13. Form of submission and contents of application

A person desiring to operate a food establishment shall submit to the regulatory authority a written application for a license on a form provided by the Department. The application will include at a minimum:

- (1) The name, mailing address, telephone number, e-mail address, and signature of the person applying for the license and the name, mailing address, and physical location of the food establishment;
- (2) Information specifying whether the food establishment is owned by an association, corporation, individual, partnership, or other legal entity.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-14. Qualifications and responsibilities of applicants

To qualify for a license, an applicant shall:

- (1) Be an owner of the food establishment or an officer of the legal ownership;
- (2) Comply with the requirements of this Chapter;
- (3) Allow access to the food establishment and provide required information; and
- (4) Pay the applicable license fees at the time the application is submitted.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-15. Contents of the application [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-16. New establishments

For food establishments that are required to submit plans as specified under OAC 310:257-15-6 the Commissioner of Health shall issue a license to the applicant after:

- (1) A properly completed application is submitted;
- (2) All required fees are received;
- (3) The required plans, specifications, and information are reviewed and approved; and
- (4) A preoperational inspection if required shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Chapter.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-17. Existing establishments, license renewal, and change of ownership

The Commissioner of Health may renew a license for an existing food establishment or may issue a license to a new owner of an existing food establishment after a properly completed application is submitted, reviewed, and approved, the fees are received, and an inspection shows that the establishment is in compliance with this Chapter.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-18. Denial of application for license, notice

If an application for a license to operate is denied, the regulatory authority shall provide the applicant with a notice that includes:

- (1) The specific reasons and Chapter citations for the license denial; and
- (2) The actions, if any, that the applicant must take to qualify for a license.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-19. Responsibilities of the Department

(a) The Department shall make available to the license holder a copy of this Chapter via the Oklahoma State Department of Health website so that the license holder is notified of the compliance requirements and the conditions of retention that are applicable to the license.

(b) Failure to provide the information specified in (a) of this Section does not prevent the regulatory authority from taking authorized action or seeking remedies if the license holder fails to comply with this Chapter or an order, warning, or directive of the Department.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-20. Responsibilities of the license holder

Upon acceptance of the license issued by the Commissioner of Health, the license holder in order to retain the license shall:

- (1) Post the license in a conspicuous location in the food establishment;
- (2) Comply with the provisions of this Chapter;
- (3) Comply with directives of the Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Department;
- (4) Accept notices issued and served by the Department;
- (5) Be subject to the administrative, civil, injunctive, and criminal remedies as authorized by law for failure to comply with this Chapter or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and
- (6) If applicable, submit the annual renewal application and pay all renewal license and late fees.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-21. Licenses not transferable

A license cannot be transferred from one license holder to another, from one physical address to another or from one type of operation to another if the food operation changes from the type of operation specified in the application and the change in operation is not approved.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-22. Competency of inspectors

An authorized representative of the Department who inspects a food establishment or conducts plan review for compliance with this Chapter shall have the knowledge, skills, and ability to adequately perform the required duties and be licensed pursuant to 59 O.S. Sections 1150.1 et seq. (Oklahoma Sanitarian and Environmental Specialist Registration Act).

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-23. Allowed at reasonable times after due notice

After the regulatory authority presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the regulatory authority to determine if the food establishment is in compliance with this Chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this Chapter and to which the regulatory authority is entitled according to law, during the food establishment's hours of operation and other reasonable times.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-24. Refusal, notification of right to access, and final request for access

If a person denies access to the the regulatory authority then the regulatory authority shall:

- (1) Inform the person that:
 - (A) The license holder is required to allow access to the regulatory authority as specified under OAC 310:257-15-23 of this Chapter,
 - (B) Access is a condition of the acceptance and retention of a food establishment license to operate, and
 - (C) If access is denied, an order issued by the appropriate authority allowing access may be obtained; and
- (2) Make a final request for access.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-25. Refusal, reporting

If after the regulatory authority presents credentials and provides notice, explains the authority upon which access is requested, and makes a final request for access, the person in charge continues to refuse access, the regulatory authority shall record details of the denial of access on an inspection report form.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-26. Order to gain access

If denied access to a food establishment for an authorized purpose and after complying with OAC 310:257-15-24, the Department may issue, or apply for the issuance of, an order to gain access as provided in law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-27. Documenting information and observations

The regulatory authority shall document on an inspection report form:

- (1) Administrative information about the food establishment's legal identity, physical location, type of establishment, inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required; and
- (2) Specific observations of violative conditions or other deviations from this Chapter that require correction by the license holder including:
 - (A) Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of

HACCP principles, and the requirements of this Chapter,
(B) Failure of food employees to demonstrate their knowledge of their responsibility to report a disease or medical condition,
(C) Nonconformance with priority or priority foundation items of this Chapter,
(D) Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the Department,
(E) Failure of the person in charge to provide records required by the regulatory authority for determining conformance with a HACCP plan, and
(F) Nonconformance with critical limits of a HACCP plan.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-28. Specifying time frame for corrections [REVOKED]

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-29. Issuing report and obtaining acknowledgment of receipt

At the conclusion of the inspection, the regulatory authority shall provide a copy of the completed inspection report to the license holder or to the person in charge, and request a signed acknowledgment of receipt.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-30. Refusal to sign acknowledgment

The regulatory authority shall:

- (1) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified under OAC 310:257-15-29:
 - (A) An acknowledgment of receipt is not an agreement with findings,
 - (B) Refusal to sign an acknowledgment of receipt does not affect the license holder's obligation to correct the violations noted in the inspection report within the required timeframes, and
 - (C) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Department's historical record for the food establishment; and
- (2) Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-31. Public information

Except as specified in OAC 310:257-15-10, the Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in law.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-32. Ceasing operations and reporting

(a) Except as specified in (b) of this Section, a license holder shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as a fire, flood, sewage backup, insufficient refrigeration and/or hot food storage facilities available, substantial evidence or presence of a large number of insects, or evidence of rodents in food or on food preparation surfaces, interruption of safe potable water supply to the facility, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, interruption of electrical service for more than four (4) hours, severe structural damage in the facility, an employee working with a Salmonella, Shigella, Shiga toxin-producing *Escherichia coli* or Hepatitis A infection, gross unsanitary occurrence or condition, or other circumstance as determined by the Commissioner of Health, or his designee, that may endanger public health.

(b) A license holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

(c) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to continuing operations in the event of an extended interruption of electrical or water service if:

- (1) A written emergency operation plan has been approved;
- (2) Immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and
- (3) The Regulatory Authority Department is informed upon implementation of the written emergency operating plan.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 26 Ok Reg 1477, eff 6-11-09 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-33. Resumption of operations

If operations are discontinued as specified under OAC 310:257-15-32 or otherwise according to law, the license holder shall obtain approval from the regulatory authority before resuming operations.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06]

310:257-15-34. Timely correction

(a) Except as specified in (b) of this Section, a license holder shall at the time of inspection correct a priority or priority foundation violation of this Chapter and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

(b) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer time frame, not to exceed:

(1) Seventy two (72) hours after the inspection, for the license holder to correct violations of a priority item; or

(2) Ten (10) calendar days after the inspection, for the license holder to correct violations of a priority foundation item or HACCP Plan deviations.

(c) If corrections are not made according to (a) and (b) of this section, then the facility is subject to enforcement action.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-35. Verification and documentation of correction

(a) After observing at the time of inspection a correction of a priority or priority foundation violation or HACCP deviation, the regulatory authority shall enter the violation and information about the corrective action on the inspection report.

(b) After receiving notification that the license holder has corrected a priority or priority foundation violation or HACCP plan deviation, or at the end of the specified period of time, the regulatory authority shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-36. Time frame for correction

(a) Except as specified in (b) of this Section, the license holder shall correct violations that are Core items by a date and time agreed to or specified by the regulatory authority but no later than ninety (90) calendar days after the inspection.

(b) The Department may approve a compliance schedule that extends beyond the time limits specified under (a) of this Section if a written schedule of compliance is submitted by the license holder and no health hazard exists or will result from allowing an extended schedule for compliance.

(c) If corrections are not made according to (a) and (b) of this section, then the facility is subject to enforcement action.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-37. Obtaining information: personal history of illness, medical examination, and specimen analysis

The Department shall act when it has reasonable cause to believe that a food employee or conditional employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

- (1) Securing a confidential medical history of the food employee or conditional employee suspected of transmitting disease or making other investigations as deemed appropriate; and
- (2) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee and other employees.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-38. Restriction or exclusion of food employee or conditional employee, or summary suspension of license

Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the Department may issue an order to the suspected food employee or license holder instituting one or more of the following control measures:

- (1) Restricting the food employee or conditional employee;
- (2) Excluding the food employee or conditional employee; or
- (3) Closing the food establishment by summarily suspending a license to operate.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-39. Restriction or exclusion order: warning or hearing not required, information required in order

Based on the findings of the investigation and to control disease transmission, the Department may issue an order of restriction or exclusion to a suspected food employee or the license holder without prior warning, notice of a hearing, or a hearing if the order:

- (1) States the reasons for the restriction or exclusion that is ordered;
- (2) States the evidence that the food employee or license holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
- (3) States that the suspected food employee or the license holder may request an appeal hearing by submitting a timely request as provided in law; and
- (4) Provides the name and address of the Department representative to whom a request for an appeal hearing may be made.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-15-40. Release of food employee from restriction or exclusion

The Department shall release a food employee from restriction or exclusion consistent with the provisions of 310:257-3-6.

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11]

310:257-15-41. Priority items and priority foundation items

(a) **Priority items.** The Department shall treat as a priority item any requirement in the following sections of OAC 310-257: 3-4(a, c, d, f); 3-5; 3-6; 3-9; 3-10(a, b); 3-12; 5-1; 5-2(a, b), (e)(3)(A); 5-3; 5-4; 5-5; 5-6; 5-7(a); 5-8; 5-9(a, c, d); 5-10; 5-11; 5-12; 5-14; 5-18(a)(2); 5-21(b); 5-22; 5-23(a)(1, 2); 5-25; 5-26; 5-28; 5-30; 5-34(a); 5-36(a), (b)(1); 5-41; 5-43(a); 5-44(a); 5-46(a),(b)(1); 5-47(3); 5-48.1(1, 2, 3, 4, 5); 5-49(a); 5-52 (a, b, c, d); 5-53(1); 5-57; 5-59(a, b); 5-61; 5-62(b)(1, 3, 4), (c)(1, 4, 5); 5-64(a), (b)(4), (c), (d)(2)(B, C, D, E), (e)(1); 5-70(a, b, c, d); 5-71(1, 2, 3, 4, 5); 7-1(1); 7-3; 7-4(a); 7-5; 7-7; 7-12(1)(A), (2)(A); 7-14; 7-28(5); 7-35(a); 7-36; 7-72; 7-75(1, 2, 3, 4, 5), (6)(A, B); 7-79; 7-83(a, c); 7-94; 7-95; 9-1; 9-2; 9-5; 9-12; 9-13(a); 9-15; 9-16; 9-21; 9-22(a); 9-27(a); 9-29, 9-30(1); 9-31(1); 9-37(1); 9-38; 9-41; 9-44(a); 9-47(a); 9-49; 9-52; 11-21; 13-3; 13-5(1, 2); 13-6; 13-7; 13-8; 13-9; 13-10; 13-11; 13-12; 13-13; 13-14(a); 13-15(b); 13-16; 13-17(2); 13-19; 15-5(1); 15-12; 15-32(a); 17-1(d); 17-2(c)(3), (d)(1, 3); 17-3.1(c); 17-5(b, d).

(b) **Priority foundation items.** The Department shall treat as a priority foundation item any requirement in the following sections of OAC 310-257: 3-1(a, b); 3-2; 3-3; 3-4(b, e); 3-13; 3-14(a)(1), (2)(A, B, C, D, E), (b, c); 3-15; 3-21(a); 3-22; 5-2(c), (e)(1, 2), (e)(3)(B, C); 5-9(e, f); 5-13; 5-15(a); 5-16(a); 5-18(a)(1); 5-20; 5-21(c); 5-27(c); 5-43(b, c); 5-46(b)(2), (d)(2); 5-48; 5-48.1(6); 5-50(a, c); 5-53(2); 5-58; 5-60(a, b, c); 5-62(a), (b)(2), (c)(2, 3); 5-63; 5-64(b)(1, 2, 3, 5, 6), (d)(1), (2)(A, F, G, H), (d)(3,4), (e)(2, 3, 4); 5-67(b)(5); 5-69; 7-15(a); 7-16(a)(1); 7-23; 7-24; 7-35(b); 7-37(e); 7-40; 7-41; 7-42; 7-50; 7-51(a, b); 7-55; 7-56; 7-57; 7-58; 7-68; 7-70; 7-71; 7-73(a); 7-75(6)(C, D); 7-77; 7-78(b); 7-82(a); 9-6; 9-8; 9-9; 9-10; 9-11; 9-14(a, e); 9-18(a); 9-23; 9-26; 9-27(b); 9-28; 9-50; 11-24; 11-25; 11-30; 11-38; 11-44; 11-50(3); 11-54(a); 13-1; 13-2; 13-4(a); 13-5(3); 13-15(a); 13-17(1); 15-4; 15-5(2); 15-6; 15-9; 15-34(a); 17-1(g, h); 17-2(b), (c)(4), (d)(4); 17-4(b)

[Source: Added at 23 Ok Reg 2358, eff 6-25-06 ; Amended at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

SUBCHAPTER 17. MOBILE UNITS

310:257-17-1. General requirements

(a) The provisions of this Subchapter are specific to mobile units, which includes mobile pushcarts, mobile food establishments, and mobile retail food establishments, and are in addition to any requirements contained in this Chapter.

(b) Any mobile unit that sells only prepackaged food is not subject to a plan review fee.

(c) A mobile unit is exempt from mechanical refrigeration requirements if it is able to maintain food products at temperatures of 41°F or less and serves only prepackaged food.

(d) Mobile retail units may sell packaged foods prepared by a facility that is in compliance with any or all of (1) through (4):

- (1) OAC 310:260 (relating to good manufacturing practices),
- (2) United States Department of Agriculture,
- (3) Oklahoma Department of Agriculture Food and Forestry requirements, or
- (4) Food that is prepared in a facility which is licensed as a food establishment under this Chapter to the same owner as the mobile retail unit, provided it is not a mobile pushcart or mobile food establishment.

(e) The name of the business and the Oklahoma State Department of Health license number shall be clearly visible on the outside of the unit, in print of no less than three inches (3") in size during hours of operation.

(f) All mobile units shall be operated within 500 feet of a toilet facility available to employees during all hours of operation.

(g) Mobile units shall not have an active food cooling process within the unit. All cooling processes must take place in the licensed commissary.

(h) Electrical network and components must be sufficient to power all required equipment at all times during operation.

(i) An indoor or outdoor mobile pushcart shall not be required to have a three (3) compartment sink, provided that:

- (1) Only pre-packaged food is sold from the mobile pushcart; or
- (2) If serving unpackaged food, then an adequate supply of clean utensils is available on the cart, and the utensils are washed in the licensed commissary.

[Source: Added at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-17-2. Mobile pushcarts

(a) Pushcarts preparing unpackaged food shall be shielded on three sides.

(b) Foods sold from a pushcart are limited to :

- (1) Non-Time/Temperature Control for Safety Foods and condiments (i.e. processed cheese products, cheese, uncooked onions, and sauerkraut),
- (2) Pre-packaged food, and
- (3) The preparation and serving of precooked frankfurters, sausages, or other precooked, commercially processed Time/Temperature Control for Safety Foods.

(c) Each indoor mobile pushcart shall:

- (1) Be limited to operating within the confines of an enclosed or protected environment such as an indoor mall, sports arena, convention center, etc.
- (2) Have a commissary, licensed to the same owner as the pushcart, within the confines of the enclosed or protected

environment except as specified in (c)(1) of this section.

(3) Have hand washing facilities on the pushcart or immediately adjacent to the pushcart if open food is sold.

(4) Except as specified in OAC 310:257-17-1(i), have a 3-compartment sink on the pushcart;

(d) Each outdoor mobile pushcart shall:

(1) Have hand washing facilities on the pushcart if open food is sold;

(2) Have over-head protection above food and food preparation areas;

(3) Except as specified in OAC 310:257-17-5(c), have a commissary, licensed to the same owner as the pushcart; and

(4) Except as specified in OAC 310:257-17-1(i), have a 3-compartment sink on the pushcart

[Source: Added at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-17-3. Mobile food establishments [REVOKED]

[Source: Added at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

310:257-17-3.1. Operations of mobile units

(a) A mobile unit shall not remain at one physical address for longer than twelve (12) hours, unless:

(1) It is parked and is not operating for multiple days.

(2) It is operated in conjunction with a single event or celebration.

(3) It is parked or operated at the site of its licensed commissary.

(b) A mobile unit shall return to its commissary daily, except as established in (a) of this Section, to dispose of waste water, refill with potable water, and service the unit.

(c) Commissaries used for food production and/or utensil washing shall be licensed as a food establishment.

[Source: Added at 38 Ok Reg 1947, eff 9-11-21]

310:257-17-4. Mobile retail food establishments

(a) A mobile retail food establishment may sell from a stationary table, such as at an event or farmers market.

(b) The mobile retail food establishment shall have no personal property or hazardous items in the same compartment in which the food is transported or stored.

[Source: Added at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-17-5. Commissary and servicing area requirements

(a) The commissary shall have:

(1) A location available for flushing and draining liquid waste to an approved disposal system.

- (2) A location to refill potable water.
- (3) The ability to properly store back stock of food and single service articles separate from personal items.
- (b) Commissaries used for food production and/or utensil washing shall be licensed as a food establishment to the operator of the mobile unit.
- (c) Commissaries used only to store unopened, prepackaged, frozen or shelf stable foods and single service items and/or the cleaning and servicing of the units shall be exempt from licensure if only one (1) unit is serviced from the commissary and it is located at a residence.
- (d) Commissaries used for food preparation and utensil washing outside the state of Oklahoma shall provide proof of licensure and inspection from the jurisdiction in which they are located.

[Source: Added at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Amended at 38 Ok Reg 1947, eff 9-11-21]

310:257-17-6. Storage [REVOKED]

[Source: Added at 28 Ok Reg 2289, eff 11-1-11 ; Amended at 33 Ok Reg 1520, eff 9-11-16 ; Revoked at 38 Ok Reg 1947, eff 9-11-21]

APPENDIX A. TABLES

Figure 1

The following tables are used in OAC 310:257:

Table 1.
(OAC 310:257-1-2. Definitions)

Interaction of pH and a_w for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED

a_w values	pH values		
	4.6 or less	> 4.6 - 5.6	> 5.6
≤ 0.92	non-TCS FOOD**	non-TCS	non-TCS
>0.92 - .95	non-TCS	non-TCS	PA***
>0.95	non-TCS	PA***	PA***
** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD			
*** PA means Product Assessment required			

Table 2.
(OAC 310:257-1-2. Definitions)

Interaction of pH and a_w for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED

a_w values	pH values			
	<4.2	4.2 - 4.6	>4.6 - 5.0	>5.0
<0.88	non-TCS**	non-TCS	non-TCS	non-TCS
0.88 - 0.90	non-TCS	non-TCS	non-TCS	PA***
>0.90 - 0.92	non-TCS	non-TCS	PA	PA
>0.92	non-TCS	PA	PA	PA
** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD				
*** PA means Product Assessment required				

Figure 2

Table 3.
(OAC 310:257-5-46. Raw animal foods)

Minimum Temperature °C (°F)	Minimum Time
63 (145)	3 minutes
66 (150)	1 minute
70 (158)	< 1 second (instantaneous)

Table 4.
(OAC 310:257-5-46. Raw animal foods)

<i>Oven Type</i>	<u>Oven Temperature Based on Roast Weight</u>	
	Less than 4.5 kg (10 lbs)	4.5 kg (10 lbs) or More
Still Dry	177°C (350°F) or more	121°C (250°F) or more
Convection	163°C (325°F) or more	121°C (250°F) or more
High Humidity¹	121°C (250°F) or less	121°C (250°F) or less
¹ Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.		

Table 5.
(OAC 310:257-5-46. Raw animal foods)

Temperature °C (°F)	Time¹ in Minutes	Temperature °C (°F)	Time¹ in Seconds
54.4 (130)	112	63.9 (147)	134
55.0 (131)	89	65.0 (149)	85
56.1 (133)	56	66.1 (151)	54
57.2 (135)	36	67.2 (153)	34
57.8 (136)	28	68.3 (155)	22
58.9 (138)	18	69.4 (157)	14
60.0 (140)	12	70.0 (158)	0
61.1 (142)	8		
62.2 (144)	5		
62.8 (145)	4		
¹ Holding time may include post oven heat rise.			

Figure 3

Table 6.
(OAC 310:257-7-3. Lead in ceramic, china and crystal utensils, use limitation)

UTENSIL Category	Ceramic Description	Article	Maximum mg/L	Lead
Beverage Mugs, Cups, Pitchers	Coffee Mugs		0.5	
Large Hollowware (excluding pitchers)	Bowls \geq 1.1 Liter (1.16 Quart)		1	
Small Hollowware (excluding cups & mugs)	Bowls $<$ 1.1 Liter (1.16 Quart)		2.0	
Flat Tableware	Plates, Saucers		3.0	

Table 7.
(310:257-7-75. Manual and mechanical warewashing equipment, chemical sanitization - temperature, pH, concentration, and hardness)

Concentration Range	Minimum Temperature	
mg/L	pH 10 or less °C (°F)	pH 8 or less °C (°F)
25 - 49	49 (120)	49 (120)
50-99	38 (100)	24 (75)
100	13 (55)	13 (55)

Table 8.
(310:257-7-83. Equipment food-contact surfaces and utensils)

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
>5.0°C - 7.2°C (>41°F - 45°F)	20 hours
>7.2°C - 10.0°C (>45°F - 50°F)	16 hours
>10.0°C - 12.8°C (>50°F - 55°F)	10 hours

[Source: Added at 33 Ok Reg 1520, eff 9-11-16]

APPENDIX B. EXCLUSIONS AND RESTRICTIONS

Figure 1

OAC 310:257-3-5	SYMPTOM/SICKNESS	HSP	NON-HSP	TO REINSTATE FOR HSP AND NON-HSP	OAC 310:257-3-6
(a)(1)	Vomiting or diarrhea	Exclude	Exclude	Asymptomatic for at least 24 hrs; <u>or</u> Dr. note	(a)(1)
(b)(1)	Onset of jaundice occurred w/in the last 7 days, no Dr. note			Approval from OSDH <u>and</u> : The employee has been jaundiced for more than 7 days; <u>or</u>	(b)
(b)(2)	Diagnosed with hepatitis A w/in 14 days from the onset of symptoms, or w/in 7 days of jaundice			The employee has been symptomatic with symptoms other than jaundice for more than 14 days; <u>or</u> Dr. Note.	
(b)(3)	Diagnosed with hepatitis A w/out developing symptoms			Approval from OSDH <u>and</u> : Dr. Note.	(c)
(c)	Previous illness with Typhoid fever w/in the past 3 months	Restrict	Restrict	Approval from OSDH <u>and</u> : The employee provides a Dr. note showing free of STEC infection; <u>or</u> The employee was excluded or restricted after symptoms resolved, and 7+ days have passed since the employee became asymptomatic; <u>or</u> The employee was excluded or restricted, did not develop symptoms, and 7+ days have passed since the employee was diagnosed	(a)(4); (f)
(f)	STEC infection and asymptomatic			Approval from OSDH <u>and</u> : The employee provides a Dr. note showing free of Norovirus infection; or The employee was excluded or restricted after symptoms resolved, and 48+ hrs have passed since the employee became asymptomatic; <u>or</u> The employee was excluded or restricted and did not develop symptoms and 48+ hrs have passed since the employee was diagnosed	(a)(2); (d)
(a)(2); (d)	Infection from Norovirus; Diagnosed with an asymptomatic infection from Norovirus			Approval from OSDH <u>and</u> : The employee provides a Dr. note showing free of Shigella spp. infection; <u>or</u> The employee was excluded or restricted after symptoms resolved, and 7+ days have passed since the employee became asymptomatic; <u>or</u> The employee was excluded or restricted, did not develop symptoms, and 7+ days have passed since the employee was diagnosed	(a)(3); (e)
(a)(2); (e)	Shigella spp. infection and asymptomatic			The employee provides a Dr. note showing: Has received antibiotic therapy for Streptococcus pyogenes infection for 24+ hrs; <u>or</u> Has at least 1 negative throat culture for Streptococcus pyogenes infection; <u>or</u> Is determined by Dr. to be free of a Streptococcus pyogenes infection	(h)
(h)	Symptomatic with sore throat with fever			If the infected wound is properly covered by impermeable cover and single use glove if necessary.	(i)
(f)	Symptomatic with uncovered infected wound or pustular boil			Norovirus: 48+ hrs have passed since the last date of possible exposure; <u>or</u> 48+ hrs have passed since the employee's household contact became asymptomatic	(j)
(i)	Exposed to foodborne pathogen & works in food establishment serving HSP			Shigella spp. or STEC: 3+ days have passed since the last date of possible exposure; <u>or</u> 3+ days have passed since the employee's household contact became asymptomatic	
				Typhoid fever (S. Typhi): 14+ days have passed since the last date of possible exposure; <u>or</u> 14+ days have passed since the employee's household contact became asymptomatic	
				Hepatitis A: The employee is immune to hepatitis A due to prior illness, vaccination, or IgG administration; <u>or</u> 30+ days have passed since the last date of possible exposure; <u>or</u> 30+ days have passed since the employee's household contact became jaundiced; <u>or</u> The employee does not use an alternative procedure that allows bare hand contact with READY-TO- EAT FOOD until 30+ days after the potential exposure + education regarding symptoms, proper hand washing, and protecting RTE foods.	
(a)(2); (g)	Nontyphoidal Salmonella infection and asymptomatic	Exclude	Exclude	Approval from OSDH <u>and</u> : The employee provides a Dr. note showing free of Salmonella (nontyphoidal) infection; <u>or</u> The employee was excluded or restricted after symptoms resolved, and 30+ days have passed since the employee became asymptomatic; <u>or</u> The employee was excluded or restricted, did not develop symptoms, and 30+ days have passed since the employee was diagnosed	(a)(5); (g)

[Source: Added at 38 Ok Reg 1947, eff 9-11-21]

CHAPTER 258. UNATTENDED FOOD ESTABLISHMENTS

[Authority: 63 O.S., § 1-104]
[Source: Codified 9-11-20]

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

310:258-1-1. Purpose

The rules in this Chapter implement 63 O.S. Section 1-1118.1. The purpose is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented. This Chapter establishes definitions; sets standards for food, operations, equipment, and facilities; and provides for unattended food establishment plan review, license issuance, inspection, and license suspension.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-1-2. Definitions

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

"Additive" means as used in this Chapter for the following terms:

(A) **"Color additive"** means as stated in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 321(t) and 21 CFR, Part 70.

(B) **"Food additive"** means as stated in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 321(s) and 21 CFR, Part 170.

"Adulterated" means the definition in 63 O.S. Section 1-1109.

"Approved" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

"Beverage" means a liquid for drinking, including water.

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

"Certified applicator" means any individual who is certified under the Federal Herbicide, Fungicide, and Rodenticide Act, U.S.C., Section 136(e)(1) and/or by the Oklahoma State Department of Agriculture Food and Forestry as authorized to use or supervise the use of any pesticide that is classified for restricted use. Any applicator who holds or applies registered pesticides or uses dilutions of registered pesticides consistent with the product labeling only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides.

"CFR" means Code of Federal Regulations. Citations in this Chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as 21 CFR, 178.1010 refers to Title 21, Part 178, Section 1010.

"Code of Federal Regulations" means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government which is published annually by the U.S. Government Printing Office; and contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

"Community water system" means any public water supply system, which serves at least 15 service connections, used year round or regularly serves 25 customers per day.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of an unattended food establishment or food processing plant, and does not offer the food for resale.

"Controlled entry" means selective restriction or limitation of access to a place or location.

"Customer self-service" means customer selection of a prepackaged food product from a product module.

"Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leafy lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula, and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

"Department" means the Oklahoma State Department of Health and a health department designated in writing by the State Commissioner of Health to perform official duties or other acts authorized under 63 O.S. § 101 et seq. and this Chapter, or an authorized agent thereof.

"Dispensed beverage" means a beverage or ice that is dispensed in its unpackaged form from a machine.

"Easily movable" means portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and has no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

"EPA" means the U.S. Environmental Protection Agency.

"Equipment" means an article that is used in the operation of an unattended food establishment such as a freezer, reach-in refrigerator, or temperature measuring device for ambient air. It does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"FDA" means the U.S. Food and Drug Administration.

"Fish" means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. Fish includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

"Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and provides food for sale or distribution to other business entities such as food processing plants, food establishment, or unattended food establishments.

"Grade A standards" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Impermeable" means incapable of allowing liquids to pass through the covering.

"Juice" means, when used in the context of food safety, the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée. Juice does not include, for purposes of HACCP, liquids, purees, or concentrates that are not used as beverages or ingredients of beverages.

"License" means the document issued by the Department that authorizes a person to operate an unattended food establishment.

"License holder" means the entity that is legally responsible for the operation of the unattended food establishment such as the owner, the owner's agent, or other person; and possesses a valid license to operate an unattended food establishment.

"Major food allergen" means milk, egg, fish (such as bass, flounder, cod, and including crustacean such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or a food ingredient that contains protein derived from a food specified above.

(A) Major food allergen does not include: Any highly refined oil derived from a food specified in Major Food Allergen definition and any ingredient derived from such highly refined oil; or

(B) Any ingredient that is exempt under the petition or notification process specified in the Federal Food, Drugs, and Cosmetics Act, 21 U.S.C. Section 343.

"Non-community water system" means any public water supply system, which serves an average of at least 25 individuals at least 60

days per year and is not a community water system.

"OAC" means Oklahoma Administrative Code.

"O.S." means Oklahoma Statute.

"Packaged" means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a food processing plant.

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Physical facilities" means the structure and interior surfaces of an unattended food establishment including accessories such as light fixtures and heating or air conditioning system vents.

"Plumbing fixture" means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in 4 categories:

- (A) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- (B) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
- (C) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
- (D) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

"Premises" means the physical facility, its contents, and the contiguous land or property under the control of the license holder or the contracted establishment.

"Refuse" means solid waste not carried by water through the sewage system.

"Regulatory authority" means a representative, such as an onsite inspector, of the Department.

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR, Section 152.175. Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

"Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

"Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an

individual with a disability.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

"Single-use articles" means utensils and food containers designed and constructed to be used once and discarded.

"Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the ambient air temperature within a cold holding unit.

"Time/Temperature Control for Safety Food" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation. Time/Temperature Control for Safety Food includes: An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth or toxin formation.

"Unattended food establishment" means an operation that provides packaged foods or whole fruit using an automated payment system and has controlled entry not accessible by the general public.

"USDA" means the U.S. Department of Agriculture.

"Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-1-3. Incorporated by reference

The following Code of Federal Regulation (CFR) provisions are incorporated by reference as published on July 1, 2019:

- (1) Title 9 CFR, Part 424, Subpart (C) PREPARATION AND PROCESSING OPERATIONS;
- (2) Title 21 CFR, Part 129 PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER;
- (3) Title 21 CFR, Part 170 FOOD ADDITIVES;
- (4) Title 21 CFR, Part 172 FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION;
- (5) Title 21 CFR, Part 173 SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION;
- (6) Title 21 CFR, Part 174 INDIRECT FOOD ADDITIVES: GENERAL;

- (7) Title 21 CFR, Part 175 INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS;
- (8) Title 21 CFR, Part 176 INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS;
- (9) Title 21 CFR, Part 177 INDIRECT FOOD ADDITIVES: POLYMERS;
- (10) Title 21 CFR, Part 178 INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS;
- (11) Title 21 CFR, Part 179 IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD;
- (12) Title 21 CFR, Part 180 FOOD ADDITIVES PERMITTED IN FOOD OR IN CONTACT WITH FOOD ON AN INTERIM BASIS PENDING ADDITIONAL STUDY;
- (13) Title 21 CFR, Part 181 PRIOR-SANCTIONED FOOD INGREDIENTS;
- (14) Title 21 CFR, Part 182 SUBSTANCES GENERALLY RECOGNIZED AS SAFE;
- (15) Title 21 CFR, Part 184 DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE;
- (16) Title 21 CFR, Part 186 INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE;
- (17) Title 21 CFR, Section 1240.60 Subpart (d) SPECIFIC ADMINISTRATIVE DECISIONS REGARDING INTERSTATE SHIPMENTS.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

SUBCHAPTER 3. OPERATIONS

310:258-3-1. Living quarters, separation

Living or sleeping quarters located on the premises of an establishment shall be separated from rooms and areas used for establishment operations by complete partitioning and solid self-closing doors.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-3-2. Cleaning frequency

The physical facilities shall be cleaned as often as necessary to keep them clean.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-3-3. Premises, repairing

The physical facilities shall be maintained in good repair.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-3-4. Storing maintenance tools

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be stored so they do not contaminate food, equipment, utensils, and single-service articles.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-3-5. Maintaining premises, unnecessary items and litter

The premises shall be free of:

- (1) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
- (2) Litter.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-3-6. Controlling pests

The presence of insects, rodents, and other pests shall be controlled to minimize their presence within the facility by:

- (1) Routinely inspecting incoming shipments of food and supplies;
- (2) Routinely inspecting the premises for evidence of pests;
- (3) Using methods, if pests are found, such as trapping devices or other means of pest control/elimination; and
- (4) Eliminating harborage conditions.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-3-7. Removing dead or trapped pests

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-3-8. Prohibiting animals

(a) Except as specified in (b) of this Section, live animals may not be allowed on the premises of an establishment.

(b) Live animals may be allowed in the following situations unless the contamination of food, clean equipment, and unwrapped single-service and single-use articles may result:

- (1) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
- (2) Service animals that are controlled by the disabled employee or person, as long as a health or safety hazard will not result from the presence or activities of the service animal.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-3-9. Distressed merchandise, segregation and location

Products that are held by the license holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, and single-service and single-use articles.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

SUBCHAPTER 5. POISONOUS OR TOXIC MATERIALS**310:258-5-1. Identifying information**

- (a) Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.
- (b) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-5-2. Storage and separation

Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, and single-service and single-use articles by:

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and
- (2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, and single-service articles.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-5-3. Presence and use, restriction

Only those poisonous or toxic materials that are required for the operation and maintenance of an unattended food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in an unattended food establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-5-4. Conditions of use

Poisonous or toxic materials shall be:

- (1) Used according to:
 - (A) Law and this Chapter,
 - (B) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in an unattended food establishment,

- (C) The conditions of certification, if certification is required, for use of the pest control materials, and
 - (D) Additional conditions that may be established by the Department; and
- (2) Applied so that:
- (A) A hazard to employees or other persons is not constituted, and
 - (B) Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted use pesticide, this is achieved by:
 - (i) Removing the items,
 - (ii) Covering the items with impermeable covers, or
 - (iii) Taking other appropriate preventive actions, and
 - (iv) Cleaning and sanitizing equipment and utensils after the application.
- (3) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC Section 136(e) Certified Applicator, of the Federal Insecticide, Fungicide and Rodenticide Act, or a person under the direct supervision of a certified applicator. Restricted use pesticides specified under OAC 310:285-13-5 (3) shall meet the requirements specified in 40 CFR, Part 152 Subpart I - Classification of Pesticides.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-5-5. Sanitizers, criteria

Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to surfaces shall:

- (1) Meet the requirements specified in 40 CFR, Section 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions), or
- (2) Meet the requirements as specified in 40 CFR, Section 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-5-6. Rodent bait stations

Rodent bait shall be contained in a covered, tamper-resistant bait station.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-5-7. Tracking powders, pest control and monitoring

- (a) Except as specified in (b) of this Section, a tracking powder pesticide may not be used in an unattended establishment.
- (b) If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, and single-service articles.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-5-8. Medication, restriction

Only medicines that are stored or displayed for retail sale shall be allowed in an unattended food service establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

SUBCHAPTER 7. FOOD

310:258-7-1. Prohibited food sales

The following foods shall not be offered for sale in an unattended food establishment:

- (1) Unpackaged foods with the exception of whole uncut fruits or vegetables,
- (2) Dispensed beverage,
- (3) Salvaged food as regulated under OAC 310:260 Subchapter seven (7),
- (4) Raw molluscan shellfish,
- (5) Mushrooms harvested in the wild.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-2. Safe, unadulterated, and honestly presented

Food shall be safe, unadulterated, and honestly presented.

- (1) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
- (2) Food color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.
- (3) Manufacturers' dating information on foods may not be concealed or altered.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-3. Additives

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR Sections 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR, Sections 181-186, substances that exceed amounts specified in 9 CFR, Subpart C Section 424.21(b), food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR, Part 180 Tolerances and

Exemptions for Pesticides Chemicals Residues in Food.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-4. Standards of identity

Packaged food shall comply with standard of identity requirements in 21 CFR, Sections 131-169 and 9 CFR, Section 319, Definitions and Standards of Identity or Composition, and the General requirements in 21 CFR, Part 130 - Food Standards: General, and 9 CFR, Section 319 Subpart A - General.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-5. Food labels

(a) Packaged food shall be labeled as specified in law, including 21 CFR, Part 101 - Food Labeling, and 9 CFR, Part 317 Labeling, Marking Devices, and Containers.

(b) Label information shall include:

- (1) The common name of the food, or absent a common name, an adequately descriptive identity statement;
- (2) If made from two or more ingredients, a list of ingredients and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors, and chemical preservatives, if contained in the food;
- (3) An accurate declaration of the quantity of contents;
- (4) The name and place of business of the manufacturer, packer, or distributor; and
- (5) The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient.
- (6) Except as exempted in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C., Section 343, nutrition labeling as specified in 21 CFR, Part 101 - Food Labeling and 9 CFR, Part 317 Subpart B, Nutrition Labeling.
- (7) For any salmonid fish containing canthaxanthin or astaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-6. Compliance with food law

(a) Food shall be obtained from sources that comply with this Chapter and applicable laws.

(b) An establishment may sell packaged foods prepared by a facility that is in compliance with OAC 310:260 (relating to good manufacturing practices), United States Department of Agriculture, or the Oklahoma Department of Agriculture Food and Forestry.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-7-7. Approved water system

A license holder shall obtain potable water from:

- (1) A community water system; or
- (2) A non-community water system; or
- (3) A non-transient, non-community water system that is constructed, maintained and operated in accordance with the Oklahoma Water Supply Systems Act, codified at 27A O.S. Section 2-6-301 et seq., and the rules promulgated thereunder.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-8. Bottled drinking water

Bottled drinking water used or sold in an unattended food establishment shall be obtained from approved sources in accordance with 21 CFR, Part 129 - Processing and Bottling of Bottled Drinking Water and OAC 310:225.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-9. Milk products

(a) Food products listed below shall meet standards as specified in 2 O.S. Section 7-401 et seq.

- (1) Frozen milk products, such as ice cream; and
- (2) Cheese.

(b) Milk products shall be obtained pasteurized and in compliance with Grade A Standards.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-7-10. Fish

(a) Fish that are received for sale or service shall be:

- (1) Commercially and legally caught or harvested; or
- (2) Approved for sale or service.

(b) Raw molluscan shellfish may not be received for sale.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-11. Juice

Pre-packaged juice shall:

- (1) Be obtained from a processor with a HACCP system as specified in 21 CFR, Part 120 Hazard Analysis and Critical Control (HACCP) Systems; and
- (2) Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR, Part 120.24 Process Controls.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-12. Food in a hermetically sealed container

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-13. Package integrity

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-14. Vended time/temperature control for safety food, original container

Time/Temperature Control for Safety Food dispensed through a vending machine, vending unit, or customer self-service unit shall be in the package in which it was placed at the unattended food establishment or food processing plant at which it was prepared.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-15. Temperature

- (a) Except as specified in (b) of this Section, refrigerated, Time/Temperature Control for Safety Food shall be at a temperature of 5°C (41°F) or below when received.
- (b) If a temperature other than 5°C (41°F) for a Time/Temperature Control for Safety Food is specified in law governing its distribution, the food may be received at the specified temperature.
- (c) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.
- (d) Upon receipt, Time/Temperature Control for Safety Food shall be free of evidence of previous temperature abuse.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-16. Frozen food

Stored frozen foods shall be maintained frozen.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-17. Thawing

Time/Temperature Control for Safety Food shall be thawed under refrigeration that maintains the food temperature at 5°C (41°F) or less.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-18. Time/temperature control for safety food cold holding

Time/Temperature Control for Safety Food for cold holding shall be maintained at a temperature of 5°C (41°F) or less.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-19. Discarding unsafe, adulterated, or contaminated food

- (a) A food that is unsafe, adulterated, or not honestly presented shall be discarded.
- (b) Food that is not from an approved source shall be discarded.
- (c) Time/Temperature Control for Safety Food shall be discarded if it:
 - (1) Exceeds the use by date on the package,
 - (2) Exceeds 41°F for 4 hours.
- (d) Food may be examined or sampled by the Department as often as necessary for enforcement of these rules and regulations. The Department may place an embargo on food in accordance with the provisions of Title 63 O.S. Section 1-1105.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-20. Storage or display of food in contact with water or ice

Packaged food shall not be stored in direct contact with ice or water.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-21. Food and single service article storage

- (a) Except as specified in (b) and (c) of this Section, food and single service articles shall be protected from contamination by storing the food:
 - (1) In a clean, dry location;
 - (2) Where it is not exposed to splash, dust, or other contamination; and
 - (3) At least 15 cm (6 inches) above the floor.
- (b) Food in packages and working containers may be stored less than 15 cm (6 inches) above the floor on case lot handling equipment.
- (c) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-22. Food and single service article storage, prohibited areas

- Food and single-service articles may not be stored:
- (1) In locker rooms;

- (2) In toilet rooms;
- (3) In dressing rooms;
- (4) In garbage rooms;
- (5) In mechanical rooms;
- (6) Under sewer lines that are not shielded to intercept potential drips;
- (7) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
- (8) Under open stairwells; or
- (9) Under other sources of contamination.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-23. Food display

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-24. Condiments, protection

Condiments at a vending machine location shall be in individual packages.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-25. Returned food and re-use of single service article

- (a) After being sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.
- (b) The permit holder shall take reasonable steps necessary to discourage individuals from returning food or beverages that have not been selected for purchase.
- (c) Single-service articles may not be reused.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-7-26. Miscellaneous sources of contamination

Food shall be protected from contamination not otherwise specified.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

SUBCHAPTER 9. EQUIPMENT CONSTRUCTION

310:258-9-1. Single-service article characteristics

Materials that are used to make single-service articles:

- (1) May not:
 - (A) Allow the migration of deleterious substances, or
 - (B) Impart colors, odors, or tastes to food; and
- (2) Shall be:
 - (A) Safe, and
 - (B) Clean.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-2. Nonfood-contact surfaces

- (a) Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.
- (b) Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.
- (c) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.
- (d) Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-3. Equipment

Equipment used in an unattended food establishment shall be designated as "commercial" or "commercial grade" by the manufacturer if the equipment is used to meet or maintain temperature for time/temperature control for safety food. Equipment shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-4. Cold holding capacities

Equipment for holding cold food shall be sufficient in number and capacity to maintain food temperatures at 41°F or below.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-5. Cold holding equipment, design

Each cold holding unit shall be equipped with:

- (1) Self-closing doors that allow food to be viewed without opening the door of the unit,
- (2) An automatic self-locking mechanism that prevents the consumer from accessing the food items inside the unit if the ambient temperature rises above 41°F. The locking mechanism shall not prevent the unit from being closed if it has been activated.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-6. Frozen holding equipment, design

Each frozen holding unit shall be equipped with:

- (1) Self-closing doors that allow food to be viewed without opening the door of the unit,
- (2) An automatic self-locking mechanism that prevents the consumer from accessing the food items inside the unit if the ambient temperature rises above 32°F. The locking mechanism shall not prevent the unit from being closed if it has been activated.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-7. Temperature measuring devices for ambient air

- (a) Ambient air temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to 1.5°C in the intended range of use.
- (b) Ambient air temperature measuring devices that are scaled only in Fahrenheit shall be accurate to 3°F in the intended range of use.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-8. Temperature measuring devices

- (a) In a mechanically refrigerated storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature in the warmest part of a mechanically refrigerated unit.
- (b) Cold holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.
- (c) Temperature measuring devices shall be designed to be easily readable.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-9. Condenser unit, separation

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-10. Case lot handling equipment

Equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-11. Fixed equipment, spacing or sealing

(a) Equipment that is fixed because it is not easily movable shall be installed so that it is:

- (1) Spaced to allow access for cleaning along the sides, behind, and above the equipment;
- (2) Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch; or
- (3) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(b) Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

- (1) Sealed to the counter; or
- (2) Elevated on legs.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-12. Fixed equipment, elevation or sealing

(a) Floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a 15 centimeter (6 inch) clearance between the floor and the equipment.

(b) This Section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

(c) Counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 10 centimeter (4 inch) clearance between the table and the equipment.

(d) The clearance space between the counter and counter-mounted equipment may be:

- (1) 7.5 centimeters (3 inches) if the horizontal distance of the counter top under the equipment is no more than 50 centimeters (20 inches) from the point of access for cleaning; or
- (2) 5 centimeters (2 inches) if the horizontal distance of the counter top under the equipment is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-13. Good repair and proper adjustment

(a) Equipment shall be maintained in a state of good repair.

(b) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-9-14. Microwave ovens [REVOKED]

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Revoked at 39 Ok Reg 1257, eff 9-11-22]

SUBCHAPTER 11. FACILITY CONSTRUCTION

310:258-11-1. Location limitation

An unattended food establishment shall be located in the interior of a building that is not accessible by the general public. Access to the establishment shall be limited to a defined population, including but not limited to employees or occupants of the building where the establishment is located.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-11-2. Video surveillance

An unattended food establishment shall provide continuous video surveillance of areas where consumers view, select, handle and purchase products that provides sufficient resolution to identify situations that may compromise food safety or food defense.

(1) Video surveillance recordings shall be maintained and made available for inspection upon request by a representative of the State Department of Health or another applicable regulatory agency within twenty-four (24) hours of such request.

(2) Video surveillance recordings shall be held by the establishment for a minimum of fourteen (14) calendar days after the date of the surveillance.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-11-3. Floors, walls, and ceiling, characteristics

(a) Materials for floor, wall, and ceiling surfaces under conditions of normal use shall be:

(1) Smooth, durable, and easily cleanable for areas where unattended food establishment operations are conducted.

(2) Light Reflectivity Value (LRV) of walls and ceiling surfaces shall be fifty percent (50%) or greater to aid in thorough cleaning of these areas.

(b) Except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

(c) Mats and duckboards used on the floor shall be designed to be removable and easily cleanable.

(d) Floor and wall junctures shall be coved and closed to no larger than one (1) mm (one thirty-second 1/32 inch).

(e) Studs, joists, and rafters may not be exposed.

(f) Wall and ceiling covering materials shall be attached so that they are easily cleanable.

(g) Concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

(h) Utility service lines and pipes may not be unnecessarily exposed.

(1) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(2) Exposed horizontal utility service lines and pipes may not be installed on the floor.

(i) Attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-11-4. Exterior walls and roofs

Perimeter walls and roofs of an establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-11-5. Lighting, intensity

The light intensity shall be at least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-11-6. Approved plumbing system

A plumbing system shall be designed, constructed, installed and maintained according to law.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-11-7. Receptacles

(a) Receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leak-proof, and nonabsorbent.

(b) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, or single-service articles, and waste water shall be disposed of as specified by law.

(c) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for

insects and rodents.

(e) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-11-8. Storage areas, redeeming machines, receptacles, and waste handling units, location

(a) An area designated for refuse, recyclables, returnables, and, except as specified in (b) of this Section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, and single-service articles to prevent the creation of a public health hazard or nuisance.

(b) A redeeming machine may be located in the packaged food storage area or consumer area of an establishment, if food, equipment, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.

(d) Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

(e) Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

(f) A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items and clean.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

SUBCHAPTER 13. ADMINISTRATION

310:258-13-1. Preventing health hazards, provision for conditions not addressed

(a) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements in addition to the requirements contained in this Chapter that are authorized by law.

(b) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the license applicant or license holder and a copy shall be maintained in the Department file for the unattended food establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-2. When plans are required

A license applicant or license holder shall submit to the Department properly prepared plans and specifications for review and approval before:

- (1) The construction of an unattended food establishment;

- (2) The conversion of an existing structure for use as an unattended food establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-3. Contents of the plans and specifications

The plans and specifications for an unattended food establishment shall include the following information to demonstrate conformance with Code provisions:

- (1) Intended menu;
- (2) Anticipated volume of food to be stored and sold;
- (3) Proposed equipment types, manufacturer, and model numbers (if available);
- (4) Proposed floor plan; and
- (5) Other information that may be required by the Department for the proper review of the proposed construction, conversion or modification, and procedures for operating an unattended food establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-4. Trade secrets

The Department shall treat as confidential in accordance with law, information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-5. Preoperational inspections

The regulatory authority shall conduct one or more preoperational inspections to verify that the unattended food establishment is constructed and equipped in accordance with the approved plans and is in compliance with law and this Chapter.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-6. Prerequisite for operation

A person may not operate an unattended food establishment without a valid license to operate issued by the Commissioner of Health.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-7. Unattended food establishment license fee

- (a) The following are associated fees for unattended food establishments.
 - (1) Initial - \$150.00
 - (2) Renewal - \$100.00
 - (3) Late Renewal - \$125.00
- (b) Late renewal fees apply to any renewal application postmarked and received thirty (30) days after the expiration date of the license.

(c) A license not renewed within ninety (90) days of the date shall be ineligible for the renewal fee. Thereafter, the establishment shall be required to pay the initial fee. The establishment that has not had a valid license for one (1) year is considered a new establishment and a new Plan Review and the initial license fee shall be required.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-8. Form of submission

A person desiring to operate an unattended food establishment shall submit to the regulatory authority a written application for a license on a form provided by the Department.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-9. Qualifications and responsibilities of applicants

To qualify for a license, an applicant shall:

- (1) Be an owner, or officer of the unattended food establishment;
- (2) Comply with the requirements of this Chapter;
- (3) Allow access to the unattended food establishment;
- (5) Provide any required information;
- (6) Pay the applicable license fees at the time the application is submitted;
- (7) Pay the applicable license renewal fees.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-10. Contents of the application

The application shall include:

- (1) The name, mailing address, telephone number, signature of the person applying for the license, and the name, mailing address, and location of the unattended food establishment;
- (2) Information specifying whether the unattended food establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (3) The Department shall issue a license to the applicant after:
 - (A) A properly completed application is received;
 - (B) The required fees are received;
 - (C) The plans, specifications, and information, if applicable, are reviewed; and
 - (D) A pre-licensing inspection shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Chapter and meets the Department's criteria for a license; or any
 - (E) Other information required by the regulatory authority.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-11. New, converted, or remodeled establishments

For unattended food establishments that are required to submit plans, the Commissioner of Health shall issue a license to the applicant after:

- (1) A properly completed application is submitted;
- (2) The required fee is submitted;
- (3) The required plans, specifications, and information are reviewed and approved; and
- (4) A preoperational inspection shows that the establishment is built or remodeled in accordance with the approved plans; and
- (5) Specifications that the establishment is in compliance with this Chapter.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-12. Existing establishments, license renewal, and change of ownership

The Commissioner of Health may renew a license for an existing unattended food establishment or may issue a license to a new owner of an existing unattended food establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this Chapter.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-13. Denial of application for license, notice

If an application for a license to operate is denied, the regulatory authority shall provide the applicant with a notice that includes:

- (1) The specific reasons and Chapter citations for the license denial;
- (2) The actions, if any, that the applicant must take to qualify for a license; and
- (3) Advisement of the applicant's right of appeal.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-14. Responsibilities of the license holder

Upon acceptance of the license issued by the Commissioner of Health, the license holder in order to retain the license shall:

- (1) Post the license in a prominent public location inside the unattended food establishment;
- (2) Comply with the provisions of this Chapter;
- (3) Immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist as specified under OAC 310:285-13-26;
- (4) Allow representatives of the Department access to the unattended food establishment;
- (5) Comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the

Department in regard to the license holder's unattended food establishment or in response to community emergencies;

- (6) Accept notices issued and served by the Department according to law;
- (7) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and
- (8) If applicable, submit the annual renewal application and pay all renewal license and late fees.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-15. Public notification

The unattended food establishment shall have a sign readily visible at the automated payment station stating:

- (1) The name and mailing address of the business entity responsible for the establishment and to whom complaints and comments should be addressed; and
- (2) The telephone, email or web information for the responsible business entity, when applicable.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-16. Licenses not transferable

A license may not be transferred from one person to another person, from one unattended food establishment to another, from one physical address to another, from one corporation to another, from one limited liability company or corporation to another, from one partnership to another, or from one type of operation to another.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-17. Competency of inspectors

An authorized representative of the Department who inspects an establishment or conducts plan review for compliance with this Chapter shall have the knowledge, skills, and ability to adequately perform the required duties, and be licensed pursuant to 59 O.S., Section 1150.1 et seq.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-18. Allowed at reasonable times after due notice

After the regulatory authority presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the regulatory authority to determine if the unattended food establishment is in compliance with this Chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this Chapter and to which the

regulatory authority is entitled according to law.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-19. Refusal, notification of right to access, and final request for access

If a person denies access to the regulatory authority, the regulatory authority shall:

- (1) Inform the person that:
 - (A) The license holder is required to allow access to the regulatory authority as specified under OAC 310:285-13-18 of this Chapter,
 - (B) The regulatory authority's access is a condition of the acceptance and retention of an unattended food establishment license to operate as specified under OAC 310:285-11-14(4), and
 - (C) If access is denied, an order issued allowing access, hereinafter referred to as an inspection order, may be obtained according to law; and
- (2) Make a final request for access.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-20. Refusal, reporting

If after the regulatory authority presents credentials and provides notice as specified under OAC 310:285-13-18, explains the authority upon which access is requested, and makes a final request for access as specified in OAC 310:285-13-19, the person in charge continues to refuse access, the regulatory authority shall provide details of the denial of access on an inspection report form.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-21. Inspection order to gain access

If denied access to an unattended food establishment for an authorized purpose and after complying with OAC 310:285-13-19, the Department may issue, or apply for the issuance of, an inspection order to gain access as provided in law.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-22. Documenting information and observations

The regulatory authority shall document on an inspection report form:

- (1) Administrative information about the unattended food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified, inspection date, and other information that may be required; and
- (2) Specific factual observations of violative conditions or other deviations from this Chapter that require correction by the

license holder.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-23. Issuing report and obtaining acknowledgment of receipt

At the conclusion of the inspection, the regulatory authority shall provide a copy of the completed inspection report and the notice to correct violations to the license holder or to the person in charge, and request a signed acknowledgment of receipt.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-24. Refusal to sign acknowledgment

The regulatory authority shall:

- (1) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified under OAC 310:285-13-23:
 - (A) An acknowledgment of receipt is not an agreement with findings,
 - (B) Refusal to sign an acknowledgment of receipt will not affect the license holder's obligation to correct the violations noted in the inspection report within the timeframes specified, and
 - (C) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Department's historical record for the unattended food establishment; and
- (2) Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-25. Public information

Except as specified in OAC 310:285-13-4, the Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in law.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

310:258-13-26. Ceasing operations and reporting

A license holder shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard exists because of an emergency such as a fire, flood, sewage backup, insufficient refrigerated food storage facilities available, substantial evidence or presence of a large number of insects or evidence of rodents contaminating food, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, interruption of electrical service for more than 4 hours, severe structural damage in the facility, gross unsanitary occurrence or condition, or other circumstance as determined

by the Commissioner of Health, or his designee, that shall endanger public health.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-27. Resumption of operations

If operations are discontinued as specified under OAC 310:285-13-26 or otherwise according to law, the license holder shall notify the regulatory authority before resuming operations.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-28. Timely correction

- (a) The license holder shall at the time of inspection correct any violation of this Chapter.
- (b) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to or specify a longer time frame, not to exceed 10 calendar days after the inspection, for the license holder to correct a violation.
- (c) If corrections are not made according to (a) or (b) of this section, then the facility is subject to enforcement action.

[Source: Added at 39 Ok Reg 1257, eff 9-11-22]

310:258-13-29. Documentation of correction

- (a) After observing at the time of inspection a correction of a violation, the regulatory authority shall enter the violation and information about the corrective action on the inspection report.
- (b) After receiving notification that the license holder has corrected a violation, or at the end of the specified period of time, the Department shall document the information and enter the report in the Department's records.
- (c) In determining if a re-inspection is required, the Department shall count a violation number only once regardless of how many separate violations under the violation number are listed on the inspection sheet.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20 ; Amended at 39 Ok Reg 1257, eff 9-11-22]

CHAPTER 260. GOOD MANUFACTURING PRACTICE REGULATIONS

[**Authority:** 63 O.S.1981, §§ 1-1101 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:260-1-1. Purpose; citation

(a) The rules in this Chapter implement 63 O.S. Section 1-1101 et seq. The purpose of this Chapter is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented. This Chapter establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, license issuance, inspection, employee restriction, and license suspension.

(b) These rules and regulations may be cited as the Human Foods Good Manufacturing Practice Regulations.

[**Source:** Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-1-2. Scope

The criteria in this chapter shall apply to all food manufacturing, processing, packing, holding, transporting, or salvage operations conducted within the State of Oklahoma.

[**Source:** Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-1-3. Incorporation by reference

(a) The following Code of Federal Regulation (CFR) provisions are incorporated by reference as published on July 1, 2019;

- (1) Title 21 CFR, Part 70 COLOR ADDITIVES;
- (2) Title 21 CFR, Part 73 LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION, Subpart A-Foods;
- (3) Title 21 CFR, Part 82 LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS, Subpart A-General Provisions and Subpart B-Foods, Drugs, and Cosmetics;
- (4) Title 21 CFR, Part 100 GENERAL;
- (5) Title 21 CFR, Part 101 FOOD LABELING;
- (6) Title 21 CFR, Part 102 COMMON OR USUAL NAME FOR NONSTANDARDIZED FOODS;
- (7) Title 21 CFR, Part 104 NUTRITIONAL QUALITY GUIDELINES FOR FOODS;
- (8) Title 21 CFR, Part 105 FOODS FOR SPECIAL DIETARY USE;
- (9) Title 21 CFR, Part 106 INFANT FORMULA REQUIREMENTS PERTAINING TO CURRENT GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, RECORDS AND REPORTS, AND NOTIFICATIONS;

- (10) Title 21 CFR, Part 107 INFANT FORMULA;
- (11) Title 21 CFR, Part 109 UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL, Subpart A-General Provisions and Subpart B-Tolerances for Unavoidable Poisonous or Deleterious Substances;
- (12) Title 21 CFR, Part 110 CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING HUMAN FOOD;
- (13) Title 21 CFR, Part 111 CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKAGING, LABELING, OR HOLDING OPERATIONS FOR DIETARY SUPPLEMENTS;
- (14) Title 21 CFR, Part 113 THERMALLY PROCESSED LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS;
- (15) Title 21 CFR, Part 114 ACIDIFIED FOODS;
- (16) Title 21 CFR, Part 120 HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS;
- (17) Title 21 CFR, Part 123 FISH AND FISHERY PRODUCTS;
- (18) Title 21 CFR, Part 129 PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER;
- (19) Title 21 CFR, Part 136 BAKERY PRODUCTS;
- (20) Title 21 CFR, Part 137 CEREAL FLOURS AND RELATED PRODUCTS;
- (21) Title 21 CFR, Part 139 MACARONI AND NOODLE PRODUCTS;
- (22) Title 21 CFR, Part 145 CANNED FRUITS;
- (23) Title 21 CFR, Part 146 CANNED FRUIT JUICES;
- (24) Title 21 CFR, Part 150 FRUIT BUTTERS, JELLIES, PRESERVES, AND RELATED PRODUCTS;
- (25) Title 21 CFR, Part 152 FRUIT PIES;
- (26) Title 21 CFR, Part 155 CANNED VEGETABLES;
- (27) Title 21 CFR, Part 156 VEGETABLE JUICES;
- (28) Title 21 CFR, Part 158 FROZEN VEGETABLES;
- (29) Title 21 CFR, Part 160 EGGS AND EGG PRODUCTS;
- (30) Title 21 CFR, Part 161 FISH AND SHELLFISH;
- (31) Title 21 CFR, Part 163 CACAO PRODUCTS;
- (32) Title 21 CFR, Part 164 TREE NUT AND PEANUT PRODUCTS;
- (33) Title 21 CFR, Part 166 MARGARINE;
- (34) Title 21 CFR, Part 168 SWEETENERS AND TABLE SIRUPS;
- (35) Title 21 CFR, Part 169 FOOD DRESSINGS AND FLAVORINGS;
- (36) Title 21 CFR, Part 170 FOOD ADDITIVES;
- (37) Title 21 CFR, Part 172 FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION;
- (38) Title 21 CFR, Part 173 SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION;
- (39) Title 21 CFR, Part 174 INDIRECT FOOD ADDITIVES: GENERAL;
- (40) Title 21 CFR, Part 175 INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS;

(41) Title 21 CFR, Part 176 INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS;
(42) Title 21 CFR, Part 177 INDIRECT FOOD ADDITIVES: POLYMERS;
(43) Title 21 CFR, Part 178 INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS;
(44) Title 21 CFR, Part 179 IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD;
(45) Title 21 CFR, Part 180 FOOD ADDITIVES PERMITTED IN FOOD OR IN CONTACT WITH FOOD ON AN INTERIM BASIS PENDING ADDITIONAL STUDY;
(46) Title 21 CFR, Part 181 PRIOR-SANCTIONED FOOD INGREDIENTS;
(47) Title 21 CFR, Part 182 SUBSTANCES GENERALLY RECOGNIZED AS SAFE;
(48) Title 21 CFR, Part 184 DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE;
(49) Title 21 CFR, Part 186 INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE;
(50) Title 21 CFR, Part 189 SUBSTANCES PROHIBITED FROM USE IN HUMAN FOOD.

(b) For purposes of the provisions adopted by reference, references to the "Secretary" or "Commissioner" shall be deemed to mean the Commissioner of Health for the State of Oklahoma, and "Department" shall be deemed to mean the Oklahoma State Department of Health.

(c) When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference, and the definitions contained therein shall apply.

(d) In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference from the CFR, and the requirements otherwise set forth herein, the provisions incorporated from the CFR shall prevail except where the regulations set forth herein are more stringent.

[Source: Amended at 9 Ok Reg 3145, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1615, eff 6-1-93 ; Amended at 10 Ok Reg 3455, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2627, eff 6-25-94 ; Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-1-4. Memorandums of agreement

Memorandums of agreement may be negotiated where possible with the federal agency to avoid duplication of inspection, when such agreements will satisfactorily fulfill the responsibility of the Commissioner of Health and the federal agency.

310:260-1-5. Exclusion

(a) Persons engaged solely in the harvesting, storage, and distribution of raw, unprocessed agricultural commodities are not subject to the provisions of this Chapter.

(b) Persons engaged solely in the sale of honey products produced under the Oklahoma Honey Sales Act pursuant to Title 63 O.S. 1-1330 et seq. are not subject to the provisions of this Chapter.

(c) Persons engaged solely in the sale of food products produced under the Home Bakery Act of 2013 pursuant to Title 2 O.S. 5-4.1 et seq. are not subject to the provisions of this Chapter.

(d) Persons engaged solely in the sale of food products at a Registered Farmers Market as defined by Title 2 O.S. 5-19 are not subject to the provisions of this Chapter.

(1) These persons are not exempted from Title 63 O.S. 1-1118(B)

(3) in regards to licensure.

(2) Food products shall be labeled with the common food product name, net weight, current ten (10) digit phone number, an address where the product was produced, and shall include the statement, "Packaged in a facility not inspected by the Oklahoma Department of Health." The statement shall be in 10-point type or greater, in a color that provides clear contrast to the background label.

(e) Persons engaged solely in the sale of food products at a County Free fair as defined by Title 2 O.S. 15-67 et seq. are not subject to the provisions of this Chapter.

(1) These persons are not exempted from Title 63 O.S. 1-1118(B)

(3) in regards to licensure.

(2) Food products shall be labeled with the common food product name, net weight, current ten (10) digit phone number, an address where the product was produced, and shall include the statement, "Packaged in a facility not inspected by the Oklahoma Department of Health." The statement shall be in 10-point type or greater, in a color that provides clear contrast to the background label.

[Source: Amended at 9 Ok Reg 3455, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2627, eff 6-25-94 ; Amended at 37 Ok Reg 1407, eff 9-11-20]

310:260-1-6. Definitions

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

"Acid food or acidified food" means foods that have an equilibrium pH of 4.6 or below.

"Additive" means as used in this Chapter the following terms:

(A) **"Color additive"** means as stated in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 321(t) and 21 CFR, Part 70.

(B) **"Food additive"** means as stated in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 321(s) and 21 CFR, Part 170.

"Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

"Adulterated" means the definition in 63 O.S. Section 1-1109.

"Approved" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

"Batter" means a semi-fluid substance, usually composed of flour and other ingredients, into which principal components of food are

dipped or with which they are coated, or which may be used directly to form bakery foods.

"Beverage" means a liquid for drinking, including water.

"Bin warehouse" means any building where pre-packaged food is stored, the operator or his employee is present no more than two hours daily, and no other operations are conducted.

"Blanching", except for tree nuts and peanuts, means a prepackaging heat treatment of food stuffs for a sufficient time and at a sufficient temperature to partially or completely inactivate the naturally occurring enzymes and to effect other physical or bio-chemical changes in food.

"CFR" means Code of Federal Regulations. Citations in this Chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as 21 CFR, 178.1010 refers to Title 21, Part 178, Section 1010.

"Code of Federal Regulations" means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government which is published annually by the U.S. Government Printing Office; and contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

"Control measure" means any action or activity to prevent, reduce to acceptable levels, or eliminate a hazard.

"Corrosion-resistant" means capable of maintaining original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions-of-use.

"Critical control point" means a point or procedure in a specific food process at which a control measure can be applied and at which control is essential to reduce an identified food hazard to an acceptable level.

"Custom tree nutcracking" means the cracking of whole tree nuts for individual customers. The tree nuts may be brought by the customer from off the premises or may be purchased from the cracker. Tree nuts may not be cracked for resale.

"Department" means the Oklahoma State Department of Health, its duly designated representatives, and a health department designated in writing by the State Commissioner of Health to perform official duties or other acts authorized under the Oklahoma Public Health Code and this Chapter.

"Distressed merchandise" means any food which has been subjected to improper storage; loss of label or identity; smoke, water, fumes, extreme temperatures, pressure or radiation which are due to natural disasters or otherwise; or which may have been rendered unsafe or unsuitable for human or animal consumption or use for any other reason.

"Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

"Employee" means the license holder, person in charge, person having supervisory or management duties, person on the payroll, family

member, volunteer, person performing work under contractual agreement, or other person working in an establishment.

"Equipment" means an article that is used in the operation of an establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine. It does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food contact surfaces" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may contact drain, drip, or splash back onto surfaces normally in contact with food.

"Food hazard" means any biological, chemical, or physical agent that is reasonably likely to cause illness or injury in the absence of its control.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and provides food for sale or distribution to other business entities such as food processing plants or food establishments.

"Food storage warehouse" means any building, establishment or place where food is stored as a commercial venture or business, or is stored in connection with or as a part of a business.

"HACCP" means Hazard Analysis Critical Control Point.

"HACCP plan" means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

"Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for washing of the hands.

"Hazardous substance" means any substance or mixture of substances which is toxic, corrosive, an irritant, strong sanitizer, flammable or which generates pressure through decomposition.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

"Imminent public health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Impermeable" means incapable of allowing liquids to pass through the covering.

"License" means the document issued by the Department that authorizes a person to operate an establishment.

"License holder" means the entity that is legally responsible for the operation of the establishment such as the owner, the owner's agent, or other person; and possesses a valid license to operate an establishment.

"Lot" means the food produced during a period of time indicated by a specific code.

"Major food allergen" means milk, egg, fish (such as bass, flounder, cod, and including crustacean such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or a food ingredient that contains protein derived from a food specified above.

(A) Major food allergen does not include: Any highly refined oil derived from a food specified in Major Food Allergen definition and any ingredient derived from such highly refined oil; or

(B) Any ingredient that is exempt under the petition or notification process specified in the Federal Food, Drugs, and Cosmetics Act, 21 U.S.C. Section 343.

"Manufacture" means the process of combining or purifying articles of food and packing same for sale to the consumer, either by wholesale or retail. Any firm, person, or corporation who represents itself as responsible for the purity and the proper labeling of any article of food by placing or having placed its name and address on the label of any food shall be deemed a manufacturer and shall be included within the meaning of these rules.

"Microorganism" means yeasts, molds, bacteria and viruses and includes, but is not limited to, species having public health significance. The term "undesirable microorganisms" includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated.

"Misbranding" means the definition contained in 63 O.S. Section 1-1110.

"Monitor" means to conduct a planned sequence of observations or measurements to assess whether a process, point, or procedure is under control and to produce an accurate record for use in verification.

"Non-food contact surfaces" means surfaces of equipment not intended for contact with food, but which are being exposed to splash or food debris or which otherwise require frequent cleaning. These surfaces shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

Non-salvageable merchandise means distressed merchandise which cannot be safely or practically reconditioned.

"Packaging" means any covering, wrapper, or container in which a product is placed for retail or wholesale distribution, either before or after sale, to a consumer. Packaging shall not be construed to include the inner wrapper.

"Perishable foods" means any food of such type or in such condition or physical state that it may spoil or otherwise become unfit for human consumption.

"Person" means an individual, corporation, business trust, estate, trust, partnership, association, or any other public or private legal entity.

"Personnel" means all persons employed by a food manufacturer, salvage establishment or salvage broker who do or may in any manner handle or come in contact with the handling, storage, transporting, selling or distributing of food, salvageable or salvaged merchandise.

"Pest" means any objectionable animal or insect including, but not limited to, birds, rodents, flies and larvae.

"pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

"Plant" means the building or facility or parts thereof, used for or in connection with the manufacturing, packaging, labeling or holding of human food.

"Plumbing fixture" means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in 4 categories:

- (A) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- (B) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
- (C) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
- (D) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

"Potable water" means water obtained from an approved source that is:

- (A) A public water system, or
- (B) A nonpublic water system that is constructed, maintained, and operated according to law.

"Processing" means the preparing of a food in a manner which changes the food from its original state.

"Processor" means anyone processing food under the authority of this chapter.

"Quality control operation" means a planned and systematic procedure for taking all actions necessary to prevent food from being adulterated.

"Reconditioning" means any appropriate process or procedure by which distressed merchandise can be brought into compliance with the standards of the Department for consumption or use by the public.

"Refuse" means all garbage, trash, and rubbish not intended for reuse as salvaged merchandise.

"Regulatory authority" means the Oklahoma State Department of Health, a health department designated in writing by the State Commissioner of Health to perform official duties or other acts authorized under the Oklahoma Public Health Code and this Chapter, or a representative thereof.

"Rework" means clean, unadulterated food that has been removed from processing for reasons other than unsanitary conditions or that has been successfully reconditioned by reprocessing and that is suitable for use as food.

"Safe moisture level" is a level of moisture low enough to prevent the growth of undesirable microorganisms in the finished product under the intended conditions of manufacturing, storage and distribution. The maximum safe moisture level for a food is based on its water activity (a_w). An a_w will be considered safe for a food if adequate data are available that demonstrate that the food at or below the given a_w will not support the growth of undesirable microorganisms.

"Safe temperatures" as applied to Time/Temperature Control for Safety Food means food temperature of 45°F or below 140°F or above.

"Sale or distribution" means the act of selling or distributing, whether for compensation or not, and includes delivery, holding or offering for sale, transfer, or other means of handling or trafficking.

"Salvage distributor or broker" means a person who engages in the business of selling, distributing, or otherwise trafficking in any distressed or salvaged merchandise who does not operate a salvage establishment.

"Salvage establishment" means any place of business engaged in reconditioning or by other means the salvaging of distressed merchandise or that sells, buys or distributes for human use any salvaged merchandise.

"Salvage operator" means a person who is engaged in the business of operating a salvage establishment.

"Salvage processing plant" means any establishment primarily engaged in the business of reconditioning or by other means the salvaging of distressed merchandise and which sells or distributes such merchandise for human use.

"Salvage warehouse" means a separate storage facility used by a salvage broker or salvage establishment for the purpose of holding distressed or salvaged merchandise. A salvage warehouse may not be used for the purpose of reconditioning or selling to consumers.

"Salvageable merchandise" means any distressed merchandise, as defined in this section, which can be reconditioned to the satisfaction of the Department.

"Salvaged merchandise" means any distressed merchandise that has been reconditioned to the satisfaction of the Department.

"Sanitize" means to adequately treat food-contact by a process that is effective in destroying vegetative cells of microorganisms of public health significance and in substantially reducing the number of other microorganisms but without adversely affecting the product or its safety to the consumer.

"Shall" is used to state mandatory requirements.

"Shelf-stable product" means a product that is hermetically sealed and, when stored at room temperature, should not demonstrate any microbial growth.

"Should" is used to state recommended or advisory procedures or to identify recommended equipment.

"Single-service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, placemats, napkins, doilies, wrapping materials, toothpicks and similar articles, intended to be discarded after one use.

"Standard operating procedure (SOP)" means a set of step-by-step instructions compiled by the establishment to instruct employees in the proper method to perform complex routine operations. SOPs aim to achieve efficiency and quality control, while reducing miscommunication, and documenting failure to enable better process to be developed.

"Time/temperature control for safety food" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

"Tree nut cracker/sheller" means a commercial establishment in which tree nuts are processed and/or packaged for human consumption, other than custom tree nut cracking.

"Tree nut grower" means a person who sells only whole tree nuts grown on his property.

"Utensil" means any implement used in the storage, preparation, transportation, or service of food.

"Variance" means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Chapter, if, in the opinion of the Department, a health hazard or nuisance will not result from the modification or waiver.

"Vehicle" means any car, truck, bus or other means by which food or distressed, salvageable or salvaged merchandise is transported from one location to another.

"Water activity" (a_w) is a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

"Wholesome" means in sound condition, clean, free from adulteration and otherwise suitable for human consumption.

SUBCHAPTER 3. MANUFACTURING, PROCESSING, PACKING OR HOLDING HUMAN FOOD

310:260-3-1. Personnel

(a) **Disease control.** Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination by which there is a reasonable possibility of food, food-contact surfaces, or food-packing materials becoming contaminated, shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected, unless conditions such as open lesions, boils, and infected wounds are adequately covered (e.g., by an impermeable cover). Personnel shall be instructed to report such health conditions to their supervisors.

(b) **Cleanliness.** All persons working in direct contact with food, food-contact surfaces, and food-packaging materials shall conform to hygienic practices while on duty to the extent necessary to protect against allergen cross-contact and against contamination of food. The methods for maintaining cleanliness include, but are not limited to:

(1) Wearing outer garments suitable to the operation in a manner that protects against allergen cross-contact and against the contamination of food, food-contact surfaces, or food-packaging materials.

(2) Maintaining adequate personal cleanliness.

(3) Washing hands thoroughly (and sanitizing if necessary to protect against contamination with undesirable microorganisms) in an adequate handwashing facility before starting work, after each absence from the work station, and at any other time when hands may have become soiled or contaminated.

(4) Removing all unsecured jewelry and other objects that might fall into food, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which food is manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean and sanitary condition and which effectively protects against the contamination by these objects of the food, food-contact surfaces, or food-packaging materials.

(5) Maintaining gloves, if they are used in food handling, in an intact, clean, and sanitary condition.

(6) Wearing, where appropriate, in an effective manner, hair nets, headbands, caps, beard covers, or other effective hair restraints.

(7) Storing clothing or other personal belongings in areas other than where food is exposed or where equipment or utensils are washed.

(8) Confining the following to areas other than where food may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, or using tobacco.

(9) Taking any other necessary precautions to protect against allergen cross-contact and against contamination of food, food-contact surfaces, or food-packing materials with microorganisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin.

- (c) **Education and training.** Personnel responsible for identifying sanitation failures or food contamination should have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food handling techniques and food protection principles and should be informed of the danger of poor personal hygiene and unsanitary practices.
- (d) **Supervision.** Responsibility for assuring compliance by all personnel with all requirements of this Chapter shall be clearly assigned to competent supervisory personnel.
- (e) **Implementation.** The plant management shall take all reasonable measures and precautions to ensure that the provisions of the above subsections are achieved.

[Source: Amended at 37 Ok Reg 1407, eff 9-11-20]

310:260-3-2. Grounds and plants

(a) **Grounds.** The grounds about a food plant under the control of the operator shall be kept in a condition that will protect against the contamination of food. The methods for adequate maintenance of grounds include, but are not limited to:

- (1) Properly storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for pests.
- (2) Maintaining roads, yards, and parking lots, including dust and flying debris, so that they do not constitute a source of contamination in areas where food is exposed.
- (3) Adequately draining areas that may contribute contamination to food by seepage, food-borne filth, or providing a breeding place for pests.
- (4) Operating systems for waste treatment and disposal in an adequate manner so that they do not constitute a source of contamination in areas where food is exposed.
- (5) If the plant grounds are bordered by grounds not under the operator's control and not maintained in the manner described in paragraph (a) (1) through (3) of this section, care shall be exercised in the plant by inspection, extermination, or other means to exclude pests, dirt, and filth that may be a source of food contamination.

(b) **Plant construction and design.** Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food-manufacturing purposes (i.e., manufacturing, processing, packing, and holding). The plant and facilities shall:

- (1) Provide sufficient space for such placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations and the production of safe food.
- (2) Permit the taking of adequate precautions to reduce the potential for allergen cross-contact and for contamination of food, food-contact surfaces, or food-packing materials with microorganisms, chemicals, filth, or other extraneous material. The potential for allergen cross-contact and for contamination may be reduced by adequate food safety controls and operating practices or effective design, including the separation of operations in which for allergen cross-contact and contamination are likely to occur, by one or more of the following means: location, time, partition, air flow systems, dust control systems, enclosed systems, or other effective means.
- (3) Permit the taking of proper precautions to protect food in installed outdoor bulk vessels by any effective means, including:
 - (A) Using protective coverings.
 - (B) Controlling areas over and around the vessels to eliminate harborage for pests.
 - (C) Checking on a regular basis for pests and pest infestation.
 - (D) Skimming the fermentation vessels, as necessary.
- (4) Be constructed in such a manner that floors, walls, and ceilings may be adequately cleaned and kept in good repair; that drip or condensate from fixtures, ducts and pipes does not contaminate food, food-contact surfaces, or food packing materials; and that aisles or working spaces are provided between equipment and walls and are adequately unobstructed and of adequate width to permit employees to perform their duties and to protect against contaminating food or food-contact surfaces with clothing or personal contact.
- (5) Provide adequate lighting in hand washing areas, dressing and locker rooms, and toilet rooms and in all areas where food is examined, processed, packed or held and where equipment or utensils are cleaned.
- (6) Provide shatter-resistant light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation or otherwise protect against food contamination in case of glass breakage.
- (7) Provide adequate ventilation or control equipment to minimize odors and vapors (including steam and noxious fumes) in areas where they may cause allergen cross-contact or contaminate food; and locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for allergen cross-contact and for contaminating food, food-packaging materials, and food-contact surfaces.
- (8) Provide, where necessary, adequate screening or other protection against pests.
- (9) Provide adequate protection, from contamination, of food products, while being transported by vehicles.

310:260-3-3. Sanitary operations

(a) **General maintenance.** Buildings, fixtures, and other physical facilities of the plant shall be maintained in a sanitary condition and shall be kept in repair sufficient to prevent food from becoming adulterated. Cleaning and sanitizing of utensils and equipment shall be conducted in a manner that protects against allergen cross-contact and against contamination of food, food-contact surfaces, or food-packaging materials.

(b) **Cleaning and sanitizing substances.** Cleaning compounds and sanitizing agents used in cleaning and sanitizing procedures shall be free from undesirable microorganisms and shall be safe and adequate under the conditions of use. Compliance with this requirement may be verified by any effective means including purchase of these substances under a letter of guarantee or certification, or examination of these substances for contamination. Only the following toxic materials may be used or stored in a plant where food is processed or exposed:

- (1) Those required to maintain clean and sanitary conditions;
- (2) Those necessary for use in laboratory testing procedures;
- (3) Those necessary for plant and equipment maintenance and operation; and
- (4) Those necessary for use in the plant's operations.

(c) **Storage of toxic materials.** Toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of food, food-contact surfaces, or food-packing materials.

(d) **Pest control.** No pests or animals shall be allowed in any area of a food plant. Guard or guide dogs may be allowed in some areas of a plant if the presence of the dogs is unlikely to result in contamination of food, food-contact surfaces, or food-packing materials. Effective measures shall be taken to exclude pests from the manufacturing, processing, packing, and holding areas and to protect against the contamination of food on the premises by pests. The use of pesticides to control pests in the plant is permitted only under precautions and restrictions that will protect against the contamination of food, food-contact surfaces, and food-packaging materials.

(e) **Sanitation of food-contact surfaces.** All food-contact surfaces, including utensils and food-contact surfaces of equipment, shall be cleaned as frequently as necessary to protect against contamination of food.

- (1) Food-contact surfaces used for manufacturing/processing, packing, or holding low-moisture food shall be in a dry, sanitary condition before use. When the surfaces are wet-cleaned, they shall, when necessary, be sanitized and thoroughly dried before subsequent use.
- (2) In wet processing, when cleaning is necessary to protect against allergen cross-contact or the introduction of microorganisms into food, all food-contact surfaces shall be

cleaned and sanitized before use and after any interruption during which the food-contact surfaces may have become contaminated. Where equipment and utensils are used in a continuous production operation, the utensils and food-contact surfaces of the equipment shall be cleaned and sanitized as necessary.

(3) Single-service articles (such as utensils for one-time use, paper cups, and paper towels) should be stored in appropriate containers and shall be handled, dispensed, used, and disposed of in a manner that protects against allergen cross-contact and against contamination of food or food-contact surfaces, or food-packing materials.

(4) Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and product-contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production operation, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. Sanitizing agents shall be approved, effective and safe under conditions of use. The wash solution for multi-use beverage containers must contain at least 3% caustic and must be maintained to at least 140 °F temperature. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment.

(f) **Sanitation of non-food-contact surfaces.** Non-food-contact surfaces of equipment used in the operation of a food plant must be cleaned in a manner and as frequently as necessary to protect against allergen cross-contact and against contamination of food, food-contact surfaces, and food-packaging materials.

(g) **Storage and handling of cleaned portable equipment and utensils.** Cleaned and sanitized portable equipment with food-contact surfaces and utensils should be stored in a location and manner that protects food-contact surfaces from contamination.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-3-4. Sanitary facilities and controls

Each plant must be equipped with adequate sanitary facilities and accommodations including:

(1) **Water supply.** The water supply shall be sufficient for the operations intended and shall be derived from an adequate, approved source. Any water that contacts food, food-contact surfaces, or food-packaging materials shall be safe and of adequate sanitary quality. Running water at a suitable

temperature, and under pressure as needed shall be provided in all areas where required for the processing of food, for the cleaning of equipment, utensils, and food-packaging materials, or for employee sanitary facilities.

(2) **Plumbing.** Plumbing shall be permanently attached, of adequate size and design and adequately installed and maintained to:

- (A) Carry adequate quantities of water to required locations throughout the plant.
- (B) Properly convey sewage and liquid disposable waste from the plant.
- (C) Avoid constituting a source of contamination to food, water supplies, equipment, or utensils or creating an unsanitary condition.
- (D) Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.
- (E) Provide that there is no backflow from, or cross-connection between, piping systems that discharge-waste water or sewage and piping systems that carry water for food.

(3) **Sewage disposal.** Sewage shall be disposed of into an adequate and approved sewerage system or disposed of through other adequate means through permanently attached plumbing.

(4) **Toilet facilities.** Each plant must provide employees with adequate, readily accessible toilet facilities. Toilet facilities must be kept clean and must not be a potential source of contamination of food, food-contact surfaces, or food-packaging materials.

(5) **Hand-washing facilities.** Each plant must provide hand-washing facilities designed to ensure that an employee's hands are not a source of contamination of food, food-contact surfaces, or food-packaging materials, by providing facilities that are adequate, convenient, and furnish running water at a suitable temperature. Compliance with this requirement includes:

- (A) Hand-washing and, where appropriate, hand-sanitizing facilities at each location in the plant where good sanitary practices require employees to wash and/or sanitize their hands.
- (B) Sanitary towel service or suitable drying devices.
- (C) Devices or fixtures, such as water control valves, so designed and constructed to protect against recontamination of clean, sanitized hands.
- (D) Readily understandable signs directing employees handling unprotected food, unprotected food-packaging materials, or food-contact surfaces to wash and, where appropriate, sanitize their hands before they start work, after each absence from post of duty, and when their hands may have become soiled or contaminated. These signs should be posted in the processing room(s) and in all other areas where employees may handle such food,

materials, or surfaces and toilet facilities.

(E) Refuse receptacles that are constructed and maintained in a manner that protects against contamination of food, equipment or hands.

(6) **Rubbish and offal disposal.** Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage or breeding place for pests, and protect against contamination of food, food-contact surfaces, water supplies, and ground surfaces.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-3-5. Equipment and utensils

(a) Design, fabrication, installation and maintenance.

(1) All plant equipment and utensils used in manufacturing, processing, packing, or holding food must be so designed and of such material and workmanship as to be adequately cleanable, and must be adequately maintained to protect against allergen cross-contact and contamination.

(2) Equipment and utensils must be designed, constructed, and used appropriately to avoid the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants.

(3) Equipment must be installed so as to facilitate the cleaning and maintenance of the equipment and of adjacent spaces.

(4) Food-contact surfaces must be corrosion-resistant when in contact with food.

(5) Food-contact surfaces must be made of nontoxic materials and designed to withstand the environment of their intended use and the action of food, and, if applicable, cleaning compounds, sanitizing agents, and cleaning procedures.

(6) Food-contact surfaces must be maintained to protect food from allergen cross-contact and from being contaminated by any source, including unlawful indirect food additives.

(b) **Seams.** Seams on food-contact surfaces shall be smoothly bonded or maintained so as to minimize accumulation of food particles, dirt, and organic matter and thus minimize the opportunity for growth of microorganisms and allergen cross-contact.

(c) **Non-food contact equipment.** Equipment that is in the areas where food is manufactured, processed, packed, or held and that does not come into contact with food shall be so constructed that it can be kept in a clean condition.

(d) **Holding, conveying and manufacturing systems.** Holding, conveying, and manufacturing systems, including gravimetric, pneumatic, closed, and automated systems, shall be of a design and construction that enables them to be maintained in an appropriate sanitary condition.

(e) **Thermometers.** Each freezer and cold storage compartment used to store and hold food capable of supporting growth of microorganisms

shall be fitted with an indicating thermometer, temperature measuring device, or temperature recording device so installed as to show the temperature accurately to within $\pm 3^{\circ}\text{F}$ inside the compartment, and should be fitted with an automatic control for regulating temperature or with an automatic alarm system to indicate a significant temperature change during manual operation.

(f) **Instruments and controls.** Instruments and controls used for measuring, regulating, or recording temperatures, pH, acidity, water activity, or other conditions that control or prevent the growth of undesirable microorganisms in food shall be accurate, precise, and adequately maintained, and adequate in number for their designated uses.

(g) **Compressed air.** Compressed air or other gases mechanically introduced into food or used to clean food-contact surfaces or equipment shall be treated in such a way that food is not contaminated with unlawful indirect food additives.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-3-6. Processes and controls

(a) General.

(1) All operations in the manufacturing, processing, packing, and holding of food (including operations directed to receiving, inspecting, transporting, and segregating) must be conducted in accordance with adequate sanitation principles.

(2) Appropriate quality control operations must be employed to ensure that food is suitable for human consumption and that food-packaging materials are safe and suitable.

(3) Overall sanitation of the plant must be under the supervision of one or more competent individuals assigned responsibility for this function.

(4) Adequate precautions must be taken to ensure that production procedures do not contribute to allergen cross-contact and to contamination from any source.

(5) Chemical, microbial, or extraneous-material testing procedures must be used where necessary to identify sanitation failures or possible allergen cross-contact and food contamination.

(6) All food that has become contaminated to the extent that it is adulterated must be rejected, or if appropriate, treated or processed to eliminate the contamination.

(b) Raw materials and other ingredients.

(1) Raw materials and other ingredients shall be inspected and segregated or otherwise handled as necessary to ascertain that they are clean and suitable for processing into food and shall be stored under conditions that will protect against allergen cross-contact and against contamination and minimize deterioration. Raw materials shall be washed or cleaned as necessary to remove soil or other contamination. Water used for washing, rinsing, or conveying food shall be safe and of adequate sanitary quality.

Water may be reused for washing, rinsing, or conveying food if it does not cause allergen cross-contact or increases the level of contamination of the food. Containers and carriers of raw materials should be inspected on receipt to ensure that their condition has not contributed to the contamination or deterioration of food.

(2) Raw materials and other ingredients shall either not contain levels of microorganisms that may render the food injurious to the health of humans, or they shall be pasteurized or otherwise be treated during manufacturing operations so that they no longer contain levels that would cause the product to be adulterated.

(3) Raw materials and other ingredients susceptible to contamination with aflatoxin or other natural toxins shall comply with current FDA regulations for poisonous or deleterious substances before these materials or ingredients are incorporated into finished food.

(4) Raw materials, other ingredients, and rework susceptible to contamination with pests, undesirable microorganisms, or extraneous material shall comply with applicable FDA regulations for natural or unavoidable defects if a manufacturer wishes to use the materials in manufacturing food.

(5) Raw materials, other ingredients, and rework shall be held in bulk, or in containers designed and constructed so as to protect against allergen cross-contact and against contamination and shall be held at such temperature and relative humidity and in such a manner as to prevent the food from becoming adulterated. Material scheduled for rework shall be identified as such and separated from other foods.

(6) Frozen raw materials and other ingredients shall be kept frozen. If thawing is required prior to use, it shall be done in a manner that prevents the raw materials and other ingredients from becoming adulterated.

(7) Liquid or dry raw materials and other ingredients received and stored in bulk form shall be held in a manner that protects against allergen cross-contact and against contamination.

(8) Raw materials and other ingredients that are food allergens, and rework that contains food allergens, must be identified and held in a manner that prevents allergen cross-contact.

(c) Manufacturing operations.

(1) Equipment and utensils and finished food containers shall be maintained in an adequate condition through appropriate cleaning and sanitizing, as necessary. Insofar as necessary, equipment shall be taken apart for thorough cleaning.

(2) All food manufacturing, including packaging and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for the growth of microorganisms and allergen cross-contact.

(3) Food that can support the rapid growth of undesirable microorganisms shall be held at temperatures that will prevent the food from becoming adulterated during manufacturing, processing, packing, and holding.

(4) Measures such as sterilizing, irradiating, pasteurizing, freezing, refrigerating, controlling pH or controlling aw that are taken to destroy or prevent the growth of undesirable microorganisms shall be adequate under the conditions of manufacture, handling, and distribution to prevent food from being adulterated.

(5) Work-in-process and rework shall be handled in a manner that protects against allergen cross-contact, contamination, and growth of undesirable microorganisms.

(6) Effective measures shall be taken to protect finished food from allergen cross-contact and from contamination by raw materials, other ingredients, or refuse. When raw materials, other ingredients, or refuse are unprotected, they shall not be handled simultaneously in a receiving, loading, or shipping area if that handling could result in allergen cross-contact or contaminated food. Food transported by conveyor shall be protected against allergen cross-contact and against contamination as necessary.

(7) Equipment, containers, and utensils used to convey, hold, or store raw materials and other ingredients, work-in-process, rework or other food shall be constructed, handled, and maintained during manufacturing processing, packing, and holding in a manner that protects against allergen cross-contact and against contamination.

(8) Adequate measures shall be taken to protect against the inclusion of metal or other extraneous material in food.

(9) Food, raw materials, and other ingredients that are adulterated:

(A) Shall be disposed in a manner that protects against the contamination of other food; or

(B) If the adulterated food is capable of being reconditioned, it shall be:

(i) Reconditioned (if appropriate) using a method that has been proven to be effective; or

(ii) Reconditioned (if appropriate) and reexamined and subsequently found not to be adulterated before being incorporated into other food.

(10) Steps such as washing, peeling, trimming, cutting, sorting and inspecting, mashing, dewatering, cooling, shredding, extruding, drying, whipping, defatting, and forming shall be performed so as to protect food against allergen cross-contact and against contamination.

(11) Heat blanching, when required in the preparation of food capable of supporting microbial growth, should be effected by heating the food to the required temperature, holding it at this temperature for the required time, and then either rapidly cooling the food or passing it to subsequent manufacturing without delay. Growth and contamination by thermophilic microorganisms in blanchers should be minimized by the use of adequate operating temperatures and by periodic cleaning and sanitizing as necessary.

(12) Batters, breadings, sauces, gravies, dressings, dipping solutions, and other similar preparations that are held and used repeatedly over time shall be treated or maintained in such a manner that they are protected against allergen cross-contact and against contamination, and minimizing the potential for the growth of undesirable microorganisms.

(13) Filling, assembling, packaging, and other operations shall be performed in such a way that the food is protected against allergen cross-contact, contamination, and growth of undesirable microorganisms.

(14) Food such as, but not limited to, dry mixes, nuts, immediate moisture food, and dehydrated food, that relies on the control of a_w for preventing the growth of undesirable microorganisms shall be processed to and maintained at a safe moisture level.

(15) Food such as, but not limited to, acid and acidified food, that relies principally on the control of pH for preventing the growth of undesirable microorganisms shall be monitored and maintained at a pH of 4.6 or below.

(16) When ice is used in contact with food, it shall be made from water that is safe and of adequate sanitary quality in accordance with 310:260-3-4(a), and shall be used only if it has been manufactured in accordance with current good manufacturing practice as outlined in these regulations.

(17) Food-manufacturing areas and equipment used for manufacturing human food shall not be used to manufacture nonhuman food grade animal feed or inedible products, unless there is no reasonable possibility for the contamination of the human food.

(18) Food manufacturing shall not be performed in places of human residence nor shall manufacturing areas open directly into rooms occupied as residence or sleeping quarters.

(19) Meaningful coding of products sold or otherwise distributed from a manufacturing, processing, packing, or repacking activity should be utilized to enable positive lot identification to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use. Records should be retained for a period of time that exceeds the shelf life of the product, except that they need not be retained more than two (2) years.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

SUBCHAPTER 5. TREE NUTPROCESSING

310:260-5-1. Tree Nut crackers/shellers

(a) **Cleaning and sanitizing.** All tree nuts shall be thoroughly cleaned to remove all foreign matter before sanitizing. After cleaning, tree nutsshall be subjected to a bactericidal process with:

- (1) Immersion in hot water at 170° F or more for at least two (2) minutes or exposed to a flow of hot water at 170° degrees F or more for at least five (5) minutes, or exposed to hot air at a temperature of 180° F for at least twenty (20) minutes in a properly constructed oven or hot air cabinet equipped with an indicating thermometer located in the coldest zone, or
- (2) A 1000 PPM chlorine equivalent and a flotation process solution of 200 PPM chlorine equivalent, or
- (3) Exposure to steam in a properly designed cabinet for at least fifteen (15) minutes at 170° F, or for at least five (5) minutes at 200° degrees F, or
- (4) Exposure of a jet of live steam for at least One (1) minute, or
- (5) Any other bactericidal treatment which has been proven by laboratory tests to effectively sanitize tree nuts and which has been approved by the Department.

(b) **Holding and drying.** Folding, soaking, or tempering, tree nuts must not be subjected to contamination. Drying of tree nuts must be done in such a manner as to prevent recontamination of moist tree nuts.

(c) **Sanitizing of equipment.** All equipment used for handling, storing, and transporting sanitized tree nuts and/or tree nuts meats shall be subjected to a bactericidal process approved by the Department.

Approved processes shall include:

- (1) Exposure to steam in a properly constructed cabinet for at least fifteen (15) minutes at 170° F, or for at least five (5) minutes at at least 200° F, or
- (2) Exposure to a jet of live steam for at least one (1) minute, or
- (3) Immersion in or exposure to a flow of chlorine solution of not less than 200 PPM strength for at least two (2) minutes, or
- (4) Immersion in hot water at 170° F or more for at least two (2) minutes or exposure to a flow of hot water at 170° F or more (at the outlet) for at least five (5) minutes, or
- (5) Exposure to hot air at a temperature of 180° F, for at least twenty (20) minutes in a properly constructed oven or hot air cabinet equipped with an indicating thermometer located in the coldest zone, or
- (6) Any other bactericidal treatment which has been proven by laboratory tests to effectively sanitize equipment and which has been approved by the Department.

(d) **Other requirements.** All commercial tree nut crackers/shellers shall be subject to all applicable portions of this code.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-5-2. Custom Tree Nut crackers

(a) Signage.

- (1) The custom tree nut cracking facility must publicly display an easily readable sign which states: "Custom Tree Nut Operations are Exempt from Health Department Regulations Pertaining to Cleaning and Sanitizing of tree nuts /Processing Equipment. Tree nuts Cannot be Cracked for Resale" or words to that effect.

(2) A customer's own Tree Nuts left on the premises for custom Tree Nut cracking must be separately labeled before and after custom cracking with the customer's name and contact information.

(3) Custom Tree Nut crackers shall affix the statement "Custom Tree Nut Operations are Exempt from Health Department Regulations Pertaining to Cleaning and Sanitizing of Tree Nuts /Processing Equipment. Tree Nuts Cannot be Cracked for Resale" or words to that effect on the label, bill of sale, receipt, etc., presented to the customer upon payment.

(b) **Other requirements.** Custom tree nut crackers shall not be subject to licensure.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

SUBCHAPTER 7. SALVAGEABLE AND SALVAGED MERCHANDISE

310:260-7-1. Merchandise protection

(a) Protection from contamination.

(1) All salvageable and salvaged merchandise, while being stored or processed at a salvage processing plant, or during transportation, shall be protected from contamination.

(2) All perishable foods shall be kept at such temperature as will protect against spoilage.

(3) Time/Temperature Control for Safety food shall be maintained at safe temperature (45 °F or below; 140 °F or above).

(4) Poisonous and toxic materials shall be identified, and handled under such conditions as will not contaminate other salvageable or salvaged merchandise or constitute a hazard to personnel.

(b) **Segregation of non-salvageable materials.** All salvageable articles shall be promptly sorted and segregated from non-salvageable materials to prevent further contamination of goods to be salvaged or offered for sale or distribution.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-7-2. Movement of distressed merchandise

(a) Notice to department.

(1) When merchandise becomes distressed as the result of a conveyance accident; flood, wind, fire, sewer backup, or such other unforeseen catastrophe, the owner or claimant of such distressed merchandise shall contact the Department within twenty-four (24) hours after the merchandise becomes distressed and prior to removal from the place at which it was located when it became distressed merchandise.

(2) If emergency removal of such distressed merchandise is required, such notice to the Department shall be made as soon thereafter as possible.

(3) It shall be the duty of the owner or manager of the salvage processing plant to make contact with the Department within forty-eight (48) hours whenever distressed merchandise subject to the provisions of this regulation is obtained.

(b) **Movement of distressed merchandise.**

(1) Distressed merchandise shall be moved from the site where it became distressed as expeditiously as possible after compliance with (a) of this section so as to protect against spoilage, prevent rodent or insect harborage, or otherwise a menace to the public health.

(2) All distressed and salvageable merchandise of a perishable nature shall, prior to reconditioning, be transported only in vehicles provided with adequate refrigeration for product maintenance.

(3) No interstate movement of distressed or salvageable merchandise from or into Oklahoma shall be made without prior approval of the Department. Concurrence shall also be obtained from the U.S. Food and Drug Administration or U.S. Department of Agriculture, Animal and Plant Health Inspection Service (meat and poultry products), and as required by State law of the State to or from which such merchandise is being shipped, prior to such anticipated interstate movement.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-7-3. Reconditioning

(a) **Salvageable merchandise.** All salvageable merchandise shall be reconditioned prior to sale or distribution.

(b) **Distressed or nonsalvageable merchandise.** The following items shall be deemed unfit for sale or distribution:

(1) Metalcans of food which are essentially free from rust (pitting) and dents (especially at rim, end double seams and/or side seams).

(2) Leakers, springers, flippers, and swellers.

(3) Containers, including metal and glass containers with press caps, screw caps, pull rings or other types of openings which have been in contact with non-potable water, liquid foam, or other deleterious substances, as a result of fire fighting efforts, flood, sewer backups or similar mishaps shall be deemed unfit for sale or distribution, i.e., nonsalvageable merchandise.

(c) **Metal containers of food.** All metal containers of food, other than those mentioned in (b) of this section whose integrity has not been compromised and whose integrity would not be compromised by the reconditioning, and which have been partially or totally submerged in water, liquid foam, or other deleterious substance as the result of flood, sewer backup or other reasons shall, after thorough cleaning, be subjected to sanitizing rinse of a concentration of 200 ppm available chlorine for a minimum period of one minute, or shall be sanitized by another method approved by the Department. They shall subsequently be treated to inhibit rust formation. All other types of containers so

damaged shall be deemed unfit for use or sale.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-7-4. Labeling

- (a) Relabeling of other salvageable nonmetal (glass, plastic, etc.) containers shall be required when original labels are missing or illegible.
- (b) All salvaged merchandise shall be labeled to indicate that the merchandise has been salvaged.
- (c) Where original labels are removed from containers which are to be resold or redistributed, the replacement labels must show the name and address of the salvage establishment.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-7-5. Handling of nonsalvageable merchandise

- (a) **Nonsalvageable merchandise.** Food deemed to be nonsalvageable merchandise are:
 - (1) Foods contaminated and/or adulterated by pesticides or other chemicals;
 - (2) Potentially hazardous foods (frozen or those requiring refrigeration) which have been exposed to a temperature above 45° F (7.2° C) for a period exceeding 4 hours;
 - (3) Foods packaged in paper or other porous materials which have been subjected to contamination.
 - (4) Those described in Section 310:260-7-3 as nonsalvageable.
- (b) **Distribution of nonsalvageable merchandise.** Nonsalvageable merchandise shall not be sold or distributed as food, but shall be disposed of in a manner approved by the Department.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-7-6. Record keeping

- (a) **Inspection by the Department.** A written record of receipt of distressed, salvageable and salvaged merchandise shall be kept by the salvage establishment or salvage broker for inspection by the Department during business hours.
- (b) **Content of records.** The records shall include a general description of distressed merchandise received, source of the distressed merchandise, the date received and the type of damage (fire, flood, etc.)
- (c) **Retention of records.** These records shall be kept on the premises of the salvage establishment or salvage broker for a period of two (2) years following the receipt of a lot of merchandise.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-7-7. Salvage processors and distributors out-of-state

Salvaged merchandise from salvage processing plants and distributors located outside the jurisdiction of the State of Oklahoma may be sold or distributed within the State, if such plants and distributors

conform to the provisions of this regulation or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Department may accept reports from responsible authorities in other jurisdictions where such plants and distributors are located.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

SUBCHAPTER 9. FOOD STORAGE WAREHOUSES

310:260-9-1. Lighting and ventilation

(a) Lighting.

(1) All parts of the food storage warehouse shall be lighted so as to permit the activity for which the premises are used to be carried on safely and to permit effective cleaning and inspection of the premises.

(2) Safety shields on lights or safety type lights shall be used where needed for the protection of food storage.

(b) Ventilation. Where needed, rooms shall have sufficient ventilation to prevent any undue condensation or water vapor or objectionable odors, or temperature extremes.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-1.1. Warehousing and distribution

Storage and transportation of food shall be under conditions that will protect against allergen cross-contact and against biological, chemical (including radiological), and physical contamination of food, as well as against deterioration of the food and the container.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-2. Dry storage

(a) Floors.

(1) Floors shall be constructed of easily cleanable and reasonably smooth material.

(2) Floors shall be kept clean and in good repair.

(b) Walls and ceiling. Walls and ceiling shall be of sound construction, easily cleanable and kept reasonably free of dirt, dust and cobwebs and in good repair.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-3. Cold and frozen storage

(a) Thermometers. Each cold storage unit shall be equipped with an accurate and easily visible thermometer with the sensing element at least five feet above the floor.

(b) Storage temperatures. Perishable and Time/Temperature Control for Safety foods shall be stored at 45° F or below.

(c) **Frozen foods.** All frozen food shall be stored at a temperature of 0° F or below except for defrost cycles, loading or unloading, or for other temporary conditions beyond the immediate control of the person or company under whose care or supervision the frozen food is stored. However, the internal temperature of all frozen food shall be maintained at 0° F or below except when the product is subjected to the above-mentioned conditions; at such times the internal product temperature shall not exceed 10° F and such product shall be returned to 0° F as quickly as possible.

(d) **Floors, walls, and ceilings.**

(1) Floors shall be constructed of material that can be easily kept clean, sanitary and in good repair.

(2) Walls and ceiling shall be reasonably smooth, and kept clean and in good repair.

(e) **Defrosting.** During defrosting of overhead coils in cold storage rooms, stored food shall be effectively protected from contamination by condensation, drip or leakage.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-4. Protection of stored food

(a) **Pests.** The operator shall take all reasonable measures to protect the area where food is kept or stored in a food storage warehouse against the entrance into the establishment, and the breeding or presence on the premises of rodents, birds, flies, roaches, weevils and other vermin.

(b) **Animals.** No dogs, cats, fowl, birds or any other type animal shall be permitted in a food storage warehouse, except that patrol dogs accompanying blind or deaf persons shall not be excluded.

(c) **Use of rodenticides.** When in use, rodenticides shall be placed in covered bait boxes where necessary to prevent spillage or possible contamination of stored food and danger to employees. All rodenticide baits shall be applied in such a manner as to prevent contamination of stored food products.

(d) **Storage and labeling of toxics.**

(1) Cleaning materials, pesticides, rodenticides, and any other such hazardous substances used in the operation of the warehouse shall be stored:

(A) In properly labeled containers in a closed closet or cabinet in a separate area from food products.

(B) An adequate distance from stored food and single service articles to prevent contamination caused by leakage or spillage.

(2) Where multiple level storage methods are used, all such substances shall be stored below food or single service articles.

(e) **Pest control services.**

(1) When a licensed pest control service is employed, it shall file at the warehouse a diagram of the bait station locations and the rodenticide in use.

(2) The operator should designate an employee to be responsible for the pest control program being used.

(f) Product storage.

(1) Skids or pallets shall provide a minimum of 6" clearance above the floor to facilitate cleaning, protection of the product, and for movement of air in refrigerated storage areas.

(2) Merchandise stored on skids or pallets shall be at least 18" away from any wall.

(3) Construction of shelving, cabinets, and storage methods used shall be such as to permit ready access for cleaning and sanitary inspection.

(4) No overhead waste drain pipes or other overhead piping shall be used which presents a risk of contamination to foods stored below due to excess condensation or leakage. Protective shields may be used to eliminate this risk.

(5) Bagged animal feeds shall be stored so as not to be intermingled with the storage of human food products. Storage on separate pallets is acceptable.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-5. Morgue

(a) The operator of a food storage warehouse shall provide an area for the accumulation and holding of all damaged foods or foods which may be unwholesome.

(b) The operator shall maintain a program of timely and proper disposal of unwholesome food to prevent development of unsanitary conditions or vermin breeding places and rodent harborage.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-6. Restroom facilities

(a) Toilets.

(1) The warehouse shall be provided with conveniently located toilets and shall be kept clean and in good repair.

(2) The toilet room shall be completely enclosed, well lighted, vented, and equipped with a tight, self-closing door.

(3) Any window opening shall be screened to prevent entrance of insects.

(b) Handwashing facilities.

(1) Handwashing facilities shall be adequate and conveniently located in relation to toilet areas.

(2) Handwashing facilities shall be equipped with hot and cold water, under pressure.

(3) Soap or detergent and paper towels or other single use drying devices shall be provided at all times.

(4) Handwashing facilities shall be kept clean and in good repair.

(5) Signage directing employees to wash their hands before returning to work shall be posted in all toilet rooms.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-7. Waste storage and disposal

- (a) All liquid waste resulting from cleaning floors, equipment, flushing toilets, handwashing facilities, refrigeration equipment and air conditioners shall be disposed of in a sanitary manner per standards established and regulated by the Oklahoma Department of Environmental Quality (ODEQ).
- (b) Waste containers shall be provided for trash or rubbish.
- (c) The warehouse shall be free of unnecessary litter and rubbish, such as paper, empty containers, or other material that might serve as a place for harborage of rodents or other vermin.
- (d) All garbage and waste shall be stored in covered containers.
 - (1) Reusable containers shall be non-absorbent, easily washable receptacles which are covered with close-fitting lids, pending removal.
 - (2) Disposable containers or liners may be used.
 - (3) Removal of garbage and waste shall be frequent and the holding area shall be kept clean.
- (e) All garbage and rubbish shall be disposed of at regular intervals of sufficient frequency and in such manner as to prevent the creation of unsanitary conditions.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-8. Exterior construction

- (a) The exterior of a food storage warehouse shall be so designed, fabricated and finished to minimize the entrance of insects, birds and rodents.
- (b) All necessary ventilation louvers or openings into food storage warehouses shall be effectively screened against insects, birds and rodents.
- (c) All service connections through the exterior wall of the establishment, including water, gas, electrical and refrigeration connections shall be sealed to prevent the entrance of insects, birds and rodents.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-9. Surroundings

The outer premises of the food storage warehouse shall be reasonably clean, and well drained, free from any material or condition that creates rodent, bird and/or insect harborage and free from other nuisances and sources of contamination.

310:260-9-10. Transportation and storage

- (a) All vehicles used in the transportation of processed food products shall be kept in a clean condition at all times. Refuse, dirt and waste products subject to decomposition shall be removed daily. Storage and transportation of finished food shall be under conditions that will protect

food against physical, chemical, and microbial contamination as well as against deterioration of the food and the container.

(b) Food products while in transit, shall be protected in such a manner as to preclude being contaminated by hazardous substances, microbial contamination, and against the deterioration of the food and the container.

(c) Vehicles transporting Time/Temperature Control for Safety food shall be equipped to maintain safe temperatures at all times. An accurate and easily visible thermometer shall be provided for monitoring the temperature of frozen and refrigerated storage areas while food is being held or transported.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

310:260-9-11. Exemptions

Bin warehouses, as defined, shall be exempt from the regulations pertaining to providing restroom facilities, and water under pressure.

[Source: Amended at 37 Ok Reg 1385, eff 9-11-20]

SUBCHAPTER 11. LICENSING, INSPECTIONS AND PLAN REVIEW [REVOKED]

310:260-11-1. Licensing [REVOKED]

[Source: Amended at 8 Ok Reg 3099, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1493, eff 5-1-92 ; Revoked at 37 Ok Reg 1385, eff 9-11-20]

310:260-11-2. Inspections [REVOKED]

[Source: Amended at 8 Ok Reg 3099, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1491, eff 5-1-92 ; Revoked at 37 Ok Reg 1385, eff 9-11-20]

310:260-11-3. Examination and condemnation of food [REVOKED]

[Source: Revoked at 37 Ok Reg 1385, eff 9-11-20]

310:260-11-4. Plan review [REVOKED]

[Source: Revoked at 37 Ok Reg 1385, eff 9-11-20]

SUBCHAPTER 13. SPECIAL RISK SITUATIONS [REVOKED]

310:260-13-1. Emergency occurrences [REVOKED]

[Source: Revoked at 37 Ok Reg 1385, eff 9-11-20]

310:260-13-2. Infection [REVOKED]

[Source: Revoked at 37 Ok Reg 1385, eff 9-11-20]

SUBCHAPTER 15. COMPLIANCE AND ENFORCEMENT

310:260-15-1. License required

(a) No person shall operate a food manufacturing establishment, food storage warehouse, or a salvage establishment, who does not have a valid license issued to such person by the Department pursuant to O.S. §63-1-1119. Only a person who is in virtual compliance with the requirements of these rules and regulations shall be entitled to receive or retain such a license.

(b) A license shall expire one year from the date of its issuance unless canceled or revoked prior to its expiration. For purposes in determining the expiration date of all licenses under this section, the date of issuance shall be deemed to be the date that an approved application for licensure is first issued by a duly authorized representative of the Health Department.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-2. Examination and condemnation of food

Food may be examined or sampled by the Department as often as necessary for enforcement of these rules and regulations. The Department may place an embargo on food in accordance with the provisions of Title 63 O.S. 1-1105.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-3. Variance

- (a) Whenever the Department adopts new rules or amends existing language in this Chapter, the owner of a food establishment may request that a variance be granted on any nonconforming use that may then exist, on or before the effective date of the rule change, at the license holder's place of operation.
- (b) Variances requested pursuant to this Subchapter are subject to approval by the Department. In order to have the variance approved, a license holder must submit a written application on a form provided by the Department. Any variance request shall be deemed denied unless the license holder subsequently receives notice of approval from the Department.
- (c) If the license holder replaces the equipment or reconstructs the portion of the facility that is the subject of the variance, the new equipment or construction must conform to the rules of this Chapter.
- (d) Variances are not considered to be part of the license and may be revoked at any time, for any reason, by the Department.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-4. Documentation of proposed variance and justification

Variance requests are subject to review by the Department. During this process, the inspector must confirm the following:

- (1) The nature and extent of the nonconforming use;
- (2) That the equipment or portion of the facility in question is in an operable and sanitary condition, and can be maintained in satisfactory condition during the term of the variance;
- (3) That no public health threats or food-related illness will result if the variance is granted.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-5. When plans are required

- (a) A license applicant or license holder shall submit to the Department properly prepared plans and specifications for review and approval before:
- (1) The construction of an establishment;
 - (2) The conversion of an existing structure for use as an establishment; or
 - (3) The extensive remodeling of an establishment or a change of operation.
- (b) If the Department deems such plans and specifications to not conform to the requirements or additional material information is required, the Department shall notify the person who submitted them of its objections or its need for additional information.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-6. Contents of the plans and specifications

The plans and specifications for an establishment shall include the following information to demonstrate conformance with Code provisions:

- (1) Food items intended to be produced;
- (2) Anticipated volume of food to be prepared, held, and transported;
- (3) Proposed equipment types, manufacturer and model numbers (if available);
- (4) Proposed floor plan;
- (5) Installation layout of processing equipment to be installed on the food processing floor;
- (6) Location of handwashing facilities, restrooms, and employees locker rooms;
- (7) Other information as required by the Department.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-7. Preoperational inspections

The Department may conduct one or more preoperational inspections to verify that the establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, and is in compliance with law and this Chapter.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-8. Form of submission

A person desiring to operate an establishment shall submit to the regulatory authority a written application for a license on a form provided by the regulatory authority.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-9. Qualifications and responsibilities of applicants

To qualify for a license, an applicant shall:

- (1) Be an owner of the food establishment or an officer of the legal ownership;
- (2) Comply with the requirements of this Chapter;
- (3) As specified under OAC 310:260-15-17, agree to allow access to the food establishment and to provide required information; and
- (4) Pay the applicable license fees at the time the application is submitted.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-10. Contents of the application

The application shall include:

- (1) The name, mailing address, telephone number, and signature of the person applying for the license and the name, mailing

address, and location, of the establishment;

(2) Information specifying whether the establishment is owned by an association, corporation, individual, partnership, or other legal entity.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-11. New, converted, or remodeled establishments

For establishments that are required to submit plans as specified under OAC 310:260-15-5 the Commissioner of Health shall issue a license to the applicant after:

- (1) A properly completed application is submitted;
- (2) The required fee is submitted;
- (3) The required plans, specifications, and information are reviewed and approved; and
- (4) An inspection shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Chapter.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-12. Issuance of license

The Department may issue a license to a new owner of an existing food establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this Chapter.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-13. Denial of application for license, notice

If an application for a license to operate is denied, the regulatory authority shall provide the applicant with a notice that includes:

- (1) The specific reasons and Chapter citations for the license denial;
- (2) The actions, if any, that the applicant must take to qualify for a license; and
- (3) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-14. Responsibilities of the license holder

Upon acceptance of the license issued by the Commissioner of Health, the license holder in order to retain the license shall:

- (1) Post the license in a location in the establishment that is conspicuous to visitors;
- (2) Comply with the provisions of this Chapter;
- (3) Immediately discontinue operations and notify the Department if an imminent health hazard may exist as specified under OAC

310:260-15-25;

(4) Allow representatives of the Department access to the establishment as specified under OAC 310:260-15-17;

(5) Replace existing facilities and equipment with facilities and equipment that comply with this Chapter if:

(A) The Department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted,

(B) The Department directs the replacement of the facilities and equipment because of a change of ownership, or

(C) The facilities and equipment are replaced in the normal course of operation;

(6) Comply with directives of the Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Department in regard to the license holder's establishment or in response to community emergencies;

(7) Accept notices issued and served by the Department according to law;

(8) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and

(9) If applicable, submit the annual renewal application and pay all renewal license and late fees.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-15. Licenses not transferable

A license may not be transferred from one person to another person, from one establishment to another, from one physical address to another, from one corporation to another, from one limited liability company or corporation to another, from one partnership to another, or from one type of operation to another if the food operation changes from the type of operation specified in the application under OAC 310:260-15-6 and the change in operation is not approved.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-16. Competency of inspectors

An authorized representative of the Department who inspects an establishment or conducts plan review for compliance with this Chapter shall have the knowledge, skills, and ability to adequately perform the required duties, and be licensed pursuant to Title 59 O.S. §, 59-1150.1 et seq.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-17. Allowed at reasonable times after due notice

After the Department presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the Department to determine if the establishment is in compliance with this Chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this Chapter and to which the Department is entitled according to law, during the establishment's hours of operation and other reasonable times.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-18. Refusal, notification of right to access, and final request for access

If a person denies access to the Department, the Department shall:

(1) Inform the person that:

(A) The license holder is required to allow access to the Department as specified under OAC 310:260-15-17 of this Chapter,

(B) Access is a condition of the acceptance and retention of an establishment license to operate as specified under OAC 310:260-15-14(4), and

(C) If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to law; and

(2) Make a final request for access.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-19. Refusal, reporting

If after the regulatory authority presents credentials and provides notice as specified under OAC 310:260-15-17, explains the authority upon which access is requested, and makes a final request for access as specified in OAC 310:260-15-18, the person in charge continues to refuse access, the regulatory authority shall provide details of the denial of access on an inspection report form.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-20. Inspection order to gain access

If denied access to a food establishment for an authorized purpose and after complying with OAC 310:260-15-18, the Department may issue, or apply for the issuance of an order to gain access as provided in law.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-21. Documenting information and observations

The Department shall document on an inspection report form:

- (1) Administrative information about the establishment's legal identity, street and mailing addresses, type of establishment and operation as specified, inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required; and
- (2) Specific factual observations of violative conditions or other deviations from this Chapter that require correction by the license holder.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-22. Specifying time frame for corrections

The regulatory authority may specify on the inspection report form the time frame for correction of the violations.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-23. Issuing report and obtaining acknowledgment of receipt

At the conclusion of the inspection the regulatory authority shall provide a copy of the completed inspection report and the notice to correct violations to the license holder or to the person in charge, and request a signed acknowledgment of receipt.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-24. Refusal to sign acknowledgment

The Department shall:

- (1) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified under OAC 310:260-15-23:
 - (A) An acknowledgment of receipt is not an agreement with findings,
 - (B) Refusal to sign an acknowledgment of receipt will not affect the license holder's obligation to correct the violations noted in the inspection report within the timeframes specified, and
 - (C) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Department's historical record for the food establishment; and
- (2) Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-25. Ceasing operations and reporting

(a) Except as specified in (b) of this Section, a license holder shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard exists because of an emergency such as a fire,

flood, sewage backup, no water in the facility, insufficient refrigeration and/or hot food storage facilities available, substantial evidence or presence of a large number of insects or evidence of rodents in food or on food preparation surfaces, interruption of safe potable water supply to the facility, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, interruption of electrical service for more than 4 hours, severe structural damage in the facility, an employee working with a Salmonella, Shigella, E. coli 0157:H7 or Hepatitis A infection, gross unsanitary occurrence or condition, or other circumstance as determined by the Commissioner of Health, or his designee, that shall endanger public health.

(b) A license holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-26. Resumption of operations

If operations are discontinued as specified under OAC 310:260-15-32 or otherwise according to law, the license holder shall notify the regulatory authority before resuming operations.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-27. Obtaining information: personal history of illness, medical examination, and specimen analysis

The regulatory authority shall act when it has reasonable cause to believe that a food employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

- (1) Securing a confidential medical history of the employee suspected of transmitting disease or making other investigations as deemed appropriate; and
- (2) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

310:260-15-28. Restriction or exclusion of employee with infection

When the Department has reasonable cause to suspect possible disease transmission by an employee of a food establishment, the Department may secure a morbidity history of the employee or make any other investigation as indicated and shall take appropriate action. The Department may require at a minimum any or all of the following measures:

- (1) The immediate exclusion of the employee from employment in food establishments;

- (2) The immediate closing of the food establishment concerned until no further danger of disease outbreak exists.
- (3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
- (4) Adequate medical laboratory examination of the employee and other employees and of his and their body discharges.

[Source: Added at 37 Ok Reg 1385, eff 9-11-20]

CHAPTER 265. HEARING AID DEALERS AND FITTERS [REVOKED]

[**Authority:** 63 O.S., §§ 1-1750 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:265-1-1. Purpose [REVOKED]

[**Source:** Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-1-2. Definitions [REVOKED]

[**Source:** Amended at 14 Ok Reg 1747, eff 5-27-97 ; Amended at 15 Ok Reg 118, eff 10-15-97 (emergency); Amended at 15 Ok Reg 3155, eff 7-13-98 ; Amended at 17 Ok Reg 2929, eff 7-13-00 ; Amended at 21 Ok Reg 2737, eff 7-12-04 ; Amended at 24 Ok Reg 1945, eff 6-25-07 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-1-3. Exemptions [REVOKED]

[**Source:** Amended at 21 Ok Reg 2737, eff 7-12-04 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

SUBCHAPTER 3. EXAMINATIONS [REVOKED]

310:265-3-1. Qualifications [REVOKED]

[**Source:** Amended at 17 Ok Reg 2929, eff 7-13-00 ; Amended at 18 Ok Reg 3590, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1048, eff 5-13-02 ; Amended at 21 Ok Reg 2737, eff 7-12-04 ; Amended at 32 Ok Reg 543, eff 1-20-15 (emergency); Amended at 32 Ok Reg 1787, eff 9-11-15 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-3-2. Contents of examination [REVOKED]

[**Source:** Amended at 18 Ok Reg 2476, eff 6-25-01 ; Amended at 24 Ok Reg 1945, eff 6-25-07 ; Amended at 32 Ok Reg 543, eff 1-20-15 (emergency); Amended at 32 Ok Reg 1787, eff 9-11-15 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-3-3. Fees for license applications and examinations [REVOKED]

[**Source:** Added at 17 Ok Reg 2929, eff 7-13-00 ; Amended at 24 Ok Reg 1945, eff 6-25-07 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

SUBCHAPTER 5. LICENSE REQUIREMENTS [REVOKED]

310:265-5-1. License required [REVOKED]

[Source: Amended at 24 Ok Reg 1945, eff 6-25-07 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-5-2. Applicant requirements for reciprocity [REVOKED]

[Source: Amended at 24 Ok Reg 1945, eff 6-25-07 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-5-3. Address of place of business [REVOKED]

[Source: Amended at 15 Ok Reg 118, eff 10-15-97 (emergency); Amended at 15 Ok Reg 3155, eff 7-13-98 ; Amended at 21 Ok Reg 2737, eff 7-12-04 ; Amended at 24 Ok Reg 1945, eff 6-25-07 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-5-4. Receipts [REVOKED]

[Source: Amended at 15 Ok Reg 118, eff 10-15-97 (emergency); Amended at 15 Ok Reg 3155, eff 7-13-98 ; Amended at 21 Ok Reg 2737, eff 7-12-04 ; Amended at 24 Ok Reg 1945, eff 6-25-07 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-5-5. Renewal of license [REVOKED]

[Source: Amended at 15 Ok Reg 118, eff 10-15-97 (emergency); Amended at 15 Ok Reg 3155, eff 7-13-98 ; Amended at 24 Ok Reg 1945, eff 6-25-07 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-5-6. Continuing education requirements [REVOKED]

[Source: Amended at 14 Ok Reg 1747, eff 5-27-97 ; Amended at 21 Ok Reg 2737, eff 7-12-04 ; Amended at 24 Ok Reg 1945, eff 6-25-07 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-5-7. Temporary permits [REVOKED]

[Source: Amended at 15 Ok Reg 118, eff 10-15-97 (emergency); Amended at 15 Ok Reg 3155, eff 7-13-98 ; Amended at 17 Ok Reg 2929, eff 7-13-00 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-5-8. Procedures and instrumentation in fitting of hearing aids [REVOKED]

[Source: Added at 24 Ok Reg 1945, eff 6-25-07 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

SUBCHAPTER 7. REGULATORY ENFORCEMENT [REVOKED]

310:265-7-1. Suspension or revocation of licenses [REVOKED]

[**Source:** Amended at 15 Ok Reg 118, eff 10-15-97 (emergency); Amended at 15 Ok Reg 3155, eff 7-13-98 ; Amended at 21 Ok Reg 2737, eff 7-12-04 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-7-2. Prohibited acts [REVOKED]

[**Source:** Amended at 15 Ok Reg 118, eff 10-15-97 (emergency); Amended at 15 Ok Reg 3155, eff 7-13-98 ; Amended at 17 Ok Reg 2929, eff 7-13-00 ; Amended at 21 Ok Reg 2737, eff 7-12-04 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

310:265-7-3. Complaint procedure [REVOKED]

[**Source:** Added at 21 Ok Reg 2737, eff 7-12-04 ; Amended at 33 Ok Reg 1522, eff 11-1-16 ; Revoked at 40 Ok Reg 1545, eff 9-11-23]

**APPENDIX A. STATEMENTS REQUIRED BY OAC
310:265-5-4(E) [REVOKED]**

[Source: Added at 33 Ok Reg 1522, eff 11-1-16]

CHAPTER 266. HEARING AID DEALERS AND FITTERS REGULATIONS

[Source: Codified 9-11-23]

SUBCHAPTER 1. GENERAL PROVISIONS

310:266-1-1. Purpose

The rules in this Chapter implement the Hearing Aid Dealers and Fitters Act, 63 O.S. § 1-1750 *et seq.* and 15 O.S. § 764.1. Hearing Aid Providers - Contracts - Rescission Period.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-1-2. Definitions

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

"Act" means those statutes relating to Hearing Aid Dealers and Fitters codified at 63 O.S. §§ 1-1750 through 1-1754 and 15 O.S. § 764.1.

"Air-conduction hearing aid" means *a hearing aid that conducts sound to the ear through the air.* [Title 21 CFR Part 800, § 800.30]

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

"Department" means the Oklahoma State Department of Health.

"Direct on-site supervision" means a licensed hearing aid dealer and fitter shall accompany a temporary permit holder anytime the permit holder is performing the practice of fitting and dealing in hearing aids.

"Hearing aid" means any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing. It includes both air conduction and bone conduction devices.

"Hearing aid provider " means *a hearing aid dealer or fitter licensed pursuant to Section 1-1750 et seq. of Title 63 of the Oklahoma Statutes.* [Title 15 O.S. § 764.1]

"Hearing Screening" means a binary pure tone screening at a preset intensity level for the purpose of determining if an individual screened needs further testing prior to the selection or sale of a hearing aid.

"Indirect supervision" means that the supervising licensed hearing aid dealer and fitter is not required to be present in the same facility as is the person being supervised, but is available for voice to voice contact by telephone, radio, or other means at the initiation of the person being supervised. It means specific supervisory activities, other than direct supervision, that are performed by a licensed hearing aid dealer and fitter and that may include consultation, record review, consulting, and evaluation of audiotaped or videotaped sessions, at a minimum on a weekly basis.

"Involvement of a licensed person" means *the supervision, prescription, or other order, involvement, or intervention of a licensed*

person. [Title 21 CFR Part 800, § 800.30]

"License" means a license issued by the Commissioner to hearing aid dealers and fitters.

"Over-the-counter hearing aid" means *an air-conduction hearing aid that does not require implantation or other surgical intervention, and is intended for use by a person age 18 or older to compensate for perceived mild to moderate hearing impairment. The device, through tools, tests, or software, allows the user to control the hearing aid and customize it to the user's needs. The device may use wireless technology or may include tests for self-assessment of hearing loss. The device is available over-the-counter, without the supervision, prescription, or other order, involvement, or intervention of a licensed person, to consumers through in-person transactions, by mail, or online, provided that the device satisfies the requirements in Title 21 CFR Part 800, § 800.30(b).*

"Poses a reasonable threat" means *the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.* [63 O.S. Section 1-1454(E)(2)]

"Practice of fitting and dealing in hearing aids" means those practices used for the purpose of selection, adaptation and sale of hearing aids including direct observation of the ear together with the counseling and instruction pertaining thereto, the testing of human hearing for these purposes and the making of impressions for earmolds.

"Rescission period" means *thirty (30) calendar days from the day the hearing aid is placed in the possession of the purchaser.* [15 O.S. § 764.1 (A) (3)]

"Sell" or "sale" means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or dealers.

"Sponsor" means a person who is licensed and in good standing pursuant to this Chapter to fit and dispense hearing aids and who agrees to train and supervise a temporary permit holder.

"Substantially relates" means *the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness of ability to perform one or more of the duties or responsibilities necessarily related to the occupation.* [63 O.S. 1-1454 (E)(1)]

"Temporary permit" means a permit issued while the applicant is training to become a licensed hearing aid dealer or fitter.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

SUBCHAPTER 3. QUALIFICATIONS

310:266-3-1. General qualifications

(a) Applicants for a hearing aid dealer or fitter temporary permit or license must, at a minimum, meet the following criteria:

- (1) At least eighteen (18) years of age;
- (2) Has a GED or high school diploma; and

- (3) Has submitted to a background check.
- (b) A criminal record shall not itself bar an applicant from licensing, but evidence of such record may be considered along with other information in determining whether to issue a license.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-3-2. Reciprocity

- (a) Whenever the Department determines another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to these regulations, and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants pursuant to these regulations are qualified to dispense and fit hearing aids, the Department may issue an Oklahoma license to applicants who hold current, unsuspended and unrevoked certificates or licenses to fit and sell hearing aids in such other state or jurisdiction.
- (b) Applicants must submit an application for reciprocity on forms as designated by the Department.
- (c) Applicants must submit an Out-of-State Licensure Verification form filled out by the other licensing state.
- (d) Applicants must register with the Department.
- (e) Active duty military personnel and their spouses seeking a reciprocal license are not subject to the fees established for the first period of issuance of a license.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

SUBCHAPTER 5. TEMPORARY PERMITS, EXAMINATIONS AND LICENSURE

310:266-5-1. Temporary permits

- (a) An applicant who is at least 18 years of age and has a GED or high school diploma shall be entitled to a temporary hearing aid dealer or fitter permit upon application to the Commissioner if minimum qualifications are met.
- (b) Once a complete application is received and eligibility confirmed, the Department will issue a temporary permit entitling the applicant to engage in the fitting and sale of hearing aids for a period up to twelve (12) months until the temporary permit holder becomes fully licensed.
- (c) The temporary permit holder shall complete training under the direct on-site supervision of a Sponsor who holds a valid Oklahoma Hearing Aid Dealers' and Fitters' License. The Sponsor shall be responsible for direct on-site supervision and training of a temporary permit holder until they have passed every portion of the practical exam.
- (d) The temporary permit holder must continue to receive indirect supervision from their Sponsor until they are fully licensed as a hearing aid dealer and fitter.
- (e) If full licensure is not achieved in the twelve (12) month period, an additional temporary permit may be issued one (1) time by the

Department within the subsequent twelve (12) months upon request for a payment of the Fifteen Dollar (\$15.00) fee.

(f) A maximum of three (3) people with temporary permits may work under the direct on-site supervision of a Sponsor holding a valid Oklahoma Hearing Aid Dealers' and Fitters' License at one time.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-5-2. License or permit required

(a) No person shall engage in the sale or practice of fitting hearing aids or display a sign or in any other way advertise or represent themselves as a person who practices the fitting and sale of hearing aids without first obtaining a license or permit in accordance with these rules from the Department. The license shall be conspicuously posted in every physical place of business where the licensee practices. Duplicate licenses may be issued by the Department to valid license holders operating more than one office, without additional payment.

(b) A corporation, partnership, trust, association or other like organization may engage in the business of selling or offering for sale hearing aids at retail, provided it employs only properly licensed persons in the direct sale and fitting of such products. Such corporations, partnerships, trust, associations or other like organizations shall make available to the Department information related to licensed dealers upon request.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-5-3. Examinations

(a) A Sponsor shall attest to the temporary permit holder's readiness to take the practical examination.

(b) An applicant must wait a minimum of seven (7) days before applying to retake any failed section of the practical examination. A temporary permit holder is not required to retake any previously passed section of the practical exam, provided they pass all sections of the practical exam within the allowable timeframe.

(c) Upon submission of the application to take the practical examination, a temporary permit holder is eligible to take the International Licensing Examination for Hearing Healthcare Professionals written exam or other written exam approved by the Department.

(d) Temporary permit holders must pass the practical and written examinations to be eligible for a full license.

(e) Any temporary permit holder who fails a section of the practical examination or the written examination three (3) times will have their temporary permit revoked and will be required to wait a minimum of one (1) year from their last failed testing date to reapply for a new temporary permit.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-5-4. Contents of examinations

(a) The practical examination shall consist of tests pertaining to the sale and fitting of hearing aids as follows:

- (1) Technique
 - (A) Pure tone audiometry
 - (B) Recorded speech audiometry
- (2) Masking;
- (3) Earmold impressions; and
- (4) Detecting damage and defects.

(b) A temporary permit holder must pass all sections of the practical exam and the International Licensing Examination for Hearing Healthcare Professionals written examination or other Department approved written examination to be eligible for a full license.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-5-5. Initial licensure

An applicant must meet the General Qualifications as required in OAC 310:266-3-1, file a complete application with the Department, pay the required fee in full, and pass all required examinations in order to be licensed.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-5-6. Renewal of license

(a) Each person who engages in the fitting and sale of hearing aids shall pay to the Department the annual renewal fee, submit required documentation, and keep licensure certificate conspicuously posted in every place of business at all times. A license expired for a length of time greater than five years will require the holder of an expired license to follow the initial licensure process.

(b) At the time of renewal, the licensee must provide the following:

- (1) Documentation of required continuing education hours from an approved source;
- (2) Updated address(es) if applicable;
- (3) Copy of a current receipt or contract template;
- (4) Copy of a patient file template;
- (5) Verification all instruments meet the American National Standard Specifications for Audiometers according to factory standards, dated within the last three years;
- (6) The percentage of clients tested under an exception; and
- (7) Sponsor information to include the name and permit number of all temporary permit holders sponsored in the licensure year. Information shall include the start and end dates for each instance of direct on-site supervision.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-5-7. Continuing education requirements

Each applicant for renewal of a hearing aid dealer or fitter license must submit written evidence showing completion of ten (10) clock hours

of continuing education, completed during the previous year pertaining to the hearing sciences. The continuing education hours must be approved by the International Hearing Society or the Oklahoma Hearing Aid Dispenser's Association.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

SUBCHAPTER 7. FEES

310:266-7-1. Fees

(a) Fees for license applications, permits and examinations shall be as follows:

- (1) Temporary Permit Application Fee - \$15.00;
- (2) Temporary Permit Extension Fee - \$15.00;
- (3) Examination Fee - payable directly to the Department approved examination administrator;
- (4) Reexamination Fee - payable to the Department approved examination administrator;
- (5) Initial License Application Fee - \$50.00;
- (6) Renewal License Fee - \$50.00;
- (7) Renewal of License (within thirty-day grace period) - \$75.00; and
- (8) Renewal of License (after thirty-day grace period) - \$100.00.

(b) Application fees are non-refundable.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

SUBCHAPTER 9. INSTRUMENTS AND TESTING

310:266-9-1. Procedures and instrumentation in fitting of hearing aids

(a) All instruments used to measure thresholds shall be certified to meet American National Standard Specifications for Audiometer, S3.6-1969 or a standard which supersedes it. In addition, some form of live voice or recorded voice testing must be made to obtain at least a subjective evaluation of the individual's ability to discriminate. In the case of live voice testing, the tests should be run without visual cue. A hearing aid of similar characteristics can be refitted to an individual without a hearing test if this is done within six (6) months of the original fitting and original hearing test.

(b) Hearing testing for the purpose of fitting hearing aids shall not be conducted where ambient noise levels exceed 45 dB measured on a slow weighted dB (a) scale. If the testing environment exceeds 45 dB, the testing shall be considered a Hearing Screening and individuals informed that further testing should be done to determine auditory thresholds for the selection of a hearing aid.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-9-2. Exceptions

(a) If a patient is incapable of presenting at a testing center, the licensed hearing aid dealer and fitter must maintain information in the patient file detailing the physical address where the testing occurred and why the testing was not done in a testing center.

(b) When utilizing an exception, the licensed hearing aid dealer and fitter must provide documentation to the patient signed by both the licensed hearing aid dealer and fitter and the patient, the patient's guardian, parent or their power of attorney. The documentation shall include:

- (1) Testing environment specification requirements as outlined in this chapter;
- (2) A description of the alternate testing environment;
- (3) The physical address of the alternate testing location;
- (4) The reason for testing at the alternate location;
- (5) A list of any testing environment requirements that may not be met at the alternate location; and
- (6) Notification that the test may not be as accurate when conducted outside a testing center.

(c) Testing exceptions will not be granted for the purposes of mass gatherings and are only intended for patients who cannot be physically present at a testing center.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

SUBCHAPTER 11. REGULATORY ENFORCEMENT

310:266-11-1. Revocation or suspension of license

(a) The Commissioner shall have the power and duty to deny, suspend, or revoke the license of any person registered under this act, after a hearing, based upon a substantiated finding that the licensee has not operated in compliance with applicable laws, rules, and standards. Any action taken relative to denial, suspension or revocation of a license shall be initiated in compliance with the Oklahoma Administrative Procedures Act.

(b) The Commissioner shall have the power and duty to request administrative penalties pursuant to 63 O.S. §1-1701 *et seq.*

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-11-2. Prohibited acts

No person shall:

- (1) Buy, sell, or fraudulently obtain a license;
- (2) Alter a license with fraudulent intent;
- (3) Use or attempt to use the valid license of another;
- (4) Willfully make a false or misleading statement in an application for a license or application for renewal;

- (5) Violate the temporary permit supervision requirements stated in 310:266-5-1;
- (6) Sell a hearing instrument to a minor without receiving documentation from a licensed physician within six (6) months prior to fitting;
- (7) Represent in any manner that a hearing aid dealer and fitter is a licensed physician or audiologist or performs diagnostic procedures to determine the cause of a hearing impairment;
- (8) Use false or misleading advertisement;
- (9) Receive a criminal conviction for any crime that substantially relates to the practice of hearing aid dealing and fitting and poses a reasonable threat to public safety;
- (10) Obtain any fee or make any sale by fraud or misrepresentation;
- (11) Directly or indirectly giving or offering to give money or anything of value to any person who advises another in a professional capacity as an inducement to influence the person or have the person influence others to purchase or contract to purchase products sold or offered for sale by a licensee or influencing person to refrain from dealing in the products of competitors;
- (12) Commit gross incompetence or negligence in the fitting and selling of hearing aids; or
- (13) Fail to respond to a written request by the Department within thirty (30) days.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

SUBCHAPTER 13. REQUIRED DOCUMENTS AND COMPLAINT PROCEDURES

310:266-13-1. Contracts and return policies

(a) A receipt or contract shall be provided to each person supplied with a hearing aid. It shall contain the licensee's signature, physical business address, state license number, make and model specifications of the hearing aid purchased, and full terms of the sale clearly stated. If applicable, the receipt shall be clearly marked as "used" or "reconditioned", with any terms of guarantee.

(b) The receipt or contract for a hearing aid shall include an original signature of a licensed hearing aid dealer and fitter. The holder of a temporary license may not issue a receipt unless the original signature of the direct supervisor also appears on the receipt or contract. The receipt shall have the state license number of both the licensed hearing aid dealer and fitter and the temporary licensed person.

(c) *A hearing aid provider shall provide a thirty-day rescission period on a hearing aid purchase consistent with the following terms:*

- (1) The purchaser shall have the right to cancel for any reason if the hearing aid is returned to the hearing aid provider in the same condition as when purchased, ordinary wear and tear*

excepted, within thirty (30) days of the date of receipt of the hearing aid. The thirty-day recession period shall be tolled for any period during which the hearing aid provider takes possession or control of a hearing aid after its original delivery.

(2) The purchaser is entitled to receive a full refund of the purchase price, provided the hearing aid provider may be entitled to a cancellation fee no greater than ten percent (10%) of the total purchase price for the hearing aid or One Hundred Fifty Dollars (\$150.00) per hearing aid, whichever is less.

(3) The hearing receipt or contract shall include, in immediate proximity to the space reserved for the signature of the purchaser, the specific statement in all bold-faced type capital letters no smaller than the largest print used in the written receipt or contract: OKLAHOMA STATE LAW GIVES THE PURCHASER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON BY RETURNING THE HEARING AID TO THE HEARING AID PROVIDER AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRTIETH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID. BY LAW, THE HEARING AID PROVIDER MAY BE ENTITLED TO A CANCELLATION FEE NOT TO EXCEED TEN PERCENT (10%) OF THE TOTAL PURCHASE PRICE FOR THE HEARING AID OR ONE HUNDRED FIFTY DOLLARS (\$150.00) PER HEARING AID, WHICHEVER IS LESS, TO COVER THE COSTS INCURRED BY THE HEARING AID PROVIDER. IF THE PURCHASER RETURNS THE HEARING AID WITHIN THE THIRTY-DAY PERIOD, THE PURCHASER WILL RECEIVE A REFUND OF \$__.00 (HEARING AID PROVIDER MUST INSERT THE DOLLAR AMOUNT OF THE REFUND). IF THE HEARING AID PROVIDER FAILS TO COMPLY WITH THIS PROVISIONS, COMPLAINTS SHOULD BE FORWARDED TO: OKLAHOMA STATE DEPARTMENT OF HEALTH OCCUPATIONAL LICENSING DIVISION 123 ROBERT S. KERR AVENUE OKLAHOMA CITY, OK 73102 [Title 15 O.S. § 764.1(B)(3)]

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-13-2. Patient file

The following information and measurements shall be included in each customer/patient file or permanent record, and documented for the client:

- (1) A description, including location of any visible, congenital or deformity of the ear;
- (2) Whether the client has active, or a history of, drainage from the ear within the last 90 days.
- (3) Whether the client has acute or chronic dizziness;
- (4) Whether the client has unilateral hearing loss of a sudden or recent onset within the previous 90 days;
- (5) Whether the client has a history of sudden or rapidly progressive hearing loss within the previous 90 days;

(6) Whether the client has an Audiometric Air Bone Gap equal to or greater than 15 decibels at 500 Hertz, 1000 Hertz and 2000 Hertz;

(7) Whether the client has visible evidence of significant cerumen accumulation or a foreign body in the ear canal; and

(8) All documentation required in instances where exceptions have occurred.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-13-3. Address of place of business

When a hearing aid dealer and fitter changes business addresses, the licensee shall notify the Department, in writing, within thirty (30) days of the address change. The address provided must be a physical address. A post office box number by itself does not fulfill this requirement.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

310:266-13-4. Complaint procedures

Any person who believes a hearing aid dealer and fitter is operating contrary to the Act or these rules may file a complaint with the Department. The Department shall receive complaints verbally or in writing. Investigations will be completed and a written report of findings provided to the hearing aid dealer and fitter and to the complainant via email if a copy is requested. The identity of the complainant shall not be disclosed by the Department.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

SUBCHAPTER 15. OVER-THE-COUNTER HEARING AIDS

310:266-15-1. Over-the-counter hearing aid sales

(a) Over-the-counter (OTC) hearing aids that satisfy the conditions in Title 21 CFR Part 800, § 800.30 may be available for sale over-the-counter, without the supervision, prescription, or other order intervention or involvement of a licensed person, to consumers through in-person transactions, by mail, or online. The term "sale" includes leases or rentals.

(b) OTC hearing aids are required to satisfy the conditions imposed by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 9 § 301 *et seq.* and the U.S. Food and Drug Administration rules in Title 21 CFR Part 800 including without limitation:

- (1) Labeling;
- (2) Output limits;
- (3) Electroacoustic performance limits;
- (4) Design requirements; and

(5) Conditions for sale of an OTC hearing aid - consumer age minimum of 18 years old with perceived mild to moderate hearing impairment.

(c) A license issued under this Chapter is not required for the sale of OTC hearing aids. Persons licensed under this Chapter may sell OTC hearing aids.

[Source: Added at 40 Ok Reg 1554, eff 9-11-23]

CHAPTER 270. HAZARDOUS WASTE MANAGEMENT REGULATIONS [REVOKED]

[**Authority:** 63 O.S., §§ 1-2001 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:270-1-1. Purpose [REVOKED]

[**Source:** Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-1-2. Definitions [REVOKED]

[**Source:** Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-25-95]

SUBCHAPTER 3. INCORPORATION BY REFERENCE [REVOKED]

310:270-3-1. Reference to 40 CFR [REVOKED]

[**Source:** Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Amended at 10 Ok Reg 3457, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2629, eff 6-25-94 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-3-2. Incorporation by reference [REVOKED]

[**Source:** Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-3-3. Subsequent incorporations [REVOKED]

[**Source:** Amended at 8 Ok Reg 3185, eff 7-8-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 10 Ok Reg 81, eff 10-5-92 (emergency); Revoked at 10 Ok Reg 1679, eff 6-1-93]

310:270-3-4. Terminology related to 40 CFR [REVOKED]

[**Source:** Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-3-5. Inclusion of CFR citations and definitions [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-3-6. Inconsistencies or duplications [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

SUBCHAPTER 5. ADDITIONAL GENERATOR REQUIREMENTS [REVOKED]

310:270-5-1. Disposal plans [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-5-2. Reserved [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-5-3. SQG exemption from disposal plan requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-5-4. Quarterly reporting [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-5-5. No endangerment provisions for generators [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-5-6. Manifest requirement [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

SUBCHAPTER 7. ADDITIONAL TRANSPORTER REQUIREMENTS [REVOKED]

310:270-7-1. Transporters required to register [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-7-2. Leakage, other releases prohibited in transport [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-7-3. Manifest, disposal plan required [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-7-4. Mixing waste prohibited by transporters [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

SUBCHAPTER 8. TRANSFER STATIONS [REVOKED]

310:270-8-1. Definitions [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-8-2. Scope and applicability [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-8-3. Transfer Station Development & Operational Plans [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-8-4. Public notice required [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-8-5. Fees [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-8-6. Modifications [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-8-7. Exclusionary siting criteria [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ;
Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-8-8. No endangerment [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ;
Revoked at 12 Ok Reg 2305, eff 6-26-95]

SUBCHAPTER 9. ADDITIONAL TREATMENT, STORAGE, DISPOSAL & RECYCLING REQUIREMENTS [REVOKED]

310:270-9-1. No endangerment or degradation [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ;
Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at
12 Ok Reg 2305, eff 6-26-95]

310:270-9-2. Reporting [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-95 ; Amended at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12
Ok Reg 2305, eff 6-26-95]

310:270-9-3. Financial security mechanisms [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ;
Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-9-4. Buffer zones [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ;
Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-9-5. Provisions for on-site inspectors [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ;
Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-9-6. Additional closure requirements [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ;
Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-9-7. Additional waste analysis requirements [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ;
Revoked at 12 Ok Reg 2305, eff 6-26-95]

SUBCHAPTER 11. ADDITIONAL PERMIT PROCEDURES [REVOKED]

310:270-11-1. Permit application procedure [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-11-2. County Commissioner involvement in permit issuance [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-11-3. Emergency plans relating to affected property owners [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-11-4. Exclusionary siting criteria [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

SUBCHAPTER 13. MISCELLANEOUS [REVOKED]

310:270-13-1. Confidential business information [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-13-2. Incidents [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-13-3. Zoning [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-13-4. Fees for services [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

SUBCHAPTER 15. ADDITIONAL CLASS I INJECTION WELL REQUIREMENTS [REVOKED]

310:270-15-1. Compliance with this Subchapter [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-15-2. Construction requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-15-3. Operating requirements [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-15-4. Testing and monitoring [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-15-5. Record-keeping and reporting requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-15-6. Permit information requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-15-7. Abandonment and plugging [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-15-8. Bifurcation of injection well construction permit hearing [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-15-9. Dedication [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-15-10. Lifetime [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

SUBCHAPTER 17. TAX CREDIT AND WASTE REDUCTION INCENTIVES [REVOKED]

PART 1. TAX CREDIT [REVOKED]

310:270-17-1. Definitions [REVOKED]

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-2. Scope and applicability of tax credit [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-3. Tax credit limitations [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-4. Application procedures for tax credit [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-5. Criteria for approval of tax credit [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-6. Special conditions: new and unproven technologies [REVOKED]

[Source: Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-7. Required information in tax credit application [REVOKED]

[Source: Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

PART 3. WASTE REDUCTION INCENTIVES [REVOKED]

310:270-17-20. Scope and applicability [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-21. Fee reduction calculations [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-22. Limitations [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-23. Waste Reduction Plans [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-17-24. Application for fee reduction [REVOKED]

[Source: Added at 10 Ok Reg 81, eff 10-5-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

SUBCHAPTER 19. ADDITIONAL RULES FOR RECYCLING [REVOKED]

PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS [REVOKED]

310:270-19-1. Off-site recycling facilities [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-2. Applicability [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-3. Operating record [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-4. Additional requirements for recycling hazardous waste fuel [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-5. Fees [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-92 (emergency); Added at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-6. Processed hazardous waste to be recycled [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

PART 5. MOBILE RECYCLING UNITS [REVOKED]

310:270-19-15. Mobile Units [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-16. Public notice requirements for Mobile Units [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Amended at 10 Ok Reg 81, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1679, eff 6-1-93 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-17. Spills or releases [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-18. Notification of mobilization [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-19. Fees [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

PART 7. TANK AND CONTAINER RECYCLERS [REVOKED]

310:270-19-29. Applicability [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-30. No endangerment [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-31. Handling of tank and container residue [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-32. Notification required [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-33. Recordkeeping [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

310:270-19-34. Storage requirements [REVOKED]

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92 ; Revoked at 12 Ok Reg 2305, eff 6-26-95]

CHAPTER 275. INSPECTOR REGULATIONS [REVOKED]

[**Authority:** 59 O.S., §§ 1000.1 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:275-1-1. Purpose [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1635, eff 6-12-03]

310:275-1-2. Definitions [REVOKED]

[**Source:** Amended at 11 Ok Reg 3953, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1683, eff 6-12-95 ; Amended at 16 Ok Reg 2498, eff 6-25-99 ; Revoked at 20 Ok Reg 1635, eff 6-12-03]

SUBCHAPTER 3. INSPECTOR LICENSE CATEGORIES, QUALIFICATIONS, REQUIREMENTS, AND FEES, CERTIFICATION AND CONTINUING EDUCATION [REVOKED]

310:275-3-1. Categories and classifications of inspector licenses [REVOKED]

[**Source:** Amended at 11 Ok Reg 3953, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1683, eff 6-12-95 ; Revoked at 20 Ok Reg 1635, eff 6-12-03]

310:275-3-2. Qualifications for inspector licensure [REVOKED]

[**Source:** Amended at 11 Ok Reg 3953, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1683, eff 6-12-95 ; Revoked at 20 Ok Reg 1635, eff 6-12-03]

310:275-3-3. License requirements for inspectors [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1635, eff 6-12-03]

310:275-3-4. Fees, certification and continuing education for inspectors [REVOKED]

[**Source:** Amended at 11 Ok Reg 3953, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1683, eff 6-12-95 ; Revoked at 20 Ok Reg 1635, eff 6-12-03]

310:275-3-5. Continuing education courses [REVOKED]

[**Source:** Added at 14 Ok Reg 1748, eff 5-27-97 ; Revoked at 20 Ok Reg 1635, eff 6-12-03]

CHAPTER 276. HOME INSPECTION INDUSTRY [REVOKED]

Editor's Note: *Effective 11-1-08, the authority to "adopt, amend, repeal, and promulgate rules as may be necessary to regulate . . . home inspectors" was transferred from the Oklahoma State Department of Health to the Construction Industries Board [see 59 O.S., § 1000.4]. The Construction Industries Board promulgated emergency rules on 11-14-08 [see 26 Ok Reg 387 and 390], and subsequently superseded those emergency rules with permanent rules at OAC 158:70 on 7-11-09 [see also OAC 158:10-3-1 for related fines]. The Department of Health later revoked the rules regulating home inspectors in this Chapter 276, effective 9-12-14. For additional information about this transfer, see Laws 2008, c. 405.*

[**Authority:** 59 O.S., §858-621 et seq.]

[**Source:** Codified 6-12-03]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:276-1-1. Purpose [REVOKED]

[**Source:** Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-1-2. Definitions [REVOKED]

[**Source:** Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 21 Ok Reg 2742, eff 7-12-04 ; Amended at 22 Ok Reg 2393, eff 7-11-05 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-1-3. Standards of workmanship and practice [REVOKED]

[**Source:** Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 23 Ok Reg 2359, eff 6-25-06 ; Amended at 24 Ok Reg 1949, eff 6-25-07 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE [REVOKED]

310:276-3-1. Procedures of the Committee [REVOKED]

[**Source:** Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 24 Ok Reg 1949, eff 6-25-07 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

SUBCHAPTER 5. LICENSE REQUIREMENTS, LICENSE FEES, LICENSE PERIOD, RE-EXAMINATION, DISPLAY AND INSURANCE [REVOKED]

310:276-5-1. Home inspection license requirements [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-5-2. License fees, license period, re-examination, display, and insurance requirements [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 22 Ok Reg 2393, eff 7-11-05 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

SUBCHAPTER 7. [RESERVED]

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS, COURSE APPROVAL REQUIREMENTS, INSTRUCTOR REQUIREMENTS, CONTINUING EDUCATION, DENIED APPLICATION APPEAL, SUBMISSION OF RECORDS, AND SUBSTANTIAL COMPLIANCE AND RECIPROCITY [REVOKED]

310:276-9-1. Qualifications and examination applications [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-9-2. Examinations [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 21 Ok Reg 2742, eff 7-12-04 ; Amended at 23 Ok Reg 2359, eff 6-25-06 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-9-3. Course approval requirements [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 24 Ok Reg 1949, eff 6-25-07 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-9-4. Instructor requirements [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-9-5. Continuing education [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 24 Ok Reg 1949, eff 6-25-07 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-9-6. Denied application appeal [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-9-7. Submission of records [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 24 Ok Reg 1949, eff 6-25-07 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-9-8. Substantial compliance and reciprocity [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 24 Ok Reg 1949, eff 6-25-07 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

SUBCHAPTER 11. LICENSE REVOCATION AND SUSPENSION AND ADDITIONAL PROHIBITED ACTS [REVOKED]

310:276-11-1. License revocation and suspension [REVOKED]

[Source: Added at 20 Ok Reg 511, eff 1-6-03 (emergency); Added at 20 Ok Reg 1638, eff 6-12-03 ; Revoked at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 24 Ok Reg 1949, eff 6-25-07 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

310:276-11-2. Additional prohibited acts [REVOKED]

[Source: Revoked at 20 Ok Reg 1638, eff 6-12-03 ; Amended at 24 Ok Reg 1949, eff 6-25-07 ; Revoked at 31 Ok Reg 1580, eff 9-12-14]

CHAPTER 280. RADIATION PROTECTION REGULATIONS [REVOKED]

[**Authority:** 63 O.S.Supp.1991, §§ 1-1501 et. seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:280-1-1. Purpose [REVOKED]

[**Source:** Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-1-2. Definitions [REVOKED]

[**Source:** Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-1-3. Definitions used in subchapter 11 [REVOKED]

[**Source:** Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-1-4. General safety requirements for use of x-rays in the healing arts [REVOKED]

[**Source:** Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-1-5. Exemptions [REVOKED]

[**Source:** Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-1-6. Registration [REVOKED]

[**Source:** Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

SUBCHAPTER 3. EXPOSURE LIMITS, MONITORING AND RECORDKEEPING [REVOKED]

310:280-3-1. Maximum permissible exposure limits [REVOKED]

[**Source:** Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-3-2. Surveys and monitoring [REVOKED]

[**Source:** Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-3-3. Radiation exposure records and reports [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-3-4. Control of exposure [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-3-5. Storage of radioactive materials [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-3-6. Control of radioactive contamination [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

SUBCHAPTER 5. RADIATION LABELING [REVOKED]

310:280-5-1. Radiation labeling [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

SUBCHAPTER 7. DISPOSAL OF RADIOACTIVE WASTES [REVOKED]

310:280-7-1. Disposal of Radioactive Wastes [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

SUBCHAPTER 9. REFERENCE TABLES [REVOKED]

310:280-9-1. RBE values [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-9-2. Exempt quantities of radioisotopes [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-9-3. Concentrations in water and air above natural background [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

SUBCHAPTER 11. USE OF X-RAYS IN THE HEALING ARTS [REVOKED]

310:280-11-1. Scope [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-11-2. Fluoroscopic installations [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-11-3. Diagnostic radiographic installations other than dental and veterinary [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-11-4. Special requirements for mobile diagnostic radiographic equipment [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-11-5. Dental radiographic installations [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-11-6. Therapeutic x-ray installations [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-11-7. Special requirements for x-ray therapy equipment operated at potentials of 60 kVp and below [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-11-8. Veterinary medicine radiographic installations [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

310:280-11-9. Veterinary medicine fluoroscopic installations [REVOKED]

[Source: Revoked at 8 Ok Reg 3503, eff 8-15-91 (emergency); Revoked at 9 Ok Reg 1643, eff 5-29-92]

CHAPTER 281. DIAGNOSTIC X-RAY SYSTEMS

[**Authority:** 63 O.S. Supp. 1991, §§ 1-1501 et seq.]

[**Source:** Codified 5-29-92]

SUBCHAPTER 1. GENERAL PROVISIONS

310:281-1-1. Purpose

Except as otherwise specifically provided, these regulations apply to all persons who use diagnostic x-ray systems.

[**Source:** Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-1-2. Definitions

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

"Absorbed dose" means the energy imparted to matter by ionizing radiation per unit mass of irradiated material at the place of interest. The special units of absorbed dose are the rad and the gray (Gy). (See definitions of "Rad" and "Gray" in this Section.)

"Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

"ACR Technical Standard for Teleradiology" means the degree or level of requirements for the performance of teleradiology to include qualifications of personnel, equipment guidelines, licensing, credentialing, communication, quality control, and quality improvement to serve as a model for all physicians and health care workers who utilize teleradiology.

"Act" means applicable portions of the Oklahoma Public Health Code. (Title 63 O.S. Supp. 2001, Sections 1-1501.1 et seq.)

"Adult" means any individual 18 or more years of age.

"Aluminum equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

"American College of Radiology" (ACR) means the principal organization of radiologists, radiation oncologists, and clinical medical physicists in the United States that is a non-profit professional society whose primary purposes are to advance the science of radiology, improve service to the patient, study socioeconomic aspects of the practice of radiology, and encourage continuing education for radiologists, radiation oncologists, medical physicists, and persons practicing in allied professional fields.

"Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into a diagnostic x-ray system or subsystem. The term includes the owner of a diagnostic x-ray system and/or his or her employee or an agent who assembles components into a diagnostic x-ray system that is

subsequently used to provide professional or commercial services.

"Attenuate" means to reduce the exposure rate upon passage of radiation through matter.

"Attenuation block" means a block or stack, having dimensions 20 centimeters by 20 centimeters by 3.8 centimeters, of type 1100 aluminum alloy or other materials having equivalent attenuation.

"Automatic exposure control" means a device which automatically controls one or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation. (See also definition of "Phototimer" in this section.)

"Beam axis" means a line from the source through the centers of the x-ray fields.

"Beam-limiting device" means a device which provides a means to restrict the dimensions of the x-ray field.

"Beam quality" means a term that describes the penetrating power of the x-ray beam. This is identified by half-value layer and is influenced by kilovolt peak (kVp) and filtration.

"Bone densitometer" means a system intended for medical purposes to measure bone density and mineral content by x-ray transmission measurements through the bone and adjacent tissues.

"Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year begins in January and subsequent calendar quarters are arranged so that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No permittee can change the method observed by that individual in determining calendar quarters for purposes of these regulations except at the beginning of a calendar year.

"Calendar year" means the time period running from January 1st through December 31st.

"Calibration" means the determination of: the response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or the strength of a source of radiation relative to a standard.

"Central axis of the beam" means a line passing through the virtual source and the center of the plane figure formed by the edge of the first beam limiting device.

"Cephalometric system" means a system intended for the radiographic visualization and measurement of the dimensions of the human head.

"Certified components" means components of diagnostic x-ray systems, which are subject to regulations promulgated under the Radiation Control for Health and Safety Act of 1968. (21 CFR Parts 1000-1030.)

"Certified system" means any diagnostic x-ray system which has one or more certified component(s).

"CFR" means Code of Federal Regulations.

"Changeable filter" means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical, or physical process.

"Coefficient of variation" (C) means the ratio of the standard deviation to the mean value of a population of observations.

"Collimator" means a device or mechanism by which the x-ray beam is restricted in size.

"Computed tomography" (CT) means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

"Computed tomography dose index" (CTDI) means the integral from -7T to +7T of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic section thickness and the number of tomograms produced in a single scan.

"Contrast scale" (CS) means the change in the linear attenuation coefficient per CTN relative to water.

"Control panel" means that part of the radiation machine control upon which are mounted the switches, knobs, push buttons, and other hardware necessary for manually setting the technique factors.

"CT conditions of operation" means all selectable parameters governing the operation of a CT x-ray system including, but not limited to, nominal tomographic section thickness, filtration, and the technique factors as defined in 310:281-11-15.

"CT gantry" means the tube housing assemblies, beam limiting devices, detectors and the supporting structures and frames, which hold these components.

"CT number" (CTN) means the number used to represent the x-ray attenuation associated with each elemental area of the CT image.

"Dead-man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

"Declared pregnant woman" means a woman who has voluntarily informed the permittee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared woman voluntarily withdraws the declaration in writing or is no longer pregnant.

"Deep dose equivalent" (DDE) (H_D) means the dose which applies to external whole-body exposure and is the dose equivalent at a tissue depth of 1 cm (1000 mg/cm^2).

"Department" means the Oklahoma State Department of Health.

"Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

"Diagnostic-type tube housing" means an x-ray tube housing so constructed that the leakage radiation measured at a distance of 1 meter from the source cannot exceed 100 mr in 1 hour when the tube is operated at its maximum continuous rated current for the maximum rated tube potential.

"Diagnostic x-ray system" means an x-ray system designed for irradiation of any part of the human body for the purpose of diagnosis or visualization. Types of diagnostic x-ray systems are as follows:

(A) **"Mobile diagnostic x-ray system"** means a diagnostic x-ray system mounted on a permanent base

with wheels and/or casters for moving while completely assembled.

(B) **"Portable diagnostic x-ray system"** means a diagnostic x-ray system designed to be hand-carried.

(C) **"Stationary diagnostic x-ray system"** means a diagnostic x-ray system which is installed in a fixed location. A diagnostic x-ray system installed in a vehicle designed to be operated on the highway is considered to be a stationary x-ray system.

"Dose" means absorbed dose or dose equivalent as appropriate.

"Dose equivalent" (DE) (H_T) means a quantity that expresses on a common scale for all radiation a measure of the postulated effect on a given organ. It is the absorbed dose in rads times certain modifying factors. The units of dose equivalent are the rem and sievert (Sv). (See definitions of "Rem" and "Sievert" in this Section.)

"Dose limits" means the permissible upper bounds of radiation doses established in accordance with this Chapter. For the purposes of this Chapter, "limits" is an equivalent term.

"Dose monitoring system" means a system of devices for the detection, measurement, and display of quantities of radiation.

"Dose monitor unit" means a unit response from the dose monitoring system from which the absorbed dose can be calculated.

"Dose profile" means the dose as a function of position along a line.

"Effective dose equivalent" (EDE) (H_E) is the sum of the products of the dose equivalent to the organ or tissue (H_T) and the weighting factors (WT) applicable to each of the body organs or tissues that irradiated ($H_E = \sum W_T H_T$).

"Elemental area" means the smallest area within a tomogram for which the x-ray attenuation properties of a body are depicted.

"Embryo/fetus" means the developing human organism from conception until the time of birth.

"Entrance exposure" means the exposure, measured in air with the specified technique, calculated or adjusted to represent the exposure at the point where the center of the useful beam enters the patient expressed in roentgens.

"Entrance exposure rate" means the exposure per unit time at the point where the center of the useful beam enters the patient.

"Exposure" means the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a unit mass volume of air are completely stopped in air. The special unit of exposure is the roentgen. (See definition of "Roentgen" in this Section.)

"Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

"Extremity" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee. The arm above the elbow and the leg above the knee are considered part of the whole body.

"Facility" means the location at which one or more diagnostic x-ray systems, subject to these rules, are located and/or installed. Facilities

with several such systems located and/or installed in different buildings and/or vehicles, but at the same street address and under the same administrative control will be considered to be one facility.

"Field emission systems" means systems which uses an x-ray tube in which electron emission from the cathode is due solely to the action of an electric field.

"Field flattening filter" means a filter used to provide dose uniformity over the area of a useful beam of x-rays at a specified depth.

"Field size" means the dimensions along the major axes of an area in a plane perpendicular to the central axis of the useful beam of incident radiation at the normal treatment distance and defined by the intersection of the major axes and the 50 percent isodose line. Material shall be placed in the beam such that the dose maximum is produced at the normal treatment distance when the field size is being determined.

"Filter" means material placed in the useful beam to absorb preferentially selected radiations.

"Fluoroscopic imaging assembly" means a subsystem in which x-ray photons produce a fluoroscopic image. It includes the image receptor(s) such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly.

"Focal spot" means the area projected on the anode of the x-ray tube by the electrons accelerated from the cathode and from which the useful beam originates.

"Fog test" means an evaluation of increased density and reduced contrast on film, which has not been exposed to the radiation field. This is usually done by processing unexposed film and measuring the density.

"Gantry" means that part of the system supporting and allowing possible movement of the radiation head.

"General purpose x-ray system" means any diagnostic x-ray system, which, by design, is not limited to radiographic examination of specific anatomical regions.

"Gonadal shield" means a protective barrier for the testes or ovaries.

"Gray" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule/kilogram (100 rads) of tissue.

"Half-value layer" (HVL) means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition, the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

"Healing arts" means those professional disciplines authorized by the laws of this state to use x-rays in the diagnosis of human or animal disease.

"Healing arts screening" means the testing of human beings using diagnostic x-ray systems for the detection or evaluation of health indications when such tests are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to prescribe such x-ray examinations for the purpose of diagnosis.

"High radiation area" means any area, accessible to individuals, in which there exists radiation at such levels that a major portion of the body could receive in any one hour a dose in excess of 100 millirems.

"Human use" means the external administration of radiation to human beings.

"Image intensifier" means a device installed in its housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher energy density.

"Image receptor" means any device such as a fluorescent screen or radiographic film which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformations.

"Image receptor support" means for mammographic systems that part of the system designed to support the image receptor in a horizontal plane during a mammographic examination.

"Inspection" means an official examination or observation including, but not limited to, records, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Department.

"Interlock" means: a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur; or a device for precluding access to an area of high radiation by automatically reducing the exposure rate.

"Irradiation" means the exposure of matter to ionizing radiation.

"Kilovolts peak (kVp)" means the maximum value of the potential difference across the x-ray tube during an exposure and is the equivalent to kilovolts peak (kVp).

"kV" means kilovolts.

"kWs" means kilowatt second. It is equivalent to 10^3 (kV) x (mA) x (s)

"Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

"Leakage radiation" means radiation emanating from the diagnostic source assembly except for: the useful beam, and radiation produced when the exposure switch or timer is not activated.

"Leakage technique factors" means the technique factors associated with the diagnostic assembly, which are used in measuring leakage radiation. The technique factor(s) are defined as follows: For diagnostic source assemblies intended for capacitor energy storage equipment, it is the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, i.e., 10 milliampere seconds, or the minimum obtainable from the unit, whichever is larger. For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, it is the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential. For all other diagnostic source assemblies, it is the maximum-rated peak tube potential and the

maximum-rated continuous tube current for the maximum-rated peak tube potential.

"Lens dose equivalent (LDE)" means the external DE to the lens of the eye at a tissue depth of 0.3 cm (300 mg/cm²).

"Light field" means that area of the intersection of the light beam from the beam-limiting device and one of the sets of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

"Linear attenuation coefficient" (μ) means the quotient of dN/N by dl when dN/N is the fraction of uncharged ionizing radiation that experience interactions in traversing a distance dl in a specified material.

"mA" means milliamperere.

"mAs" means milliamperere second.

"Mean" (\bar{X}) means the average value of a set of numbers.

"Medical physicist" means an individual having the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. For example, "medical physicists" may include individuals certified in the field of diagnostic x-ray systems by the American Board of Radiology in physics, the American Board of Health Physics, the American Board of Medical Physics, individuals licensed by an appropriate state agency, or individuals otherwise deemed by the Department to have equivalent qualifications.

"MeV" means million electron volts.

"Minor" means any individual less than 18 years of age.

"Multiple tomogram systems" means a computed tomography system, which obtains x-ray transmission data simultaneously during a single scan to produce more than one tomogram.

"Multiple scan average dose (MSAD)" means the average dose at the center of a series of scans, specified at the center of the axis of rotation of a computed tomography system.

"Nominal tomographic section thickness" means the full-width at half-maximum of the sensitivity profile taken at the center of the cross sectional volume over which x-ray transmission data are collected.

"Noise" means the standard deviation of the fluctuations in CTN expressed as a percentage of the attenuation coefficient of water.

"Occupational dose" means radiation exposure received by an individual in the course of employment in which the individual's duties involve exposure to radiation. Occupational dose does not include any radiation exposure of an individual for the purpose of diagnosis.

"Patient" means an individual subjected to healing arts examination or diagnosis.

"Permittee" means any person which is issued a permit by the Department in accordance with these regulations and the Act.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other State or political subdivision or agency thereof, and any legal successor, representative, agent, or

agency of the foregoing.

"Personnel monitoring equipment" means devices such as film badges, pocket dosimeters, and thermoluminescent dosimeters designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual.

"Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation.

"Phototimer" means a method for controlling radiation exposures to image receptors by the amount of radiation which reaches a radiation monitoring device(s). The radiation monitoring device(s) is part of an electronic circuit which controls the duration of time the tube is activated. (See definition of "Automatic exposure control" in this Section.)

"Physician" means a person who is licensed by either the Oklahoma State Board of Medical Licensure and Supervision or by the Oklahoma State Board of Osteopathic Examiners to practice medicine, radiology, and/or surgery.

"Primary scattered radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam. (See also definition of "scattered radiation" in this Section.)

"Protective apron" means an apron made of radiation absorbing materials used to reduce radiation exposure.

"Protective barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:

"Primary protective barrier" means the material, excluding filters, placed in the useful beam, for protection purposes, to reduce the radiation exposure.

"Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

"Protective glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

"Qualified expert" (see definition of "Medical Physicist".)

"Rad" means the special unit of absorbed dose. One rad equals 0.01 joule per kilogram (100 ergs per gram) of material; for example; if tissue is the material of interest, then 1 rad equals 0.01 joule per kilogram (0.01 gray) of tissue. (See definition of "Absorbed Dose" in this section.)

"Radiation" means ionizing radiation delivered by x rays.

"Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.005 rem (0.05 mSv) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

"Radiation detector" means a device which, in the presence of radiation, provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

"Radiation head" means the structure from which the useful beam emerges.

"Radiation machine" means any device capable of producing radiation except those which produce radiation only from radioactive material.

"Radiation safety officer" (RSO) means one who has been delegated the responsibility to apply all of the appropriate radiation protection regulations.

"Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

"Radiograph" means an image receptor on which the image is created directly or indirectly by an x-ray pattern and results in a permanent record.

"Radiographic imaging system" means any system whereby a permanent or semi-permanent image is recorded on an image receptor by the action of ionizing radiation.

"Rating" means the operating limits as specified by the component manufacturer.

"Recording" means producing a permanent form of an image resulting from x-ray photons.

"Reference plane" means a plane which is displaced from and parallel to the tomographic plane.

"Registration" means registration with the Department in accordance with this Chapter.

"Rem" means a special unit of the dose equivalent. One millirem (mrem) = 0.001 rem (See definition of "Dose Equivalent" in this Section.) For the purpose of these regulations, any of the following is considered to be equal to one rem:

- (A) exposure of 1 roentgen of x-ray or gamma radiation.
- (B) an absorbed dose of 1 rad due to x-ray, gamma, or beta radiation.
- (C) an absorbed dose of 0.05 rad due to particles heavier than protons and with sufficient energy to reach the lens of the eye.
- (D) an absorbed dose of 0.1 rad due to fast neutrons or high energy protons.
- (E) an absorbed dose of 0.4 rad due to thermal neutrons.
- (F) 1 rem = 0.01 sievert.

"Research" means:

- (A) theoretical analysis, exploration, or experimentation;
or
- (B) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation to human beings.

"Response time" means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero sufficient to provide a steady state midscale reading.

"Restricted area" (controlled area) means any area, access to which is controlled by the permittee for the purpose of protecting individuals from exposure to radiation. A restricted area does not include any areas used for residential quarters, although a room or rooms in a residential building may be set apart as a restricted area.

"Roentgen" (R) means the special unit of exposure. One roentgen (R) equals 2.58×10^{-4} coulombs/kilogram of air. (See definition of "Exposure" in this Section.)

"Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.

"Scan increment" means the amount of relative displacement of the patient with respect to the CT x-ray system between successive scans measured along the direction of such displacement.

"Scan sequence" means a preselected set of two or more scans performed consecutively under preselected CT conditions of operation.

"Scan time" means the periods of time between the beginning and end of x-ray transmission data accumulation for a single scan.

"Scattered radiation" means radiation that, during passage through matter, has been deviated in direction. (See definition of "Direct scattered radiation" in this Section.)

"Secondary dose monitoring system" means a system which will terminate irradiation in the event of failure of the primary system.

"Shallow dose equivalent (SDE)" means the DE at a tissue depth of 0.007 cm (7 mg/cm²) averaged over an area of 1 square centimeter (cm²). (SDE applies to the external exposure of the skin or an extremity.)

"Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

"SI" means the abbreviation for the International System of Units.

"Single tomogram system" means a CT x-ray system, which obtains x-ray transmission data during a scan to produce a single tomogram.

"Sievert" (Sv) means the SI unit of any of the qualities expressed as dose equivalent. The dose equivalent in sieverts is equal to the absorbed dose in grays multiplied by the quality factor (1 Sv = 100 rems).

"Source" means the focal spot of the x-ray tube.

"Source-to-image receptor distance (SID)" means the distance from the source to the center of the input surface of the image receptor.

"Source of radiation" means any instrument capable of producing or emitting radiation. (i.e., x-ray tube assembly.)

"Source-to-skin distance (SSD)" means the distance between the source and the skin of the patient.

"Special procedures" means the application of special x-ray systems and specialized techniques to obtain required diagnostic information. This usually provides enhanced detail of a given anatomical structure but with reduced visualization of other structures. Special procedures include, but are not limited to, angiography, cardiac

catheterization, myelography, and surgery.

"Special purpose x-ray system" means any diagnostic x-ray system, which is limited, by design, to radiographic examinations of specific anatomical regions. Special purpose x-ray systems include, but are not limited to, mammography systems, dedicated chest systems, cystography systems, and head and skull systems.

"Spot check" means a procedure which is performed to assure that a previous calibration continues to be valid.

"Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

"Spot-film device" means a device intended to transport and/or position a radiographic image receptor between the x-ray tube head and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

"Standard deviation" (s) means a measure of the dispersion or variation in distribution, equal to the square root of the mean of the squares of the deviations from the mean root of the distribution

"Stored system" means a diagnostic x-ray system which has been disabled such that when power is supplied to the control panel (technique indicators), the x-ray tube may not be energized.

"Stray radiation" means the sum of leakage and scattered radiation.

"Supervision" means the delegating of the task of applying radiation pursuant to these regulations by persons, not licensed in the healing arts or veterinary medicine, who provide services under the practitioner's control. The licensed practitioner assumes full responsibility for these tasks and must assure that the tasks will be administered correctly.

"Survey" means an evaluation of the production, use, release, disposal, and/or presence of sources of radiation under a specific set of conditions to determine actual or potential radiation hazards. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, and measurements of levels of radiation or concentrations of radioactive material present.

"Technique chart" means a chart that provides all necessary generator control settings and geometry needed to make clinical radiographs when the radiography system is in manual mode.

"Technique factors" mean the conditions of operation. Technique factor(s) are specified as follows:

- (A) for capacitor energy storage systems, it is peak tube potential in kV and quantity of charge in mAs;
- (B) for field emission systems rated for pulsed operation, it is peak tube potential in kV and number of x-ray pulses;
- (C) for CT systems designed for pulsed operations, it is peak tube potential in kV, scan time in seconds, and either tube current in mA, x-ray pulse width in seconds, and the number of x-ray pulses per scan or the product of tube current, x-ray pulse width, and the number of x-ray pulses in mAs;

(D) for CT systems not designed for pulsed operation, it is peak tube potential in kV, and either tube current in mA and scan time in seconds or the product of tube current and exposure time in mAs and the scan time when the scan time and exposure time are equivalent; and
(E) for all other systems, it is peak tube potential in kV and either tube current in mA and exposure time in seconds or the product of tube current and exposure time in mAs.

"Teleradiology" means the electronic transmission of radiological images from one location to another for the purposes of interpretation and/or consultation.

"Test" means the process of verifying compliance with an applicable regulation.

"These regulations" means all subchapters of the Diagnostic X-ray Systems Regulations. (Chapter 281 of this Title.)

"Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

"Tomographic plane" means that geometric plane which is identified as corresponding to the output tomogram.

"Tomographic section" means the volume of an object whose x-ray attenuation properties are imaged in a tomogram.

"Total Effective Dose Equivalent (TEDE)" means, for external exposure only to x-ray radiation from diagnostic x-ray systems, the TEDE is equal to the DDE. If an individual receives an occupational dose from both diagnostic x-ray systems and radioactive materials, the TEDE is the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

"Traceable to a national standard" means that a quantity or a measurement has been compared to a national standard directly or indirectly through one or more intermediate steps and that all comparisons have been documented.

"Transfer" means:

(A) To change the possession or legal title of a diagnostic x-ray system; or

(B) To relocate from one physical address to another.

"Tube housing assembly" means the tube housing with tube installed. It includes high-voltage and/or filament transformers and other appropriate elements when such are contained within the tube housing.

"Unrestricted area" (uncontrolled area) means any area access which is not controlled by the permittee for purposes of protection of individuals from exposure to radiation and any area used for residential quarters.

"Useful beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam limiting service when the exposure controls are in a mode to cause the system to produce radiation.

"User" means any person who causes any radiation producing machine, subject to these regulations, to be energized.

"Virtual source" means a point from which radiation appears to originate.

"Visible area" means that portion of the input surface of the image receptor over which incident x-ray photons produce a visible image.

"Wedge filter" means an added filter effecting continuous progressive attenuation on all or part of the useful beam.

"Whole Body" means for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.

"Worker" means an individual engaged in work in a facility issued a permit by the Department and controlled by a permittee, but does not include the permittee.

"X-ray control" means a device which controls input power to the x-ray high-voltage generator or the x-ray tube. It includes equipment such as timers, phototimers, automatic brightness stabilizers, and similar devices which control the technique factors of an x-ray exposure.

"X-ray field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

"X-ray high-voltage generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube(s), high-voltage switches, electrical protective devices, and other appropriate elements.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

"X-ray tube" means any electron tube which is designed to be used primarily for the production of x-rays.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-1-3. Exemptions from the regulatory requirements

The Department may, upon application therefore or upon its own initiative, grant such exemptions or exceptions from the requirements of these regulations as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-1-4. General regulatory requirements

(a) **Records.** Each permittee shall maintain records showing the receipt, transfer, and disposal of all diagnostic x-ray systems.

(b) **Inspections.**

(1) Each permittee shall afford the Department at all reasonable times opportunity to inspect diagnostic x-ray systems and the

premises and facilities wherein such diagnostic x-ray systems are used or stored.

(2) Each permittee shall make available to the Department for inspection, upon reasonable notice, records maintained pursuant to these regulations.

(c) **Tests.** Each permittee shall perform upon instructions from the Department, or allow the Department to perform, such reasonable tests as the Department deems appropriate or necessary to ensure safety including, but not limited to, tests of:

- (1) facilities wherein diagnostic x-ray systems are used or stored;
- (2) radiation detection and monitoring instruments; and
- (3) other equipment and devices used in connection with utilization or storage of permitted diagnostic x-ray systems.

(d)

(e)

(f)

(g) **Prohibited uses.**

(1) Fluoroscopic screens used in conjunction with a source of radiation shall not be held by an individual.

(2) The intentional exposure of persons to ionizing radiation by persons other than licensed practitioners of the healing arts or persons acting under their direction is prohibited.

(h) **Communications.** All communications and reports concerning these regulations, and permit applications or registration filed thereunder, should be addressed to the Oklahoma State Department of Health, Consumer Health Service, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma, 73102.

(i) **Severability.** If any regulation is determined to be unconstitutional or invalid, it does not impact the enforceability or validity of any other regulation in this Chapter.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

SUBCHAPTER 3. REGISTRATION OF DIAGNOSTIC X-RAY SYSTEMS

310:281-3-1. Purpose

(a) This subchapter provides for the registration of diagnostic x-ray systems.

(b) In addition to the requirements of this subchapter, all registrants are subject to the applicable provisions of all subchapters of these regulations.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-3-2. Exemptions

(a) Electronic systems that produces x-ray radiation incidental to its operation for other purposes are exempt from the registration and notification requirements of this part, provided dose equivalent rate averaged over an area of 10 square centimeters does not exceed 0.5 millirem per hour at 5 centimeters from any accessible surface of such systems. The production, testing, or factory servicing of such system shall not be exempt.

(b) Diagnostic x-ray systems while in transit or storage incident thereto are exempt from the requirements of this subchapter.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-3-3. Registration [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Revoked at 38 Ok Reg 1954, eff 9-11-21]

310:281-3-4. Report of changes

The owner or lessee shall notify the Department in writing before making any change which would render the information contained in the application for registration and/or the permit inaccurate. Changes in diagnostic x-ray system status shall be made at the time of permit renewal.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-3-5. Approval not implied [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 38 Ok Reg 1954, eff 9-11-21]

310:281-3-6. Assembler and/or transferor obligation

(a) Except as provided under 310:281-3-2(b), any person who sells, leases, transfers, lends, disposes, assembles, or installs diagnostic x-ray systems in this state shall record the following information and submit it to the Department within 15 days:

- (1) the name and address of persons who have received these systems;
- (2) the manufacturer, model, and serial number of each diagnostic x-ray system transferred; and
- (3) the date of transfer of each diagnostic x-ray system.

(b) In the case of diagnostic x-ray systems which contain certified components, a copy of the assembler's report prepared in compliance with the Federal diagnostic x-ray standard (21 CFR 1020.30 (d)) shall be submitted to the Department within 15 days following completion of the assembly. Such report will suffice in lieu of any other report by the assembler.

(c) No person shall make, sell, lease, transfer, lend, assemble, or install diagnostic x-ray systems or the supplies used in connection with such

systems unless such supplies and systems when properly placed in operation meet the requirements of these regulations.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-3-7. Out-of-state diagnostic x-ray systems

(a) Whenever any diagnostic x-ray system is initially brought into the State, for diagnostic use other than in a permanent facility, notice to the Department will be provided at least three (3) working days before such systems are to be used in the State, and such systems will be registered with the Department. The notice shall include:

- (1) the number(s) and type(s) of diagnostic x-ray systems;
- (2) the nature, start date, duration, and scope of use;
- (3) the exact location(s) where the diagnostic x-ray systems are to be used;
- (4) the name(s) and address (es) where the equipment user(s) can be reached while in the state;
- (5) if other than an individually owned machine, the designated service agent shall also be listed;
- (6) comply with all applicable regulations of the Department; and
- (7) supply the Department with such other information as the Department may reasonably request.

(b) If, for a specific case, the three working-day period would impose an undue hardship on the person, approval to proceed sooner may be granted upon request to the Department.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

SUBCHAPTER 5. PERMITS

310:281-5-1. General

No person shall use, operate or cause to be operated a diagnostic x-ray system which does not have a valid facility permit issued to the owner or lessee of that system by the Oklahoma State Department of Health pursuant to Title 63 O.S. Sections 1-1501.1 through 1-1505, as amended. Only a person who is in substantial compliance with the requirements of these rules and regulations is entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in each facility where the diagnostic x-ray system is located.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-5-2. Issuance of permit

(a) Any person(s) wishing to operate or cause to be operated a diagnostic x-ray system shall :

- (1) be the owner or lessee of the system; and

- (2) make application for a permit on forms provided by the Oklahoma State Department of Health; and
 - (3) Submit an application within 30 days following the commencement of operation of a diagnostic x-ray system.
- (b) No permit will be issued except upon successful registration of the diagnostic x-ray system with the Department, compliance with applicable rules, and payment of the appropriate permit fee.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-5-3. Expiration of permit

A permit expires one year from the date of issuance unless canceled or revoked prior to its expiration. For purposes of determining the expiration date of all permits, the date of issuance is the date that a permit is first issued by a duly authorized representative of the Department. An expired permit shall follow the regulations listed in 310:250-3-4. Late Renewal.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-5-4. Renewal of permit [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 38 Ok Reg 1954, eff 9-11-21]

310:281-5-5. Revocation or suspension of permit

A permit may be revoked or suspended for noncompliance with 63 O.S., sections 1-1501.1 through 1-1505, as amended, or any rules or regulations promulgated thereunder.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

SUBCHAPTER 7. [RESERVED]

SUBCHAPTER 9. STANDARDS FOR PROTECTION AGAINST RADIATION

310:281-9-1. Purpose

(a) This subchapter establishes standards for protection against radiation hazards. Except as otherwise specifically provided, this subchapter applies to all permittees. It is the purpose of the regulations in this subchapter to control the use and transfer of diagnostic x-ray systems by any permittee in such a manner that the total dose to an individual does not exceed the standards of radiation protection prescribed in this subchapter. This subchapter should not be interpreted as limiting the intentional exposure of patients to radiation for the purpose of medical

diagnosis.

(b) In addition to complying with the requirements set forth in this subchapter, every reasonable effort shall be made to maintain radiation exposures to unrestricted areas to as low as is reasonably achievable.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-2. Radiation dose standards for individuals in restricted areas

(a) For determining the doses specified in this section, a dose from x-rays up to 10 MeV may be assumed to be equivalent to the exposure measured by a properly calibrated appropriate instrument in air at or near the body surface in the region of the highest dose rate. In accordance with the provisions of 310:281-9-3(a), and except as provided in 310:281-9-2(b) and 310:281-9-3 (c), no permittee shall use or transfer diagnostic x-ray systems in such a manner as to cause any individual in a restricted area to receive in any period of one calendar year from all diagnostic x-ray systems a total occupational dose in excess of the standards specified in 310:281-9-2(b).

(b) Rems per Calendar Year

- (1) Total effective dose equivalent (TEDE) is 5 Rems;
- (2) Deep dose equivalent (DDE) and committed dose equivalent (CDE) to any individual organ or tissue (other than the lens of the eye) are 50 Rems;
- (3) Lens dose equivalent (LDE) is 15 Rems; and
- (4) Shallow dose equivalent (SDE) to the skin or any extremity is 50 Rems.

(c) A permittee may permit an individual in a restricted area to receive a total occupational dose to the whole body greater than that permitted under 310:281-9-2(a), provided:

- (1) during any calendar quarter, the total occupational dose to the whole body cannot exceed 3 rem;
- (2) the permittee has determined the individual's accumulated occupational dose to the whole body on a form provided by the Department or on a clear and legible record containing all the information required in that form and has otherwise complied with 310:281-9-3. As used in this subsection, "dose to the whole body" includes any dose to the whole body, gonads, active blood-forming organs, head and trunk, or lens of eye.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-3. Determination of accumulated occupational dose **(a) Excess of quarterly occupational dose.**

- (1) Each permittee shall require any individual, prior to first entry of the individual into the permittee's restricted area during each employment or work assignment under such circumstances that the individual will receive or is likely to receive in any period of one calendar quarter an occupational dose in excess of 25 percent

of the applicable standards specified in 310:281-9-2(a) and 310:281-9-5, to disclose in a written, signed statement, either;

(A) that the individual had no prior occupational dose during the current calendar quarter, or

(B) the nature and amount of any occupational dose which the individual may have received during the specifically identified current calendar quarter from sources of radiation used or controlled by other persons.

(2) Each permittee shall maintain records of such statements until the Department authorizes disposition.

(b) Previously accumulated occupational doses.

(1) In the preparation of a form provided by the Department or a clear and legible record containing all the information required in that form, the permittee shall make a reasonable effort to obtain reports of the individual's previously accumulated occupational dose. For each period for which the permittee obtains such reports, he shall use the dose shown in the report in preparing the form. In any case where a permittee is unable to obtain reports of the individual's occupational dose for a previous complete calendar quarter, it is assumed that the individual has received the occupational dose specified in 310:281-9-3(b)(2) and (3).

(2) Assumed dose in Rems for calendar quarters prior January 1, 1961 for wholebody gonads is $3\frac{3}{4}$ for active blood forming organs, head, trunk and lens of eye.

(3) Assumed dose in Rems for calendar quarters beginning on or after January 1, 1961 is $1\frac{1}{4}$ for active blood forming organs, head, trunk and lens of eye.

(4) The permittee shall retain and preserve records used in preparing forms required by the Department until the Department authorizes their disposition.

(c) Determination of occupational effective dose for individuals wearing protective lead clothing during diagnostic x-ray procedures.

When a protective apron is worn while working with radiographic and fluoroscopic x-ray systems used for clinical diagnostic or research purposes, the effective dose equivalent (EDE) for external radiation is determined as follows:

(1) When only one personal monitoring device (310:281-9-12) is used and it is located at the neck (collar) outside the protective apron, the deep dose equivalent (DDE) is the EDE for external radiation; or

(2) When only one personal monitoring device is used and it is located at the neck (collar) outside the protective apron, the reported DDE value will be multiplied by 0.3 and is the EDE for external radiation; or

(3) When personal monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck (collar), the EDE for external radiation is assigned the value of the sum of the DDE reported for the personal monitoring device located at the waist under the protective apron multiplied by 1.5 and the DDE reported for the personal monitoring device

located at the neck (collar) outside the protective apron multiplied by 0.04.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-4. Exposure of individuals to concentrations of radioactive material in restricted areas. [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-5. Exposure of minors

No permittee shall use or transfer any diagnostic x-ray system in such a manner as to cause any individual within a restricted area, who is under 18 years of age, to receive in any period of one calendar year from all diagnostic x-ray systems in the permittee's possession a dose in excess of 10 percent of the standards specified in 310:281-9-2 (a).

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-6. Permissible levels of radiation from diagnostic x-ray systems in unrestricted areas

(a) Any person may apply to the Department for proposed limits upon levels of radiation in unrestricted areas resulting from the applicant's possession or use of diagnostic x-ray systems. Such applications shall include information as to anticipated average radiation levels and anticipated occupancy times for each unrestricted area involved. The Department will approve the proposed limits if the applicant demonstrates to the satisfaction of the Department that the proposed limits are not likely to cause any individual to receive a dose to the whole body in any period of one calendar year in excess of 0.5 rem.

(b) Except as authorized by the Department pursuant to 310:281-9-6(a), no permittee shall use or transfer diagnostic x-ray systems in such a manner as to create in any unrestricted area from such diagnostic x-ray systems in his possession:

(1) radiation levels which, if an individual were continuously present in the area, could result in his receiving a dose in excess of 2 millirems in any one hour; or

(2) radiation levels which, if an individual were continuously present in the area, could result in his receiving a dose in excess of 100 millirems in any seven consecutive days.

(c) Radiation levels shall be limited so that individuals in unrestricted areas would not receive a dose to the whole body in excess of 0.5 rem in any one-year. If in specific instances, it is determined by the Department that this intent is not met, the Department may, pursuant to 310:281-1-4 impose such additional requirements on the permittee as may be necessary to meet the intent.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-7. Concentration of radioactivity in effluents of unrestricted areas. [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-8. Orders requiring furnishing of bioassay services [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-9. [RESERVED]

[Source: Reserved at 8 Ok Reg 3503, eff 8-15-91 (emergency); Reserved at 9 Ok Reg 1643, eff 5-29-92]

310:281-9-10. Surface contamination limits for facilities and equipment [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-11. Surveys

- (a) Each permittee shall make or cause to be made such surveys as may be necessary to establish compliance with these rules.
- (b) Any survey instruments used to make physical radiation surveys in accordance with 310:281-9-11(a) shall be calibrated and operable.
- (c) Each radiation survey instrument shall be calibrated:
 - (1) by a person recognized by the Department as competent to perform such service;
 - (2) at intervals not to exceed 12 months unless a more restrictive time interval is specified in another subchapter of these rules;
 - (3) after each survey instrument repair;
 - (4) for the types of radiation used and at energies appropriate for use; and at an accuracy within 20 percent of the true radiation level.
- (d) Records of survey instrument calibrations shall be maintained for inspection by the Department.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-12. Personnel monitoring

- (a) Each permittee shall supply and require the use of appropriate personnel monitoring equipment to:
 - (1) each individual who enters a controlled radiation area;
 - (2) each individual who enters a high radiation area; and

(3) each individual who uses or operates any source of radiation.

(b) The Department may, upon written request from a permittee grant an exemption to 310:281-9-12(a) provided, in the opinion of the Department upon consideration of information submitted in support of such a request, that no individual is likely to receive a dose in any calendar year in excess of 25 percent of the applicable value specified in 310:281-9-2 and that no individual under 18 years of age is likely to receive a dose in any calendar year in excess of 5 percent of the applicable value specified in 310:281-9-2.

(c) After the effective date of these rules, all personnel monitoring equipment (except extremity dosimeters and pocket ionization chambers) that require processing to yield a dose value and that are provided to comply with 310:281-9-2 and 310:281-9-12(a), or the applicable terms and conditions of any license or certificate of registration issued by the Department shall:

(1) be processed by a processor accredited by the National Voluntary Laboratory Accreditation Program for Personnel Dosimetry Processors of the National Bureau of Standards in accordance with accreditation criteria established in 15 CFR Part 7b; and

(2) be approved in this accreditation process for the type of radiation or radiations and the time period for which the individual wearing the dosimeter is monitored.

(d) Location and use of individual monitoring equipment.

(1) Each permittee shall ensure that individuals who are required to monitor occupational doses in accordance with 310:281-9-12(a) wear and use individual monitoring equipment as follows:

(A) Individual monitoring equipment is assigned to and worn by only one individual.

(B) Individual monitoring equipment used for monitoring the dose to the whole body shall be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring equipment is typically at the neck (collar).

(C) If additional individual monitoring equipment is used for monitoring the dose to an embryo/fetus of a declared pregnant woman, in accordance with 310:281-9-40, it shall be located at the waist under any protective apron being worn by the woman.

(D) Individual monitoring equipment used for monitoring LDE, to demonstrate compliance with 310:281-9-2(a), shall be located at the neck (collar) or at a location closer to the eye, outside any protective apron being worn by the monitored individual.

(E) Individual monitoring equipment used for monitoring the dose to the extremities, to demonstrate compliance with 310:281-9-2(a), shall be worn on the extremity likely to receive the highest exposure. Each individual monitoring equipment, to the extent practicable, shall be oriented to measure the highest dose to the extremity

being monitored.

(F) Individual monitoring equipment shall be worn for the period of time authorized by the dosimetry processor's certificate of registration or for no longer than three months, whichever is more restrictive.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-13. Caution signs, labels and signals

(a) General.

(1) Except as otherwise authorized by the Department, symbols prescribed by 310:281-9-14 shall use the conventional radiation caution colors (magenta or purple on yellow background). The symbol prescribed by this section is the conventional three-blade design, as set forth in Appendix A of this Chapter.

(2) In addition to the contents of signs and labels prescribed in this section, a permittee may provide on or near such signs and labels any additional information which may be appropriate in aiding individuals to minimize exposure to radiation.

(b) Radiation Areas. Each radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

(1) CAUTION or DANGER

(2) RADIATION AREA

(c) High Radiation Areas.

(1) Each high radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

(A) "CAUTION" Or "DANGER"

(B) HIGH RADIATION AREA

(2) Each entrance or access point to high radiation area shall be:

(A) equipped with a control device that causes the level of radiation to be reduced below that at which an individual might receive a dose of 100 millirems in 1 hour upon entry into the area; or

(B) equipped with a control device that energizes a conspicuous visible or audible alarm signal in such a manner that the individual entering the high radiation area and the permittee, a supervisor of the activity are made aware of the entry; or

(C) maintained locked except during periods when access to the area is required, with positive control over each individual entry.

(3) The controls required by 310:281-9-13(c)(2) shall be established in such a way that no individual will be prevented from leaving a high radiation area.

(4) The controls required by 310:281-9-13(c)(2)(A) shall be constructed in such a manner that the primary radiation cannot be reactivated until all entrances have been secured, and the radiation on-off control is reset at the control panel.

(5) The controls required by 310:281-9-13(c)(2)(B) shall be constructed in such a manner that when the warning device is

activated, it shall be necessary to shut off or secure the source of radiation and secure all tripped entrances prior to being able to de-activate the alarm system.

(6) Control devices required by either 310:281-9-13(c)(2)(A) or 310:281-9-13(c)(2)(B) shall be tested for proper operation at intervals not to exceed six months. If such testing indicates failure of the device, corrective action shall be taken immediately to restore the control device to proper working order.

(7) In the case of a high radiation area established for a period of 30 days or less, direct surveillance to prevent unauthorized entry may be substituted for the controls required by 310:281-9-13(c)(2).

(8) Any permittee may apply to the Department for approval of methods not included in 310:281-9-13(c)(2) and (7) for controlling access to high radiation areas. The Department may approve the proposed alternatives if the permittee demonstrates that the alternative methods of control will prevent unauthorized entry into a high radiation area, and that the requirement of 310:281-9-7(c)(3) is met.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-14. Exceptions from posting and labeling requirements

Notwithstanding the provisions of 310:281-9-13 a room or area is not required to be posted with a caution sign due to the presence of a diagnostic x-ray system provided that there are personnel in attendance during the production of x-rays who will take the precautions necessary to prevent the exposure of any individual to radiation in excess of the limits established in the regulations in this subchapter.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-15. [RESERVED]

[Source: Reserved at 8 Ok Reg 3503, eff 8-15-91 (emergency); Reserved at 9 Ok Reg 1643, eff 5-29-92]

310:281-9-16. Storage and control of sources of radiation [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-17. Procedures for picking up, receiving, and opening packages [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-18. General requirements for waste disposal [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-19. Method of obtaining approval of proposed disposal procedures [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-20. Disposal by release into sanitary sewage systems [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-21. Disposal by burial in soil [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-22. Disposal by incineration [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-23. Disposal by release into septic tanks [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-24. Disposal of specific wastes [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-25. Waste classification for near-surface land disposal [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-26. Radioactive waste characteristics [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-27. Labeling of wastes [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-28. Transfer for disposal and manifests [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-29. Records of surveys, radiation monitoring, and disposal

- (a) Each permittee shall maintain records showing the radiation exposures of all individuals for whom personnel monitoring are required under 310:281-9-12. Such records shall be kept on forms provided by the permittee, in accordance with the instructions contained in that form, or on clear and legible records containing all the information required by such forms. The doses entered on the forms or records shall be for periods of time not exceeding one calendar year.
- (b) Each permittee shall maintain records in the same units used in this subchapter, showing the results of surveys required by 310:281-9-11 of these regulations.
- (c) Each permittee shall maintain records showing the results of control device testing and corrective actions taken pursuant to 310:281-9-13(c) (6).
- (d) Records required pursuant to 310:281-1, 310:281-9-29(b), and 310:281-9-29(c) shall include the date, the identification of the individual(s) making the record, a unique identification of survey instrument(s) used, and an exact description of the location of the survey. Records of receipt, transfer, and disposal of diagnostic x-ray systems shall uniquely identify the diagnostic x-ray system. Records required by these rules shall be preserved and available for inspection at the request of Department. These records may be maintained in the form of microfilm or in computer files.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-30. Reports of theft or loss of diagnostic x-ray systems

- (a) Each permittee shall report to the Department the theft or loss of any permitted diagnostic x-ray system immediately after such occurrence becomes known.
- (b) Each permittee who is required to make a report pursuant to 310:281-9-30(a) shall, within 30 days after the permittee learns of the loss or theft, make a report in writing to the Department, setting forth the following information:
 - (1) a description of the diagnostic x-ray system involved, including the kind, quantity, chemical, physical form, and/or model and serial numbers;
 - (2) a description of the circumstances under which the loss or theft occurred;

- (3) a statement of disposition or probable disposition of the diagnostic x-ray system involved;
 - (4) radiation exposures to individuals, circumstances under which the exposures occurred, and the extent of possible hazard to persons in unrestricted areas;
 - (5) actions which have been taken, or will be taken, to recover the diagnostic x-ray system; and procedures or measures which have been or will be adopted to prevent a recurrence of the loss or theft of diagnostic x-ray system.
- (c) Subsequent to filling the written report, the permittee shall also report any substantive information on the loss or theft which becomes available to the permittee within 30 days after learning of such information.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-31. Notification of incidents

(a) **Immediate notification.** Each permittee shall immediately notify the Department by telephone, email, or facsimile of any incident involving any diagnostic x-ray system used and which may have caused or threatens to cause:

- (1) a dose to the whole body of any individual of 25 rems or more of radiation; a dose to the skin of the whole body of any individual of 150 rems or more of radiation;
- (2) or a dose to the feet, ankles, hands, or forearms of any individual of 375 rems or more of radiation; or
- (3) a loss of 1 working week or more of the operation of any facilities affected; or damage to property in excess of \$200,000.

(b) **Twenty-four hour notification.** Each permittee shall within 24 hours notify the Department by telephone, email, or facsimile, of any incident involving any diagnostic x-ray system used and which may have caused or threatens cause:

- (1) a dose to the whole body of any individual of 5 rems or more of radiation; a dose to the skin of the whole body of any individual of 30 rems or more of radiation; or a dose to the feet, ankles, hands, or forearms of 75 rems or more of radiation; or
- (2) a loss of 1 day or more of the operation of any facilities affected; or
- (3) damage to property in excess of \$2,000.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-32. [RESERVED]

[Source: Reserved at 8 Ok Reg 3503, eff 8-15-91 (emergency); Reserved at 9 Ok Reg 1643, eff 5-29-92]

310:281-9-33. Reports of overexposures and excessive levels and concentrations [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-34. [RESERVED]

[Source: Reserved at 8 Ok Reg 3503, eff 8-15-91 (emergency); Reserved at 9 Ok Reg 1643, eff 5-29-92]

310:281-9-35. Vacating premises

Each permittee shall notify the Department of their intent to relocate, store or transfer the diagnostic x-ray system 30 days before they relocate, transfer or store.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-9-36. Notifications and reports to individuals

When a permittee is required pursuant to 310:281-9-31 to report to the Department any exposure of an individual to radiation, the permittee shall also notify the individual. Such notice shall be transmitted at a time not later than the transmittal to the Department.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:251-9-37. Concentrations in water and air above natural background

Concentrations in water and air above natural background are identified in Appendix B of this Chapter.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92]

310:281-9-37. Concentrations in water and air above natural background [REVOKED]

[Source: Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-38. Quantities for use with 310:281-9-12 and 310:281-9-20 [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-39. Acceptable surface contamination levels [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-9-40. Exposure to pregnant employees

If an employee of any permittee declares her pregnancy by written notification, the permittee shall ensure that the DE to an embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 0.5 rem (5 mSv).

(1) If a woman chooses not to declare pregnancy the occupational dose limits specified in 310:281-9-2 (a).

(2) The permittee shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman so as to satisfy the limit in 310:281-9-40 (a). The National Council on Radiation Protection and Measurement in NCRP Report No. 91 "Recommendations on Limits for Exposure to Ionizing Radiation" (June 1, 1987) states that no more than 0.05 rem (0.5 mSv) to the embryo/fetus be received in any one month will be adopted.

(3) If by the time the woman declares pregnancy the permittee the DE to the embryo/fetus has exceeded 0.45 rem (4.5 mSv), the permittee is in compliance with 310:281-9-40 (a), if the additional DE to the Embryo/fetus does not exceed 0.05 rem (0.5 mSv) during the remainder of the pregnancy.

(4) The DE to an embryo/fetus shall be taken as the DE that is most representative of the DE to the embryo/fetus from external radiation. The DE from the mother's lower torso region will be used.

(5) If multiple measurements have been made, assignment of the DDE for the declared pregnant woman for the personal monitoring device that is most representative of the DE to the embryo/fetus shall be the DE to the embryo/fetus. Assignment of the highest DDE for the declared woman to the embryo/fetus is not required unless that dose is also the most representative DDE for the region of the embryo/fetus.

(6) If multiple measurements have not been made, assignment of the highest DDE for the declared pregnant woman shall be the embryo/fetus.

[Source: Added at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

SUBCHAPTER 11. USE OF X-RAYS IN THE HEALING ARTS AND VETERINARY MEDICINE

310:281-11-1. Purpose

(a) This Subchapter establishes requirements for the use of diagnostic x-ray systems in the healing arts and in the practice of veterinary medicine. All usage of such systems under this Subchapter shall be made by or under the supervision of an individual licensed in accordance with Oklahoma law to practice the healing art or veterinary medicine in which a diagnostic x-ray system is used.

(b) The requirements of this Subchapter are intended to ensure that adequate radiation protection is provided for the public and workers. These rules are not intended to replace calibration, survey, quality assurance, and/or quality control services by a radiological physicist or a qualified expert.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-11-1.1. Definitions [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-11-2. Accountability

(a) The permittee is responsible for directing the operation of the diagnostic x-ray systems under the administrative control of the permittee. The permittee is responsible for assuring that the requirements of this subchapter are met in the operation of such diagnostic x-ray systems.

(b) The provisions of this subchapter are in addition to, and not in substitution for, other applicable provisions of these regulations.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-3. Prohibitions

(a) The Department may prohibit use of diagnostic x-ray systems, which pose significant threat or endanger public health and safety.

(b) Individuals shall not be exposed to the useful beam except for healing arts purposes and unless such exposure has been authorized by a licensed practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:

(1) exposure of an individual for training, demonstration, or other non-healing arts purposes; and

(2) exposure of an individual for the purpose of healing arts screening except as authorized by 310:281-11-4(g).

(c) Non-image-intensified fluoroscopic equipment shall not be used.

(d) Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.

(e) Cardboard film holders without screens shall not be used.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

310:281-11-4. Diagnostic operational requirements for practitioners

(a) **Technique chart.** A chart or manual shall be provided in the vicinity of the control panel of each non-APR diagnostic x-ray system, CR portable, or DR portable system which specifies, for all diagnostic examinations usually performed with that diagnostic x-ray system, the

following information:

- (1) technique factors to be utilized versus patient's anatomical size (except for diagnostic x-ray systems which have only automatic exposure controls);
- (2) type of the film or film-screen combination to be used, if any;
- (3) type of the grid to be used, if any; and
- (4) source-to-image receptor distance to be used.

(b) **Safety procedures.** Written operating and safety procedures shall be made available to each individual who operates diagnostic x-ray systems. These procedures shall include restrictions required for the safe operation of each diagnostic x-ray system.

(c) **Radiation dose limitation and personnel monitoring.** Except as otherwise exempted, all individuals who are associated with the operation of a diagnostic x-ray system are subject to the radiation dose requirements of 310:281-9-2, 310:281-9-3, 310:281-9-5 regarding dose limits to individuals, 310:281-9-40 and the personnel monitoring requirements of 310:281-9-12.

(d) **Protective clothing and devices.** Such protective clothing and devices shall be utilized when required, as in 310:281-11-6(c)- (e), 310:281-11-7(c), and 310:281-11-11(d).

(1) When protective clothing or devices are worn on portions of the body (such as trunk apron) and personnel monitoring is required, the whole body badge shall be worn in accordance with 310:281-9-12 (d). The dose measured by this device shall be recorded as the whole body dose on the personnel radiation exposure records, as required by 310:281-9-29.

(2) Protective equipment including aprons, gloves, and shields shall be checked annually for defects, such as holes, cracks, and tears to assure reliability and integrity. A record of this test shall be made and maintained for inspection by the Department. If such defect is found, equipment shall be replaced or removed from service until repaired.

(e) **Information and records.** The permittee shall maintain the following information for each diagnostic x-ray system for inspection by the Department:

- (1) records of receipt, transfer, and disposal;
- (2) a copy of all correspondence to and from the Department regarding each diagnostic x-ray system; and
- (3) records of surveys, calibrations, spot checks, maintenance, and modifications performed on the diagnostic x-ray system. The signature of the individual performing the service and the date it was performed shall be on the record.

(f) **Operator training.** Individuals who operate diagnostic x-ray systems shall be instructed in and be able to demonstrate competence with the permittee's operating and safety procedures.

(g) **Healing arts screening.** Any person proposing to conduct a healing arts screening program for humans shall not initiate such a program without prior approval of the Department. When requesting such approval, that person shall submit the information outlined in 310:281-11-21. If any information submitted to the Department becomes invalid or outdated, the Department shall be notified within 15 days.

(h) **Processor control.**

(1) In conjunction with all human diagnostic x-ray systems, all processors shall be maintained on a predetermined schedule for quality assurance.

(A) A log shall be kept that states the following:

- (i) type of test;
- (ii) acceptability limits for that particular test;
- (iii) results of the test;
- (iv) the date the test was performed;
- (v) initials of technician or testing individual;
- (vi) if needed, corrective action taken.

(B) Tests shall include, but not be limited to, fog test, chemical replacement, and darkroom light leak.

(C) All processing shall be by the time/temperature method. The predetermined method shall be documented and state the manufacturer, development time, and type of all chemicals used in the film processing method (including hand processing methods).

(D) Deviations from the recommended use (as detailed by the manufacturer) or changes in the method or manufacturer shall be documented (date, initials of technician) in the processor log.

(E) Lighting in the film processing/loading area shall be with the filter, bulb wattage, and distances recommended by the film manufacturer for that film emulsion. When 2 or more types of film are used, the more sensitive type will be accommodated.

(2) For dental and veterinary diagnostic x-ray systems, the film manufacturer's recommendations, including maintenance of the equipment and maintenance of the developing solutions of a constant temperature, shall be used for processing film.

(i) **Diagnostic x-ray system requirements.** Each permittee is responsible for satisfying the following diagnostic x-ray equipment requirements:

(1) **Warning label.** The control panel containing the main power switch shall bear the radiation symbol and a statement, legible and plainly visible to view, containing the following or similar wording: "WARNING" or "Caution": "This machine produces radiation when energized."

(2) **Mechanical support of tube head.** The tube housing assembly shall be adjusted such that it will remain stable during an exposure. If tube housing movement is a designed function of the diagnostic x-ray system the tube housing assembly shall be adjusted such that it will remain stable except during such a designed function.

(A) The tube housing assembly supports shall not be hand-held.

(B) Veterinary portable units designed to be hand-held are exempted if they provide a diagnostic-type tube housing.

(j) **Film and image retention.** Human radiographic images shall be retained for a minimum of five years with the exception of

mammographic images. In accordance with 310:281-11-9 mammographic images are to be maintained for ten years.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 10 Ok Reg 73, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1695, eff 6-1-93 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-5. Radiographic entrance exposure limits

The in-air exposure determined for the technique used for the specified average human adult patient thickness for routine medical radiography cannot exceed the entrance exposure or dose limits shown below.

(1) Entrance exposure and dose limits for the following radiographic technique are:

(A) for a 23 cm P/A chest has the exposure of 2 mR and the exposure/dose limit of 30 mR;

(B) for a 23 cm P/A grid chest has the exposure of 25 mR and the exposure/dose limit of 35 mR;

(C) for a 23 cm abdomen(KUB) has the exposure of 500 mR and the exposure/dose limit of 600 mR;

(D) for a 23 cm lumbar spine (A/P) has the exposure of 500 mR and the exposure/dose limit of 800 mR;

(E) for a 13 cm cervical spine (AP) has the exposure of 125 mR and the exposure/dose limit of 200 mR;

(F) for a 15 cm skull (lateral) has the exposure of 150 mR and the exposure/dose limit of 250 mR;

(G) dental intraoral exams have a exposure of 00 mR and the exposure/dose limit of 600 mR; and

(H) for computed tomography exposures for the following techniques are:

(i) for a 16 cm adult head the exposure is 600 mR;

(ii) for a 32 cm adult abdomen the exposure is 3500 mR; and

(iii) for a 16 cm pediatric abdomen the exposure is 2500 mR.

(iv) These are CTDI_w dose measurements as recommended by the American College of Radiology in their voluntary certification of CT system.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-6. Additional requirements for use of diagnostic x-ray systems in the healing arts of medicine, podiatry, and chiropractic

(a) **Viewing system.** Windows, mirrors, closed circuit television, or an equivalent system shall be provided to permit operator to continuously observe the patient during irradiation.

(b) **Control panel.** Each x-ray control shall be located in such a way as to meet the following requirements:

(1) Stationary diagnostic x-ray systems are required to have the x-ray control permanently mounted in a permanent control booth or station so that the operator is required to remain in that area during the entire exposure and not be exposed to greater than 2 millirems in any 1 hour. See section 310:281-11-20 for measurement protocol to determine compliance.

(2) Mobile and portable diagnostic x-ray systems shall meet the requirements of a stationary diagnostic x-ray system when used for greater than 7 consecutive working days in the same location.

(3) For mobile and portable diagnostic x-ray systems, single event exposures and configuration, the x-ray control shall be positioned so that the operator is at least 6 feet away from the tube housing and the patient during an exposure and is not exposed to greater than 2 millirems in any 1 hour.

(4) The operator shall be able to maintain visual and aural contact with the patient.

(c) **Exposure of individuals other than the patient.** Except for other patients who cannot be moved out of the area where the diagnostic x-ray system is to be used (e.g., ICU or trauma units) or individuals specified in 310:281-11-6(e), only the staff and ancillary personnel required for the medical procedure or training shall be in the area where the diagnostic x-ray system is to be used during the radiation exposure.

(1) All individuals, other than the patient being examined, shall be positioned such that no part of the body will be struck by the useful (direct) beam unless protected by an apron, gloves, or other shielding having 0.5 millimeter lead equivalent material.

(2) Staff and ancillary personnel shall be protected from primary scatter (once-scattered) radiation by protective aprons or whole body protective barriers of not less than 0.25 millimeter lead equivalent material.

(3) Notwithstanding the provisions of 310:281-11-6(c)(1), other patients who are in line with the primary beam and who cannot be removed from the room, shall be protected by whole body protective barriers of 0.25 millimeter lead equivalent material or so positioned that the nearest portion of their body is at least 6 feet from both the tube head and the nearest edge of the image receptor.

(d) **Gonadal shielding.** For patients who have not passed the reproductive age, gonadal shielding shall be used when the gonads are in or within 5 centimeters of the useful beam. This requirement does not apply if the shielding will interfere with the diagnostic procedure. Gonadal shielding shall be of at least 0.5 millimeter lead equivalent material.

(e) **Holding of patient or film.** When a patient or film must be provided with auxiliary support during a radiation exposure:

(1) Mechanical holding devices shall be used when the technique permits. In accordance with 310:281-11-4(b) the written safety procedures shall list circumstances in which mechanical holding devices cannot be routinely utilized.

(2) The requirements for selecting an individual who holds or supports the patient, and the procedure which the holder follows,

shall be included in the written safety procedures, as required by 310:281-11-4(b).

(3) In accordance with 310:281-11-6(c), the human holder shall be protected.

(4) An individual cannot be used routinely to hold film or patients.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-7. Additional operational controls for fluoroscopic x-ray systems and spot-film devices

(a) Fluoroscopic configuration, including fluoroscopic table designs when combined with operating and safety procedures, shall not permit any portion of any individual's body, except the head, neck, and extremities, to be exposed to scattered radiation emanating from above or below the tabletop unless the radiation has passed through not less than a total of 0.25 millimeter lead equivalent material. The material may be, but is not limited to, drapes, self-supporting curtains, or viewing shields, in addition to any lead equivalency provided by a protective apron.

(b) Where sterile fields or special procedures prohibit the use of normal protective barriers or drapes, 310:281-11-7(a) does not apply, if all of the following conditions are met:

(1) All persons, except the patient, in the room where fluoroscopy is performed, shall wear protective aprons which provide a shielding equivalent of 0.5 millimeter of lead.

(2) The fluoroscopist and all other personnel in the room, except the patient, shall have appropriate personnel monitoring devices.

(3) The fluoroscopic field size shall be reduced to the absolute minimum required for the procedure being performed (area of clinical interest).

(4) Operating and safety procedures shall reflect the above conditions, and fluoroscopy personnel shall exhibit awareness of situations requiring the use and/or nonuse of the protective drapes.

(c) For image-intensified fluoroscopic systems with only a manual mode of collimation, the x-ray field produced shall be limited to the area of the spot-film cassette at 16 inches above tabletop. Additionally, during fluoroscopy, the beam shall be restricted to the area of the input phosphor.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-8. Additional operational controls for CT x-ray systems

(a) The CT x-ray system shall not be operated except by an individual who has been specifically trained in its operation.

(b) The control panel must include the following information for the system's operation and evaluation:

(1) dates of the latest evaluation and spot checks, and the location within the facility where the results of those tests may be obtained;

- (2) the results of at least the most recent spot checks conducted on the system; and
- (3) the distance in millimeters between the tomographic plane and the reference plane, if a reference plane is utilized.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-9. Additional operational controls for mammography systems

Incorporation by reference: Adopted reference. Except as otherwise specifically provided, the performance of mammography shall conform to standards as described in "Quality Mammography Standards" Code of Federal Regulations (CFR) 21 CFR Parts 900, et. seq. effective April 28, 1999, as amended, promulgated pursuant to be the federal "Mammography Quality Standards Act." Final Rule as published in Federal Register of October 28, 1997 and corrected in Federal register of November 10, 1997.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 10 Ok Reg 73, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1695, eff 6-1-93 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-10. Additional operational controls for dental radiographic systems

- (a) Film holding devices shall be used except in individual cases in which the practitioner has determined that such holding devices are contraindicated. Written safety procedures required by 310:281-11-4(b) state the criteria under which the exception may apply.
- (b) The tube housing support shall be constructed and adjusted so that the tube housing cannot drift from its set position during an exposure. Neither the tube housing nor support housing shall be hand-held during an exposure.
- (c) The operator shall stand at least 6 feet from the useful beam or behind a protective barrier. Where a protective barrier is utilized, a viewing system shall be provided.
- (d) Individuals who operate only dental radiographic systems are exempted from the personnel monitoring requirements of 310:281-9-12.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-11. Additional operational controls for veterinary x-ray systems

- (a) In no case shall an individual hold the x-ray tube during any radiographic exposure.
- (b) Unless required to restrain an animal, the operator shall stand at least 6 feet away from the useful beam and the animal during radiographic exposures.
- (c) No individual, other than the operator, shall be in the x-ray room or area while exposures are being made unless such individual's assistance

is required.

(d) When an animal must be held in position during radiography, mechanical supporting or restraining devices may be used when technique permits.

(1) If the animal must be held by an individual, that individual shall be protected with appropriate shielding devices, such as protective gloves and apron, and the person shall be so positioned that no part of his/her body except hands and arms will be struck by the useful beam.

(2) The exposure of any individual who holds animals shall be monitored by film badge, TLD, or other appropriate device.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 10 Ok Reg 73, eff 10-5-92 (emergency); Amended at 10 Ok Reg 1695, eff 6-1-93 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-12. General requirements for all human diagnostic x-ray systems

(a) **Battery charge indicator.** On battery-powered x-ray generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(b) **Leakage radiation from the diagnostic x-ray tube assembly.** The leakage radiation from the diagnostic x-ray tube assembly measured at a distance of 1 meter in any direction from the x-ray tube assembly shall not exceed 100 milliroentgens in 1 hour when the x-ray tube is operated at its leakage technique factors. Measurement is averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(c) **Radiation from components other than the diagnostic x-ray tube assembly.** The radiation emitted by a component other than the diagnostic x-ray tube assembly cannot exceed 2 milliroentgens in 1 hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. Measurement is averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(d) **Beam quality.**

(1) **Half-value layer (HVL).**

(A) The half-value layer of the useful beam for a given x-ray tube potential shall not be less than the values shown below. If it is necessary to determine such half-value layer at an x-ray tube potential which is not listed in the following table, linear interpolation may be made. Half-value layer measurements shall be made at no less than 90 percent maximum rated potential or 80 kVp, whichever is lower for the unit.

(i) the half-value layer for the selected tube potential of 30 kVp is 0.3 mm of aluminum; (terminology and units listed below are the same listed here);

(ii) 40 kVp is 0.4

(iii) 50 kVp is 0.5

- (iv) 51 kVp is 1.2
- (v) 60 kVp is 1.3
- (vi) 70 kVp is 1.5
- (vii) 71 kVp is 2.1
- (viii) 80 kVp is 2.3
- (ix) 90 kVp is 2.5
- (x) 100 kVp is 2.7
- (xi) 110 kVp is 3.0
- (xii) 120 kVp is 3.2
- (xiii) 130 kVp is 3.5
- (xiv) 140 kVp is 3.8 and
- (xv) 150 kVp is 4.1

(B) In addition to the requirements of 310:281-11-12(d)(1)

(A)(i), all intraoral dental radiographic systems manufactured on or after December 1, 1980, shall have a minimum half-value layer not less than 1.5 millimeters aluminum equivalent filtration permanently installed in the useful beam.

(C) For capacitor energy storage equipment, compliance with the requirements of 310:281-11-12(d) is determined with the maximum quantity of charge per exposure. (D) The required minimal aluminum equivalent filtration includes the filtration contributed by all materials which are always present between the source and the patient.

(2) **Filtration controls.** For diagnostic x-ray systems which have variable kVp and variable filtration for the useful beam, a device shall link the kVp selector with the filters and prevent an exposure unless the minimum amount of filtration as stated in 310:281-11-12(d)(1) is in the useful beam for the given kVp which has been selected.

(e) **Multiple tubes.** Where two or more diagnostic x-ray tubes are controlled by one exposure switch, the tube or tubes which have been selected shall be clearly indicated prior to initiation of the exposure. This indication shall be both on the x-ray control panel and at or near the tube housing assembly which has been selected.

(f) **Technique and exposure indicators.**

(1) The system shall display the selected exposure factors before the exposure begins.

(2) The requirement of 310:281-11-12(f)(1) may be met by permanent markings on equipment having fixed technique factors.

(3) The x-ray control shall provide visual indication of the production of x-rays.

(g) **Certified diagnostic x-ray systems.** In addition to the requirements of these rules, the permittee shall not make, nor cause to be made, any modification of components or installations of components certified pursuant to U.S. Food and Drug Administration Regulation 21 CFR 1020, "Performance Standards for Ionizing Radiation Emitting Products," in any manner that could cause the installations or the components to fail to meet the requirements of the applicable parts of the standards specified in 21 CFR 1020, except where a variance has been granted by the

Director, Center for Devices and Radiological Health, Food and Drug Administration.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-13. Fluoroscopic x-ray systems and spot-film devices except radiation therapy simulators

(a) Limitation of useful beam.

(1) Primary barrier.

(A) The fluoroscopic imaging assembly shall be provided with a primary protective barrier which intercepts the entire cross section of the useful beam at any source-to-image receptor distance (SID).

(B) The x-ray tube used for fluoroscopy shall not produce x-rays unless the barrier is in position to intercept the useful beam and the imaging device is in place and operable.

(2) X-Ray field.

(A) Means shall be provided for stepless (continuous) adjustment of the field size.

(B) The minimum field size at the greatest SID shall be equal to or less than 5 centimeters by 5 centimeters.

(C) Neither the length nor the width of the x-ray field in the plane of the image receptor shall exceed that of the visible area of the image receptor by more than 3 percent of the SID. The sum of the excess length and the excess width shall be no greater than 4 percent of the SID.

(D) Spot-film devices shall meet the following additional requirements:

(i) Means shall be provided between the source and the patient for adjustment of the x-ray field size in the plane of the film to the size of that portion of the film which has been selected on the spot-film selector.

(ii) Such adjustment shall be automatically accomplished except when the x-ray field size in the plane of the film is smaller than that of the selected portion of the film.

(iii) The total misalignment of the edges of the x-ray field with the respective edges of the selected portion of the image receptor along the length or width dimensions of the x-ray field in the plane of the image receptor shall not exceed 3 percent of the SID when adjusted for full coverage of the selected portion of the image receptor.

(iv) The sum, without regard to sign of the misalignment along any 2 orthogonal dimensions, shall not exceed 4 percent of the SID.

(v) The center of the x-ray field in the plane of the film shall be aligned with the center of the selected

portion of the film to within 2 percent of the SID.

(E) Compliance with 310:281-11-13(a)(2) is determined with the beam axis perpendicular to the plane of the image receptor.

(b) **Activation of the fluoroscopic tube.** X-ray production in the fluoroscopic mode shall be controlled by a device which requires continuous pressure by the fluoroscopist for the entire time of the exposure (dead-man switch). When recording serial fluoroscopic images, the fluoroscopist shall be able to terminate the x-ray exposures at any time, but means may be provided to permit completion of any single exposure of the series in process.

(c) **Exposure rate limits:**

(1) **Entrance Exposure Rate Allowable Limits.**

(A) Fluoroscopic equipment provided with automatic exposure rate control mode (no manual mode) shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute at the point where the center of the useful beam enters the patient, except:

- (i) During recording of fluoroscopic images; or
- (ii) When an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute at the point where the center of the useful beam enters the patient unless the high level control is activated. Special means of activation of high level controls shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(B) Fluoroscopic equipment (manual mode only) not provided with automatic exposure rate control shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute at the point where the center of the useful beam enters the patient, except:

- (i) During recording of fluoroscopic images; or
- (ii) When an optional high level control is activated. The high level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(C) Fluoroscopic equipment, provided with both automatic exposure rate control and manual modes, shall not be operable at any combination of tube potential and current that shall result in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute in either mode at the point

where the center of the useful beam enters the patient, except:

- (i) During recording of fluoroscopic images; or
- (ii) When the mode or modes have an optional high level control, in which case the mode or modes shall not be operable at any combination of tube potential and current that results in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute at the point where the center of the useful beam enters the patient, unless the high level control is activated. Special means of activation of high level controls shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist will indicate that the high level control is being employed.

(D) Any fluoroscopic equipment manufactured after May 19, 1995 which can exceed 1.3 mC/kg (5 roentgens) per minute shall be equipped with an automatic exposure rate control. All entrance exposure rates are limited to 2.6 mC/kg (10 roentgens) per minute with an upper limit of 5.2 mC/kg (20 roentgens) per minute when the high level control is activated.

(E) Compliance with the requirements of OAC 310:281-11-13 is determined as follows:

- (i) If the source is below the x-ray table, then the exposure rate is measured 1 centimeter above the tabletop or cradle;
- (ii) If the source is above the x-ray table, the exposure rate shall be measured at 30 centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;
- (iii) For a c-arm type of fluoroscope, then the exposure rate is measured 30 centimeters from the input surface of the fluoroscopic imaging assembly, with the source positioned at any available SID, provided that the end of the beam-limiting device or spacer is no closer than
- (iv) For a lateral type fluoroscope, the exposure rate is measured at a point 15 centimeters for the centerline of the x-ray table and in the direction of the x-ray source with the end of the beam-limiting device or spacer positioned as closely to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral x-ray source, with the end of the beam-limiting device or spacer no closer than 15 centimeters to the centerline of the x-ray table.

(2) **Periodic Measurements.** Periodic measurements of the entrance exposure rate shall be performed by a qualified expert for both typical and maximum values as follows (Materials should be placed in the useful beam to protect the imaging system when conducting these periodic measurements.):

(A) Such measurements shall be made annually or after any maintenance of the system which might affect the exposure rate;

(B) Measurement results must be kept where any fluoroscopist may have ready access to such results while using the fluoroscope, and include the following information:

(i) stated in coulombs per kilogram (roentgens) per minute;

(ii) include the technique factors used in determining such results;

(iii) The name of the individual performing the measurements; and

(iv) the date the measurements were performed.

(C) Conditions of periodic measurement of typical entrance exposure rate are as follows:

(i) The measurements shall be made under the conditions that satisfy the conditions of OAC 310:281-11-13(c)(1)(E);

(ii) The kVp, mA, and/or other selectable parameters shall be adjusted to those settings typical of clinical use on a 23 cm thick abdominal patient;

(iii) The x-ray system that incorporates automatic exposure rate control shall have sufficient attenuative material placed in the useful beam to produce a milliamperage and/or kilovoltage to satisfy the conditions of OAC 310:281-11-13(c)(2)(C)(ii);

(D) Conditions of periodic measurement of maximum entrance exposure rate are as follows:

(i) The measurement shall be made under the conditions that satisfy 310:281-11-13(c)(1)(E);

(ii) The kVp, mA and/or other selectable parameters shall be adjusted to those settings which give the maximum entrance exposure rate;

(iii) The x-ray system(s) that incorporates automatic exposure control shall have sufficient attenuative material placed in the useful beam to produce the maximum entrance exposure rate of the system.

(d) **Barrier transmitted radiation rate limits.**

(1) **Primary barrier transmission.** The exposure rate due to transmission through the primary protective barrier with the attenuation block in the useful beam combined with radiation from the image intensifier shall not exceed 2 milliroentgens per

hour for each roentgen per minute exposure rate. Measurements shall be made at 10 centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor.

(2) Measuring compliance of barrier transmission.

(A) The exposure rate due to transmission through the primary protective barrier combined with radiation from the image intensifier is determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(B) If the source is below the tabletop, then the measurement is made with the input surface of the fluoroscopic imaging assembly positioned 30 centimeters above the tabletop.

(C) If the source is above the tabletop and the SID is variable, then the measurement is made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it shall not be closer than 30 centimeters.

(D) Movable grids and compression devices shall be removed from the useful beam during the measurement.

(E) The attenuation block shall be positioned in the useful beam 10 centimeters from the point of measurement of entrance exposure rate and between this point and the input surface of the fluoroscopic imaging assembly.

(F) The collimator shall be fully open when the measurement is made.

(e) **Indication of potential and current.** During fluoroscopy and cinefluorography, the kV and the mA shall be continuously indicated at the control panel and/or the fluoroscopist's position.

(f) **Source-to-Skin distance.** The SSD shall not be less than:

- (1) 38 centimeters on all stationary fluoroscopes,
- (2) 30 centimeters on all mobile fluoroscopes, and
- (3) 20 centimeters for image intensified fluoroscopes used for specific surgical application.

(g) **Fluoroscopic timer.**

(1) Means shall be provided to preset the cumulative on-time of the fluoroscopic x-ray tube. The maximum cumulative time of the timing device shall not exceed 5 minutes without resetting.

(2) A signal audible to the fluoroscopist shall indicate the completion of any preset cumulative on-time. Such signal will continue to sound while x-rays are produced until the timing device is reset.

(h) **Radiation therapy simulation systems.** If a radiation therapy simulation system complies with (1) and (2) of this subsection, then it is exempt from all the requirements of 310:281-11-13(a), (c), (d), and (g) provided that:

- (1) such systems are designed and used in such a manner that no individual other than the patient is in the x-ray room during periods of time when the system is producing x-rays; and

(2) systems which do not meet the requirements of 310:281- 11-13(g) are provided with a means of indicating the cumulative time that an individual patient has been exposed to x-rays. Procedures shall require in such cases that the timer be reset between examinations.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 27 Ok Reg 2512, eff 7-25-10 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-14. Radiographic diagnostic x-ray systems

(a) **Beam limitation.** This Subsection applies to radiographic systems used in the healing arts of medicine, chiropractic, and podiatry. It does not apply to fluoroscopic, dental, veterinary, or computed tomography systems.

(1) General purpose stationary, mobile and portable diagnostic x-ray systems.

(A) The tube housing shall be of diagnostic type.

(B) Adjustable collimators, with the same degree of protection as is required of the housing, shall be provided to restrict the useful beam to the area of clinical interest. They shall provide for independent, stepless adjustment of at least two dimensions of the x-ray field.

(C) A method shall be provided for visually defining the perimeter of the x-ray field. The total misalignment of the edges of the visually defined field with the respective edges of the x-ray field along either the length or width of the visually defined field shall not exceed 2 percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the x-ray beam.

(2) Additional requirements for stationary general purpose diagnostic x-ray systems. In addition to the requirements of 310:281-11-14(a)(1), all stationary general purpose diagnostic x-ray systems shall meet the following requirements:

(A) A method shall be provided to align the center of the x-ray field with respect to the center of the image receptor to within 2 percent of the SID.

(B) The beam-limiting device shall indicate numerically the field size in the plane of the image receptor to which it is adjusted.

(C) Indication of field size dimensions and SID's shall be specified in inches and/or centimeters, and shall be such that aperture adjustments result in x-ray field dimensions in the plane of the image receptor which deviate from those indicated by the beam-limiting device by no more than 2 percent of the SID when the beam axis is indicated to be perpendicular to the plane of the image receptor.

(3) General purpose diagnostic x-ray systems designed for one image receptor size. Radiographic systems designed for only one image receptor size at a fixed SID shall be provided with

means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID, or shall be provided with means to both size and align the x-ray field such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor.

(4) Special purpose diagnostic x-ray systems.

(A) A means shall be provided to limit the x-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID when the axis of the x-ray beam is perpendicular to the plane of the image receptor.

(B) A means shall be provided to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID, or means shall be provided to both size and align the x-ray field such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor.

(C) The above 310:281-11-14(a)(4)(A) and (B) may be met with a system that meets the requirements for general purpose x-ray system as specified in 310:281-11-14(a)(1) or, when alignment means are also provided, may be met with either:

- (i) an assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed with each such device having clear and permanent markings to indicate the image receptor size and SID for which it is designed; or
- (ii) a beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Permanent, clearly legible markings shall indicate the image receptor size and SID for which each aperture is designed and shall indicate which aperture is in position for use.

(b) Radiation exposure control devices.

(1) X-Ray control.

(A) An x-ray control shall be incorporated into each diagnostic x-ray system such that an exposure can be terminated by the operator at any time except:

- (i) for exposure of 0.5 second or less; or
- (ii) during serial radiography when means shall be provided to permit completion of any single exposure of the series in process.

(B) The exposure switch shall be of the dead-man type.

(2) Timers. A means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, a

preset number of pulses, or a preset radiation exposure to the image receptor. In addition, it shall not be possible to make an exposure when the timer is set to a "zero" or "off" position.

(3) **Automatic exposure controls.** When an automatic exposure control is provided:

(A) Indication shall be made on the control panel when this mode of operation is selected.

(B) If the x-ray tube potential is equal to or greater than 50 kVp, the minimum exposure time for field emission equipment rated for pulsed operation shall be equal to or less than a time interval equivalent to two pulses.

(C) The minimum exposure time for all systems other than that specified in 310:281-11-14(b)(3)(B) shall be equal to or less than 0.0167 second or a time interval required to deliver 5 mAs, whichever is greater.

(D) Either the product of peak x-ray tube potential, current, and exposure time shall be limited to not more than 60 kW per exposure, or the product of x-ray tube current and exposure time shall be limited to not more than 600 mAs per exposure except that, when the x-ray tube potential is less than 50 kVp, the product of x-ray tube current and exposure time shall be limited to not more than 2000 mAs per exposure.

(E) A visible signal will indicate when an exposure has been terminated at the limits required by 310:281-11-14(b)(3)(iv), and manual resetting shall be required before further automatically timed exposures can be made.

(4) **Reproducibility.** With a timer setting of 0.5 second or less, the average exposure period (T) shall be greater than or equal to 5 times the maximum exposure period (T_{\max}) minus the minimum exposure period (T_{\min}) when 4 timer tests are performed: $T > 5(T_{\max} - T_{\min})$

(5) **Accuracy.** Deviation of measured technique factors from indicated values of kVp and exposure time shall not exceed the limits specified for that system by its manufacturer. In the absence of manufacturer's specifications, the deviation shall not exceed 10 percent of the indicated value for kVp and for times greater than 0.05 (1/20) seconds.

(c) **Source-to-Skin Distance (SSD).** All mobile or portable diagnostic x-ray systems shall be provided with means to limit the SSD to 30 centimeters or greater.

(d) **Exposure reproducibility.** The coefficient of variation of exposure shall not exceed 0.10 when all technique factors are held constant. This requirement is met when 4 exposures are made at identical technique factors, and the value of the average exposure (E) is greater than or equal to 5 times the maximum exposure (E_{\max}) minus the minimum exposure (E_{\min}): $E > 5(E_{\max} - E_{\min})$

(e) **Linearity.** The average ratios of exposure (mR) to the indicated milliamperere-seconds (mAs) product obtained at any two consecutive tube

current settings shall not differ by more than 0.10 times their sum: $[X_1 - X_2] < 0.10(X_1 + X_2)$ where X_1 and X_2 are the average mR/mAs values obtained at each of two consecutive tube current settings.

(f) **Radiation from capacitor energy storage systems in standby status.** Radiation emitted from the x-ray tube when the exposure switch or timer is not activated shall not exceed a rate of 2 milliroentgens per hour at 5 centimeters from any accessible surface of the diagnostic source assembly, with the beam-limiting device fully open.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-15. Computed tomography x-ray systems

(a) System requirements.

(1) Tomographic plane indication and alignment.

(A) For any single tomogram system, means shall be provided to permit visual determination of the tomographic plane or a reference plane offset from the tomographic plane.

(B) For any multiple tomogram system, means shall be provided to permit visual determination of the location of a reference plane. The reference plane can be offset from the location of the tomographic planes.

(C) If a device using a light source is used to satisfy 310:281-11-15(a)(1)(A) or (B), the light source shall provide illumination levels sufficient to permit visual determination of the location of the tomographic plane or reference plane under ambient light conditions of up to 500 lux.

(2) **Indication of CT conditions of operation.** The CT x-ray system shall be designed such that the CT conditions of operation to be used during a scan or a scan sequence are indicated prior to the initiation of a scan or a scan sequence. On a system having all or some of these conditions of operation at fixed values, this requirement may be met by permanent markings. Indication of CT conditions of operation shall be visible from any position from which scan initiation is possible.

(3) Initiation of operation.

(A) The x-ray control and gantry shall provide visual indication whenever x-rays are produced and, if applicable, whether the shutter is open or closed.

(B) Means shall be provided to require operator initiation of each individual scan or series of scans.

(C) All emergency buttons/switches shall be clearly labeled as to their functions.

(4) Termination of exposure.

(A) Means shall be provided to terminate the x-ray exposure automatically by either de-energizing the x-ray source or shuttering the x-ray beam in the event of the equipment failure affecting data collection. Such

termination shall occur within an interval that limits the total scan time to no more than 110 percent of its preset value through the use of either a backup timer or devices which monitor equipment function.

(B) A visible signal shall indicate when the x-ray exposure has been terminated through the means required by 310:281-11-15(a)(4)(A).

(C) The operator shall be able to terminate the x-ray exposure at any time during a scan, or series of scans under x-ray system control, of greater than 0.5 second duration. Termination of the x-ray exposure shall necessitate resetting of the CT conditions of operation prior to initiation of another scan.

(5) **Extraneous radiation.** The system shall perform such that the radiation produced adjacent to the tube housing assembly, including the tube port, during periods of time that scans are not being performed does not exceed the levels permitted by 310:281-11-12(c).

(6) **Additional requirements applicable to CT x-ray systems containing a gantry manufactured after September 3, 1985.**

(A) The total error in the indicated location of the tomographic plane or reference plane shall not exceed 5 millimeters.

(B) If the x-ray production period is less than 0.5 second, the indication of x-ray production shall be activated for at least 0.5 second. Indicators at or near the gantry shall be discernible from any point external to the patient opening where insertion of any part of the human body into the primary beam is possible.

(C) The deviation of indicated scan increment versus actual increment shall not exceed to within 1 millimeter with any mass from 0 to 100 kilograms resting on the support device. The patient support device shall be incremented from a typical starting position to the maximum incremented distance or 30 centimeters, whichever is less, and then returned to the starting position. Measurement of actual versus indicated scan increment can be taken anywhere along this travel.

(D) Premature termination of the x-ray exposure by the operator shall necessitate resetting of the CT conditions of operation prior to the initiation of another scan.

(7) **Maximum surface CTDI identification.** The angular position where the maximum surface CTDI occurs shall be identified to allow for reproducible positioning of a CT dosimetry phantom.

(b) **Facility design requirements.**

(1) **Aural communication.** Provision shall be made for two-way aural communication between the patient and the operator at the control panel.

(2) **Viewing systems.**

(A) Windows, mirrors, closed-circuit television, or an equivalent shall be provided to permit continuous observation of the patient during irradiation and positioned to allow the operator to observe the patient from the control panel.

(B) When the primary viewing system is by electronic means, an alternate viewing system (which may be electronic) shall be available for use in the event of failure of the primary viewing system.

(c) Surveys, dose measurements, spot checks, operating procedures, and preventative maintenance services.

(1) Surveys.

(A) All CT systems shall have a survey made by or under the direct supervision of a medical physicist.

(i) All dental cone beam CTs under 120 kVp are exempt from this requirement; and

(ii) CT systems not used for diagnostic purposes are exempt from this requirement.

(B) Performance surveys by a medical physicist shall be made:

(i) at intervals not to exceed 1 year;

(ii) when major maintenance, except x-ray tube replacement, that could affect radiation output is performed; and

(iii) when a major change in the systems operation is accomplished; for example, introduction of a new software package.

(C) The permittee shall obtain a written report of the survey from the medical physicist and a copy of the report shall be made available to the Department upon request.

(2) Dose measurements.

(A) The dose measurements of the radiation output of the CT system will be done by a medical physicist. Dose limits for adult head, adult abdomen, and pediatric abdomen are listed in 310:281-11-5.

(B) Any calibration or recalibration on a CT system required by the medical physicist's survey shall be done by a qualified service representative. Any work deemed necessary by the permittee, other than that permitted by the manufactures' operators manual, shall be performed by a qualified service representative.

(C) Calibration of the dose measurements of a CT system is required for each type of head, body, or whole-body scan performed at the facility.

(D) Dose measurements shall meet the following requirements:

(i) The dose profile along the center axis of the CT phantom for the minimum, maximum, and midrange values of the nominal tomographic section thickness used by the permittee shall be measurable. Where less than 3 nominal

tomographic thicknesses can be selected, the dose profile determination shall be performed for each available nominal tomographic section thickness.

(ii) The CTDI along the two axes specified in 310:281-11-15(c)(3)(A)(ii) shall be measured. The CT dosimetry phantom shall be oriented so that the measurement point 1.0 centimeter from the outer surface and within the phantom is in the same angular position within the gantry as the point of maximum surface CTDI identified. The CT conditions of operation shall correspond to typical values used by the permittee.

(E) Calibration of the dose measurements of a CT equipment shall be performed with a calibrated dosimetry system.

(i) Calibration of such a system shall be traceable to the national standard. The dosimetry system shall have been calibrated within the preceding 2 years.

(ii) Calibration procedures of the dosimetry system shall be in writing. Records of calibration performed shall be available for inspection by the Department.

(3) **CT dosimetry phantom(s).** CT dosimetry phantom(s) shall be used in determining the radiation output of CT systems. Such phantom(s) shall meet the following specifications and conditions of use:

(A) CT dosimetry phantom(s) shall be made of a material analogous to human tissue. (Water and acrylic are acceptable). If they are made of acrylic, they should have a density of 1.19 plus or minus 0.01 grams per cubic centimeter. The phantom(s) shall be at least 14 centimeters in length and have a diameter of 32.0 centimeters for testing CT systems designed to image any section of the body and 16.0 centimeters for equipment designed to image the head or for whole body equipment operated in the head scanning mode.

(B) CT dosimetry phantoms shall provide a means for the placement of a dosimeter(s) along the axis of rotation and a line parallel to the axis of rotation 1.0 centimeter from the outer surface and within the phantom. Means for the placement of dosimeter or alignment devices at other locations should be provided.

(C) Any effects on the doses measured due to the removal of phantom material to accommodate dosimeters shall be accounted for through appropriate corrections to the reported data or included in the statement of maximum deviation for the values obtained using the phantom.

(D) All dose measurements shall be performed with the CT phantom placed on the patient couch or support devices without additional attenuation materials present.

(E) If contrast studies are done, the materials used should be made of water, acrylic, polyethelene, and air. They will be used to simulate bone and different types of tissue.

(4) Spot checks.

(A) Spot check procedures shall be developed by a medical physicist.

(B) All spot checks shall be included in the medical physicist survey required by 310:281-11-15(c)(2), and otherwise at time intervals and under equipment conditions specified by a medical physicist.

(C) Spot checks shall include acquisition of images obtained with the CT dosimetry phantom(s) using the same processing mode and CT conditions of operation as are used to perform dose measurements required by 310:281-11-15(c)(2). The images shall be retained, until a new dose measurement is performed, in two forms as follows:

- (i) photographic copies of the images obtained from the image display device; and
- (ii) images stored in digital form of the most recent spot check on a storage medium compatible with the CT x-ray system.

(D) Written records of the spot checks performed shall be maintained for inspection by the Department.

(5) Operating procedures.

(A) The CT system shall not be operated except by an individual who has been specifically trained in its operation. Documentation of this training must be available upon request of the Department inspector.

(B) Information shall be available at the control panel regarding the operation and calibration of the system.

Such information shall include the following.

- (i) Dates of the latest survey, preventative maintenance service, spot checks, and location within the facility of where to find the results of those tests;
- (ii) Instructions on the use of the CT dosimetry phantom(s) including a schedule of spot checks appropriate for the system, allowable variations for the indicated parameters, and the results of at least the most recent spot checks conducted on the system;
- (iii) The distance in millimeters between the tomographic plane and the reference plane if a reference plane is utilized; and
- (iv) A current technique chart available at the control panel which specifies, each routine examination, the CT conditions of operation, and the number of scans per examination.

(C) If the medical physicist survey or spot checks of the CT system identifies that a systems operating parameter(s)

has exceeded a tolerance established by the medical physicist, use of the CT equipment on patients shall be limited to those uses permitted by established written instructions of the medical physicist.

(6) **Preventative maintenance services.** Each permittee shall establish a preventative maintenance schedule where their CT system is serviced at least once every 3 months by a qualified service representative.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-16. Dental radiographic systems

(a) General requirements.

(1) **Timers.** Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor. In addition, it shall not be possible to make an exposure when the timer is set to a "zero" or "off" position if either position is provided.

(2) **Reproducibility.** With a timer setting of 0.3 second or less, the average exposure period (T) shall be greater than or equal to 5 times the maximum exposure period (T_{\max}) minus the minimum exposure period (T_{\min}) when 4 timer tests are performed: $T > 5(T_{\max} - T_{\min})$

(3) **X-Ray control.**

(A) An x-ray control shall be incorporated into each dental x-ray system such that an exposure can be terminated by the operator at any time, except for exposures of 0.5 second or less.

(B) The exposure switch shall be of the dead-man type.

(C) Each x-ray control shall be located in such a way as to permit the operator to remain in an area of less than 2 millirems in any 1 hour during the entire exposure.

(4) **Exposure reproducibility.** The coefficient of variation shall not exceed 0.10 when all technique factors are held constant. This requirement is met when 4 exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to 5 times the maximum exposure (E_{\max}) minus the minimum exposure (E_{\min}): $E > 5(E_{\max} - E_{\min})$

(b) Additional requirements for dental intraoral systems.

(1) **Source-to-Skin distance (SSD).** Dental x-ray systems designed for use with an intraoral image receptor shall be provided with means to limit SSD to not less than:

(A) 18 centimeters if operable above 50 kVp; or

(B) 10 centimeters if not operable above 50 kVp.

(2) **Field limitation.**

(A) Dental x-ray systems designed for use with an intraoral image receptor shall be provided with means to limit the x-ray beam such that the x-ray field, at the minimum SSD, is

containable in a circle having a diameter of no more than 7 centimeters or a rectangle with a longer side of no more than 5cm.

(B) An open-ended, shielded, beam-indicating device shall be used.

(c) Additional requirements for dental extraoral system field limitation.

(1) Dental rotational panoramic systems shall be provided with means to limit the x-ray beam to the imaging slit in the transverse axis and shall not exceed a total of 0.5 inch larger than the imaging slit in the vertical axis.

(2) All other dental extraoral x-ray systems (e.g., cephalometric) shall be provided with means to both size and align the x-ray field so that it does not extend beyond any edge of the image receptor by more than 2 percent of the SID.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-17. Veterinary x-ray systems

(a) Systems.

(1) The system shall display the selected exposure factors before the exposure begins.

(A) The requirement of 310:281-11-17(a)(1)(A) may be met by permanent markings on equipment having fixed technique factors. Indication of technique factors shall be visible from the operator's position except in the case of spot films made by the fluoroscopist.

(B) The x-ray control shall provide visual indication of the production of x-rays observable at or from the operator's protected position whenever x-rays are produced.

(2) The leakage radiation from the diagnostic tube head assembly measured at a distance of 1 meter in any direction from the source shall not exceed 100 milliroentgens in 1 hour when the x-ray tube is operated at its leakage technique factors.

Measurement is averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(3) The useful beam shall be restricted to the area of clinical interest and no larger than the size of the image receptor.

(4) Collimating devices shall be provided and shall limit the beam to the area of the image receptor to within 2 percent of the SID, and shall provide the same degree of protection as is required of the housing.

(5) The half-value layer of the useful beam shall not be less than 0.5 millimeter aluminum equivalent for systems operating up to 50 kVp, 1.5 millimeters aluminum equivalent for systems operating between 50 and 70 kVp, and 2 millimeters aluminum equivalent for systems operating above 70 kVp.

(6) A device shall be provided to terminate the exposure after a preset time or exposure.

(7) A dead-man type of exposure switch shall be provided, together with an exposure control cord of sufficient length, so that the operator can stand out of the useful beam and at least 6 feet from the animal during all x-ray exposures.

(8) The coefficient of variation for exposure shall not exceed 0.10 when all technique factors are held constant. This requirement is met when 4 exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to 5 times the maximum exposure (E_{\max}) minus the minimum exposure (E_{\min}): $E \geq 5(E_{\max} - E_{\min})$

(9) The primary beam shall be aligned with the film by using specified technique in the facility's operating procedures.

(10) Fluoroscopic and CT systems used in veterinary facilities shall meet the requirements of 310:281-11-13 and 310:281-11-15 respectively, except the aural communications requirements of 310:281-11-15(b)(1).

(11) Portable systems shall be used in a manner which complies with these rules.

(b) **X-ray control location.** Each x-ray control shall be located in such a way as to permit the operator to remain in an area of less than 2 millirems in any 1 hour during the entire exposure.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-18. Therapeutic x-ray systems of less than 1 MeV [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-11-19. X-ray and electron therapy systems with energies of 1 MeV and above [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-11-20. Determining skin entrance exposures

The following is the method for measuring and calculating patient entrance skin exposures in diagnostic x-ray examinations.

(1) Have the operator set the x-ray tube at the source to image receptor distance (SID) routinely used, and adjust the collimation as though a patient was in the beam. Measure the distance from the x-ray source to the surface against which the patient rests. Subtract the thickness of the patient part to obtain the source to skin distance (SSD).

(2) Place the ionization chamber in the center of the x-ray field and measure the source to chamber distance (SCD). Use of a test stand (such as the CDRH stand) to position the chamber at a reasonable distance from the table will reduce backscatter contribution. Placing the chamber at the actual SSD will

accomplish this and allow direct reading of the ESE.

(3) Record the routine technical factors used by the facility for the standard patient thickness (Table I) and make exposures utilizing these techniques.

(4) For phototimed procedures a phantom must be utilized to control the exposure time and achieve an accurate exposure estimate. When utilizing a phantom, the measuring chamber should be positioned in the beam between the phantom and the x-ray tube (but not placed over an active photocell), and should be located approximately nine inches from the phantom to reduce backscatter contribution.

(5) Calculate the entrance skin exposure as follows if a direct result was not obtained: $ESE = (Raw\ mR) \times (SCD)^2 / (SSD)^2$

(6) Compare the results of these measurements for the speed of the imaging system used by the facility with the ESE guides published by the Conference of Radiation Control Program Directors, Publication 88-5 "Average Patient Exposure Guides - 1988", or a similarly derived group of values, (allowing for the speed of the imaging system used by the facility).

(7) There are many different techniques for measuring ESE, which may result in significant differences in measured values. Factors that can cause variations include instrument calibration, backscatter, collimation, estimation of focal spot location, choice of phantom, and location of chamber in the primary beam.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04 ; Amended at 38 Ok Reg 1954, eff 9-11-21]

310:281-11-21. Additional information required for healing arts screening

Persons requesting that the Department approve a healing arts screening program shall submit the following information and evaluation:

(a) Administrative controls.

(1) The name and address of the applicant and, where applicable, the names and addresses of agents within Oklahoma.

(2) The diseases or conditions for which the x-ray examinations are to be used in diagnosis.

(3) A detailed description of the x-ray examinations proposed in the screening program.

(4) A description of the population to be examined in the screening program (i.e., age, sex, physical condition.)

(5) An evaluation of any known alternate methods not involving radiation which could achieve the goals of the screening program and why these methods are not being utilized.

(6) All screening exams must have an order from an Oklahoma licensed medical practitioner. The exam order must be within the scope of the practitioner's license. The only exceptions to this are screening mammography and bone density exams.

(b) Operating procedures.

(1) An evaluation by a medical physicist of the diagnostic x-ray systems to be used in the screening program. The evaluation by

the medical physicist shall show compliance with these rules.

(2) A description of the diagnostic film quality control program.

(3) A copy of the technique chart to be used for the x-ray examination procedures.

(c) Training.

(1) The qualifications of each individual who will be operating the diagnostic x-ray systems.

(2) The qualifications of the individual who will be supervising the operators of the diagnostic x-ray systems. The extent of supervision and the method of work performance evaluation shall be specified.

(3) The name and address of the practitioner who will interpret the radiographs.

(d) Records.

(1) A description of the procedures to be used in advising the individuals screened, and their private practitioners of the healing art, of the results of the screening procedure and any further medical needs indicated.

(2) A description of the procedures for the retention or disposition of the radiographs and other records pertaining to the x-ray examinations.

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Amended at 21 Ok Reg 1037, eff 5-13-04]

SUBCHAPTER 13. RADIATION SAFETY REQUIREMENTS FOR ANALYTICAL X-RAY EQUIPMENT [REVOKED]

310:281-13-1. Purpose [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-13-1.1. Definitions [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-13-2. Equipment requirements [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-13-3. Area requirements [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-13-4. Operating requirements [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-13-5. Personnel requirements [REVOKED]

[Source: Added at 9 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

SUBCHAPTER 15. RADIATION SAFETY REQUIREMENTS FOR PARTICLE ACCELERATORS [REVOKED]

310:281-15-1. Purpose [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-2. Registration requirements [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-3. General requirements for registration of particle accelerators [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-4. Additional requirements for registration of human use particle accelerators [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-5. [REVOKED]

[Source: Reserved at 8 Ok Reg 3503, eff 8-15-91 (emergency); Reserved at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-6. Limitations [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-7. Shielding and safety design requirements [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-8. Particle accelerator controls and interlock systems [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-9. Warning devices [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-10. Operating procedures [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-11. Radiation monitoring requirements [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

310:281-15-12. Ventilation systems [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

SUBCHAPTER 17. USE OF TELERADIOLOGY IN HEALING ARTS

310:281-17-1. Incorporation by reference

(a) **Adopted reference.** Except as otherwise specifically provided, the performance of teleradiology shall conform to standards as described in the 2002 revised edition of the "ACR Technical Standard for Teleradiology" as defined in the American College of Radiology Practice Guidelines and Technical Standards.

(b) Exceptions.

(1) Section III, Qualifications of Personnel, "In all cases this means a licensed and/or registered radiologic technologist, radiation therapist, nuclear medicine technologist or sonographer is not incorporated by reference.

(2) Section III,B,1 "Certified by the appropriate registry and/or possess unrestricted state licensure" is not incorporated by reference.

(3) Section V, Licensing, Credentialing, And Liability, "Physicians who provide the official interpretation of images transmitted by teleradiology should maintain licensure as may be required for

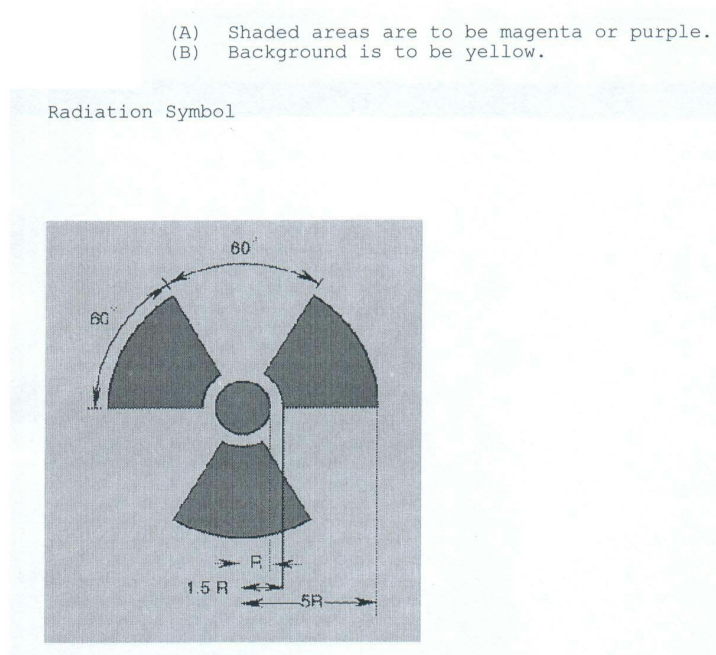
provision of radiologic service at both the transmitting and receiving sites" is not incorporated by reference.

(4) Doctors of Veterinary Medicine are exempted from this subchapter.

[Source: Added at 21 Ok Reg 1037, eff 5-13-04]

APPENDIX A. CONVENTIONAL THREE-BLADE DESIGN RADIATION SYMBOL

Figure 1



APPENDIX B. CT OPERATOR COMPETENCY CHECKLIST [REVOKED]

[Source: Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked and reenacted at 21 Ok Reg 1037, eff 5-13-04 ; Revoked at 38 Ok Reg 1954, eff 9-11-21]

APPENDIX C. QUANITITES FOR USE WITH 310:281-9-12 AND 310:281-9-20 [REVOKED]

[**Source:** Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ; Revoked at 21 Ok Reg 1037, eff 5-13-04]

APPENDIX D. ACCEPTABLE SURFACE CONTAMINATION LEVELS [REVOKED]

[**Source:** Added at 8 Ok Reg 3503, eff 8-15-91 (emergency); Added at 9 Ok Reg 1643, eff 5-29-92 ;
Revoked at 21 Ok Reg 1037, eff 5-13-04]

APPENDIX E. EQUATIONS FOR 310:281-1-2 DEFINITIONS [REVOKED]

[**Source:** Added at 21 Ok Reg 1037, eff 5-13-04 ; Revoked at 38 Ok Reg 1954, eff 9-11-21]

CHAPTER 282. LABORATORY CERTIFICATION STANDARDS [REVOKED]

[**Authority:** 63 O.S.Supp.1991, § 1-106.1]
[**Source:** Codified 6-1-93]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:282-1-1. Purpose [REVOKED]

[**Source:** Added at 9 Ok Reg 3129, eff 7-1-92 (emergency); Added at 10 Ok Reg 1699, eff 6-1-93 ;
Revoked at 12 Ok Reg 2325, eff 6-26-95]

310:282-1-2. Definitions [REVOKED]

[**Source:** Added at 9 Ok Reg 3129, eff 7-1-92 (emergency); Added at 10 Ok Reg 1699, eff 6-1-93 ;
Revoked at 12 Ok Reg 2325, eff 6-26-95]

SUBCHAPTER 3. STANDARDS FOR CERTIFICATION [REVOKED]

310:282-3-1. Certification process [REVOKED]

[**Source:** Added at 9 Ok Reg 3129, eff 7-1-92 (emergency); Added at 10 Ok Reg 1699, eff 6-1-93 ;
Revoked at 12 Ok Reg 2325, eff 6-26-95]

310:282-3-2. Provisional certification [REVOKED]

[**Source:** Added at 9 Ok Reg 3129, eff 7-1-92 (emergency); Added at 10 Ok Reg 1699, eff 6-1-93 ;
Revoked at 12 Ok Reg 2325, eff 6-26-95]

310:282-3-3. Performance evaluation [REVOKED]

[**Source:** Added at 9 Ok Reg 3129, eff 7-1-92 (emergency); Added at 10 Ok Reg 1699, eff 6-1-93 ;
Revoked at 12 Ok Reg 2325, eff 6-26-95]

310:282-3-4. Quality assurance [REVOKED]

[**Source:** Added at 9 Ok Reg 3129, eff 7-1-92 (emergency); Added at 10 Ok Reg 1699, eff 6-1-93 ;
Revoked at 12 Ok Reg 2325, eff 6-26-95]

CHAPTER 285. LODGING ESTABLISHMENTS

[**Authority:** 63 O.S., §§ 1-104 and 1-1201 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:285-1-1. Purpose

The rules in this Chapter implement the Lodging Establishment Statute, 63 O.S. Section 1-1201 et seq.

[**Source:** Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-1-1.1. Scope

The rules in this chapter shall apply only to guest rooms and any supporting facilities. It is not the intent of this chapter to license or regulate:

- (1) Living quarters where permanent residents reside; or
- (2) Establishments which require the rental of the entire establishment and grounds.

[**Source:** Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-1-2. Definitions

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

"Bedding" means mattresses, sleeper sofas, mattress covers, mattress pads, bedskirts, quilts, blankets, sheets, pillows, pillow cases, comforters and spreads.

"Cabin" means a single structure where sleeping accommodations are furnished to the transient, traveling, or vacationing public. A group of less than four (4) cabins, at the same location and under the same ownership shall be exempt from this chapter.

"Certified applicator" means any individual who is certified under 7 U.S.C., Section 136(e)(1) or by the Oklahoma State Department of Agriculture Food and Forestry as authorized to use or supervise the use of any pesticide that is classified for restricted use. Any applicator who holds or applies registered pesticides or uses dilutions of registered pesticides consistent with the product labeling only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides.

"Clean" means free of visible stains, dirt, dust, sludge, foam, slime (including algae and fungi), mold, rust, scale, mineral deposits, accumulation of impurities, food debris, and other foreign material.

"Commissioner" means the State Commissioner of Health and authorized representatives or designated agents thereof.

"Continental breakfast" means a morning meal consisting of no more than the food items described in OAC 310:285-5-6(a) and this Chapter, or an authorized agent thereof.

"Department" means the Oklahoma State Department of Health and a health department designated in writing by the State Commissioner of Health to perform official duties or other acts authorized under 63 O.S. § 1- 101 et seq.

"Employee" means the permit holder, individuals having supervisory or management duties and any other person working in a lodging establishment whose duties include the cleaning of rooms, toilets, linens, utensils, or any part of the building or the rendering of any service to guests.

"EPA-registered" means any chemical or substances, including sanitizers, sterilizers, biocides, or other substances which must be registered with the United States Environmental Protection Agency under 7 U.S.C. § 136 et seq. prior to their distribution and use by industry and consumers.

"Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Guest room" means any room in a lodging establishment which is offered for occupancy on a daily basis or for a period of less than thirty (30) days.

"Housekeeper's cart" means a vehicle which is used to transport cleaning materials, room supplies, clean and soiled linens and refuse.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Infestation" means the presence of vermin, which includes but is not limited to bed bugs, cockroaches, or rodents, which is indicated by observation of living or dead vermin or vermin carapace, eggs or egg casings, or the typical brownish or blood spotting on linens, mattresses, or furniture, or the presence of vermin droppings.

"Kitchenette" means a room or area within a single guest room of a lodging establishment that has the following amenities:

- (A) A kitchen sink supplied with hot and cold potable water;
- (B) Properly vented cooking facilities such as a microwave oven, convection oven, or stove;
- (C) An easily cleanable, non-porous counter for food preparation;
- (D) A refrigerator capable of holding 41 °F or less; and
- (E) A cupboard or other kitchen cabinetry.

"Law" means state statutes and rules.

"Lodging establishment" means and includes any hotel, motel, tourist court, apartment house, rooming house or other place where sleeping accommodations are furnished or offered for pay for transient guests, if five (5) or more rooms are available therein for transient guests.

"Person" means any individual, partnership, corporation, association, or other legal entity.

"Person in charge" means the individual present in a lodging establishment who is the supervisor of the lodging establishment at the time of inspection. If no individual is the supervisor, then any employee present is the person in charge.

"Physical facilities" means the structure and interior surfaces of a lodging establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

"Potable water" means water which is safe for human consumption in that it is free from impurities in amounts sufficient to cause disease or harmful physiological effects and, for the purpose of this definition, approved by the Department of Environmental Quality prior to serving to the general public.

"Premises" means the physical establishment, its contents, and the contiguous land or property under the control of the license holder which operated as a single business.

"Putrescible" means capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases.

"Ready-to-eat food" means a food product that is intended to be consumed without any further preparation or cooking processes.

"Regulatory authority" means a representative, such as an onsite inspector, of the Department.

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175, pesticides classified for restricted use, and pesticides limited to use by or under the direct supervision of a certified applicator.

"Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens to a safe level as determined by applicable state and federal requirements on utensils and equipment.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

"Single-service articles" means cups, containers, lids, closures, knives, forks, spoons, stirrers, paddles, straws, wrapping materials, and similar utensils intended to be discarded after one use.

"Substantial compliance" means a level of compliance with the requirements of participation such that any identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm.

"Time/Temperature Control for Safety Food" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(A) Time/Temperature Control for Safety Food includes: An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin

formation, or garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth or toxin formation; and

(B) Time/Temperature Control for Safety Food does not include:

- (i) An air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been pasteurized to destroy all viable *Salmonellae*;
- (ii) A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
- (iii) A food that because of its aW or pH values, is designated as a non-TCS food.

"Utensil" means any multi-use or single service implement used in the storage, preparation, transportation, or service of ice, beverage, or other food.

"Variance" means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Chapter, if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:285-1-3. Captions

Section tag lines and subsection tag lines are part of the rules of this Chapter.

310:285-1-4. Severability

If any provision or application of any provision of the rules in this Chapter is held invalid, that invalidity shall not affect other provisions or applications of the rules in this Chapter.

SUBCHAPTER 3. ESTABLISHMENT MAINTENANCE

310:285-3-1. Establishment maintenance

(a) All buildings and appurtenances used in the operation of any lodging establishment, excluding the buildings and appurtenances of hotels as defined in 63 O.S. § 1-1201(A), shall be maintained as necessary to safeguard the health, comfort and safety of guests accommodated therein. Hotels remain subject to the Department's rules governing *cleanliness and bactericidal treatment of equipment and utensils; cleanliness and hygiene of personnel; toilet facilities; disposal of wastes; water supply; and any other items deemed necessary to safeguard the health, comfort and safety of guests accommodated therein.* [63 O.S. § 1-1201(A)]

- (b) The floors in areas used for washing and sanitizing multiuse utensils, laundry areas, kitchenettes, and in areas in restrooms, which are next to the tub, shower, or toilet, shall be constructed of smooth, durable, nonabsorbent, and easily cleanable material.
- (c) All floors, walls, ceilings, equipment, and other appurtenances in hallways, common areas, and foodservice areas shall be maintained clean and in good repair.
- (d) Studs, joists, rafters, and beams shall not be left exposed in restrooms, laundry rooms, or kitchenettes. If left exposed in other areas, these structural members shall be suitably finished and be kept clean and in good repair.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:285-3-1.1. Smoking

A lodging establishment may allow smoking in no more than twenty-five percent (25%) of the guest rooms as stated in 63 O.S. § 1-1523 and shall comply with OAC 310: 355, relating to smoking in public and indoors.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-2. Plumbing

Plumbing shall be maintained in a safe manner and comply with applicable laws.

- (1) There shall be no apparent cross-connection between the potable water supply and any non-potable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.
- (2) Each washing machine, dishwasher, or sink used for washing laundry, tableware or utensils, and all ice machines, shall drain through an approved air gap.
- (3) Hot water at handwashing sinks shall be at least 100°F and 110°F at ware washing sinks.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-3. Electrical

The electrical distribution system shall be maintained in a safe manner and comply with applicable law.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-4. Light

Lighting shall be provided to promote cleanliness and safety.

- (1) Each lodging unit shall maintain at least one lighting fixture which will provide at least fifty (50) foot-candles of light measured at thirty (30) inches above the floor.

- (2) At least fifty (50) foot-candles of light measured at thirty (30) inches above the floor shall be provided in each area used for preparing food, at ice machines, and in each kitchenette.
- (3) At least twenty (20) foot-candles of light at a distance of thirty (30) inches from the floor shall be provided in each laundromat area for guest use, toilet room, bathroom, continental food service areas, in ware washing areas, in laundry rooms, and in each other area during cleaning.
- (4) At least fifteen (15) foot-candles of light shall be provided in any living or sleeping area.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-5. Safety

(a) **Fire extinguishers.** Fire extinguishers shall be provided as required by law and maintained in working order at all times as indicated by the manufacturer's recommendation.

- (1) The employer shall distribute portable fire extinguishers for use by employees on Class A (Ordinary combustibles) fires so that the travel distance for employees to any extinguisher is 75 feet (22.9 m) or less.
- (2) The employer shall distribute portable fire extinguishers for use by employees on Class K (Commercial Cooking Equipment) fires so that the travel distance for employees to any extinguisher is 30 feet (9.1 m) or less.

(b) **Smoke detectors.** Each guest room shall be equipped with at least one working smoke detector, clearly audible over background noise, and maintained free of foreign matter that could impair its proper function. Electronic smoke detectors shall be tested and approved annually by a sprinkler company, fire alarm company, fire department representative, or other entity. Record of the most recent test shall be made available to the regulatory authority upon request

- (1) All battery operated smoke detectors shall be checked each time the room is cleaned.
- (2) If the smoke detector is not working properly, the room shall be closed until the smoke detector can be repaired to working order.
- (3) Facilities constructed after the effective date of these regulations shall have electronically operated smoke detectors.

(c) **Carbon monoxide detectors.** Carbon monoxide detectors shall be required in each guest room which has a gas appliance inside it.

(d) **Fire escapes.** All fire escapes shall be maintained in good repair, unobstructed, easily accessible at all times, and marked with a colored lighted sign.

- (1) Conspicuous directions to all fire escapes shall be posted in all hallways or walkways.
- (2) An evacuation route diagram, showing location of room, layout of floor, and nearest available exits, shall be posted in a conspicuous location in each guest room.

(e) **Platforms.** All platform areas accessible to persons, such as porches, decks, or lofts elevated more than thirty (30) inches, shall be enclosed by a rail at least twenty-eight (28) inches high and with openings of no greater than four (4) inches.

(f) **Ventilation.** There must be a forced air vent or window that can be opened to provide ventilation of all guest rooms. Windows which can be opened must be screened and the screen must be removable.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-6. Restroom facilities

(a) All lodging establishments shall provide toilet facilities and lavatories on each floor for use by those guests without private toilet facilities in their rooms.

(b) The walls, floors, and ceilings, toilet bowls, lavatories, bath tubs, shower stalls, and other equipment and appurtenances in all restrooms shall be maintained clean and in good repair.

(c) Towels, soap, and toilet paper shall be provided in each guest room toilet facility. Locked, permanently-mounted stocked soap and shampoo dispensers may be provided for tub, shower, or lavatory use.

(d) Every surface of a bathtub, shower, shower enclosure, toilet, and lavatory, which may come in contact with a person's body, shall be sanitized each day the rooms are in use, unless the guest has declined regular guest room services. If a guest declines regular guest room services, the lodging establishment shall ensure these surfaces are cleaned and sanitized at least once per week and between guests.

(e) All public and employee restrooms shall be stocked with a sufficient supply of toilet paper, disposable paper or single-use cloth towels, and soap. Cloth towels provided in public restrooms for use by guests and customers shall be dispensed in a manner that clearly facilitates single use prior to laundering. If cloth towels are provided for this purpose, they shall be stored for use, dispensed, and stored for re-laundering in a sanitary manner.

(f) Ventilation in all restroom areas shall be installed and maintained according to applicable laws.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-7. Refuse storage and disposal

(a) Each public lodging establishment shall have solid waste containers of sufficient number and size to store all the solid waste in a manner that does not exceed the waste container capacity.

(1) Containers shall be emptied at least weekly or sooner at an interval which prevents putrescible waste from becoming a nuisance.

(2) Exterior waste containers shall be kept clean, covered, and closed with a tight fitting lid at all times except when being filled.

(b) At least one nonperforated metal or plastic waste basket shall be provided for each guest room.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-8. Premises

The premises of all lodging establishments shall be adequately drained and kept clean and free from high weeds, clutter, and refuse.

(1) Only those chemicals necessary to the operation of the lodging establishment shall be stored on the premises.

(2) Chemicals and pesticides used on the premises must be used in accordance with the manufacturer's recommended directions and stored in a safe manner.

(3) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 U.S.C., Section 136(e)(1), or a person under the direct supervision of a certified applicator.

(4) Chemicals removed from their original container shall be properly labeled. All chemical storage areas shall be properly identified.

(5) Chemicals shall not be stored with or above food, food equipment or utensils, or clean linens or bedding.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-9. Vermin control

Effective methods of vermin control shall be provided for all buildings and appurtenances thereto. Premises shall be kept free of conditions conducive to harborage and infestation at all times. Guest rooms found to have evidence of or live rodents, cockroaches, bed bugs, or other vermin in type and number to cause a public health nuisance shall be closed to the public immediately and until the presence or infestation is eliminated. Measures to control such infestations shall be implemented and documented. Such documentation shall be maintained for a period of one year.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-10. Restriction of animals and fowl

The keeping of animals or fowl in a guest room may be permitted by the lodging establishment. Each room occupied by any animal or fowl shall be adequately cleaned, including wet scrubbing of carpet if need is indicated, to assure that the room is clean and free of vermin infestation. Pesticides shall be applied according to the manufacturer's instructions to prevent any health hazard from pesticide residue to subsequent occupants.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-11. Public bathing places

All public bathing places, even if use is restricted to guests of the lodging establishment, shall be maintained in compliance with standards and rules and regulations adopted by the Department.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-12. Sewage

All sewage shall be disposed of by a public sewage system or by a sewage disposal system maintained in compliance with the standards and rules and regulations adopted by the Oklahoma Department of Environmental Quality.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-12.1. In-room spas

A hot tub or spa located in a guest room shall be drained, cleaned, and sanitized according to the manufacturer's recommendations for public use between each room occupant, and monitored for sanitation at least weekly when offered for use. Indoor, single room hot tubs or spas shall be in an enclosed area constructed such that no person, other than the occupants of that room, can access the tub or spa for use.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-13. Water

Potable water shall be obtained from an approved source that is:

- (1) A public water system, or
- (2) A nonpublic water system that is constructed, maintained, and operated according to law.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-3-14. Food service [REVOKED]

[Source: Amended at 19 Ok Reg 2916, eff 7-26-02 (emergency); Amended at 20 Ok Reg 88, eff 10-29-02 (emergency); Amended at 20 Ok Reg 1181, eff 5-27-03 ; Amended at 21 Ok Reg 1284, eff 5-27-04 ; Revoked at 38 Ok Reg 1982, eff 9-11-21]

SUBCHAPTER 5. SANITARY OPERATIONS AND CONTROLS

310:285-5-1. Ice

(a) **Equipment.** Ice provided to customers shall be manufactured with equipment that is maintained in a clean manner and meets design, construction, installation and service requirements which comply with manufacturer's recommendations and the Department's Food Establishment Regulations. Ice machines shall be located in a protected

or enclosed hallway or room.

(b) Customer self-service.

(1) Automatically dispensed ice which eliminates human contact with the ice other than that portion being dispensed may be used provided the equipment conforms to the installation and operation requirements of the manufacturer. Automatic ice dispensing equipment shall be installed when existing machines are replaced.

(2) Ice containers may be placed in the guest room or made available at the registration desk, or other location under the direct continuous control of the employees. Multi-use containers must be constructed of smooth, non-porous materials which must be cleaned and sanitized before being offered to the customer. Containers may be lined with approved single-service plastic film liners.

(3) Ice Makers provided in guest rooms must be emptied, cleaned, and sanitized between guests.

(c) Operator-dispensed ice. Ice dispensed by the operator or employee shall be obtained from an approved source, or from an ice machine installed in a protected location not accessible to patrons and not located in private or tenant quarters. The ice must be dispensed into a sanitized container or food grade single-use bag.

(d) Pre-packaged ice. The lodging establishment operator may purchase bulk ice from an approved source for packaging in individual containers, may provide an on-premises machine, or ice may be obtained pre-packaged in individual service size from an approved source. Pre-packaged ice obtained from a manufacturer in individual service size shall be offered to the consumer in its original, unbroken, entire package.

(e) Other methods. Any other method that provides for manufacture, storage, dispensing, or serving of ice may be offered upon approval by the Department.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-2. Laundry

(a) Physical arrangement. Those lodging establishments electing to provide their own laundry shall comply with the following provisions:

(1) The physical arrangement of the laundry facility shall include a laundry area for receiving and handling soiled laundry, a washing and extracting area, a finishing area (where the laundry is dried, tumbled, ironed, pressed or folded) and a clean article storage area.

(2) Floors, walls, ceilings, pipes and equipment shall be kept clean, free of dirt or grease, and in good repair.

(3) Laundry chutes, if used, shall discharge soiled linens into a suitable container.

(4) Every room with laundry facilities shall have a floor drain and the floor shall be sloped to provide proper drainage to the floor drain.

(5) Every room with laundry facilities shall have a dedicated handwashing sink available at all times. The sink shall be equipped with:

- (A) Handwashing soap,
- (B) Disposable paper towels,
- (C) Hot and cold running water,
- (D) A sign reminding employees to wash hands before returning to work.

(6) Shelving shall have a smooth, easily cleanable, and non-absorbent finish. When existing shelving is replaced, it may be replaced with the same material as long as it is sealed to create a smooth cleanable finish.

(b) Laundry storage.

- (1) All washable items, when laundered, shall be stored in the clean laundry area, or in a guest room.
- (2) Clean linens shall be stored separate from the "soiled laundry area".
- (3) Soiled laundry containers shall be lined with a disposable plastic liner or shall be cleaned and sanitized daily.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-3. Housekeeper cart

The housekeeper cart shall be arranged so that clean replacement supplies, clean linens and cleaned and sanitized multi-use equipment and utensils shall be protected from soiled items being removed from each room. Soiled linens and refuse shall be placed in appropriate containers if placed on the housekeeper's cart and handled in such a manner as to not contaminate other items on that cart.

- (1) Housekeeper carts shall be kept in a sanitary manner and in good repair.
- (2) Cloths used for cleaning and sanitizing dirty environmental surfaces of the guest room shall be used in one guest room only, and then placed in the dirty compartment of the housekeeping cart when the guest room attendant has completed cleaning that room.
- (3) Leftover room service food items and used tableware shall be removed from public hallways at least every 4 hours.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-4. Guest rooms

(a) Furnishings.

- (1) All furniture, windows, shades, draperies, floors, floor coverings, walls, ceilings, and other equipment and appurtenances shall be kept clean.
- (2) All furniture, windows, shades, draperies, floors, floor coverings, walls, ceilings, and other equipment and appurtenances must be maintained in good repair.

(b) Beds, bedding and linens.

- (1) All beds, springs, mattresses, bedding and linens, shall be in good repair.
- (2) All beds, springs, mattresses, bedding, and linens shall be kept clean.
- (3) A minimum of two sheets and one mattress cover of appropriate size shall be provided for each bed. A pillow cover and a pillow case shall be provided for each pillow.
- (4) Mattresses, pillows, and any bedding appearing soiled or stained shall be subjected to a cleaning and sanitizing process, or removed from service. Such items found in service shall be ordered removed from service and shall be returned to service only after cleaning, sanitizing, and stain removal.

(c) **Service.**

- (1) Bar soap and other individually packaged used personal hygiene items left by departing guests shall not be reused for customer service. Used hygiene items can be donated to non-profit shelters, Food Banks, or other similar establishments.
- (2) All sheets, pillow cases, and towels shall be changed after each occupancy.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-5. Storage, cleaning, and bactericidal treatment of utensils

(a) **Multi-use utensils.**

- (1) All multi-use utensils shall be removed from the room after each occupancy for cleaning and sanitizing.
- (2) All multi-use utensils shall be in good condition.
- (3) All multi-use utensils shall be stored at least six inches above floor level in a clean and dry location which is protected from splash, dust, and other contamination.
- (4) A room separate from the laundry shall be provided for washing, rinsing and sanitizing multi-use utensils.

(b) **Manual cleaning and sanitizing.** Multi-use equipment and utensils shall be washed in a 3-compartment sink, with soap and hot water of at least 110°F, rinsed in clear water, sanitized with a chlorine sanitizer of 50-100 ppm, or any other sanitizer allowed under 40 CFR 180.940 and then allowed to air dry.

(c) **Mechanical cleansing and sanitizing.** Cleaning and sanitizing may be done by mechanical dishwashing machines provided that:

- (1) The dish temperature reaches °160°F during the final rinse; or
- (2) After cleaning and rinsing, the dish is sanitized with chlorine at a concentration of 50 ppm and a water temperature of at least 75°F, or any other sanitizing agent allowed by 40 CFR 180.940; and
- (3) The machine is operated according to the manufacturer's instructions on the data plate
- (4) A test kit, an irreversible registering temperature indicator, or other device that accurately measures the concentration in mg/L

of sanitizing solutions shall be provided.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-6. Employees [REVOKED]

[Source: Revoked at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-6.1. Food service

(a) Food service, if provided, shall be limited under a lodging license. The products shall be from an approved source and limited to the following:

- (1) Coffee;
- (2) Tea;
- (3) Commercially processed fruit juices;
- (4) Carbonated beverages. Beverage dispensers may be used if the source of ice for the dispenser is automatic dispensing;
- (5) Fresh, washed, uncut fruits, or fruits that are processed in a regulated establishment;
- (6) Baked goods;
- (7) Cereals;
- (8) Jams, jellies, syrups;
- (9) Pasteurized Grade A milk, Pasteurized Grade A cream, non-dairy creamers;
- (10) Butters, margarines, or products of similar nature;
- (11) Commercially produced hard cheeses, cream cheese, and yogurt;
- (12) Except for (9), (13), and (14) of this subsection, Time/Temperature Control for Safety foods commercially packaged in individual servings;
- (13) Bulk or individual waffle mixes from a commercial producer that is regulated by a food regulatory agency. Prepared mixes shall be discarded after the food service has ended.
- (14) Gravy in bulk form from a commercial producer that is regulated by a food regulatory agency. Prepared gravy shall be heated to 135°F or above prior to service and discarded after the food service has ended; and
- (15) Left over, non-packaged food items from the continental breakfast shall not be reused for customer service.

(b) Equipment required to conduct food service under a lodging license shall consist of at least the following:

- (1) A three (3) compartment warewashing sink or commercial dish washing machine dedicated solely to the cleaning of utensils and equipment used in the food service operation or the multiuse utensils supplied to guest rooms.
 - (A) The warewashing sink shall not be used for handwashing.
 - (B) Sink compartments shall have smooth rounded corners and be large enough to permit the accommodation of the equipment and utensils.

- (C) Each compartment of the sink shall be supplied with hot and cold potable running water.
- (D) Warewashing facilities shall not be located in laundry areas, living, or tenant quarters.
- (2) Test strips to measure sanitization;
- (3) A handwashing sink, supplied with hot and cold running water, separate from the three (3) compartment sink in the food preparation area that shall be used for no other purpose;
- (4) Commercial refrigeration that is capable of holding 41°F or less;
- (5) Thermometers for all refrigerators used to store Time/Temperature Control for Safety Foods;
- (6) Sneeze guards and covers for self-service foods that are not wrapped or protected; and
- (7) Calibrated, probe type thermometer.
- (c) Milk, milk products, prepared waffle mixes, and juices removed from the original container for dispensing or consumption shall be discarded after the food service has ended. Milk, milk products, and other Time/Temperature Control for Safety Foods may be held above 41°F but less than 70°F for no more than six (6) hours and then discarded or discarded at the end of four (4) hours if the temperature exceeds 70°F. The food shall have an initial temperature of 5°C (41°F) or less when removed from cold holding temperature control.
- (d) All food and food contact surfaces shall be stored at least six inches above floor level in a clean and dry location so that it is protected from splash, dust and other contamination.
- (e) Lodging establishments may offer prepackaged food or beverage for sale in guest rooms or at the check in area using a cabinet, refrigerator, freezer, or mini-bar.
- (f) Lodging establishments providing any food service in excess of this section must obtain a food service license from the Department and shall comply with the requirements of OAC 310:257, Food Establishments.
- (g) All food shall be from sources approved by law.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-7. Employees

- (a) No person known or suspected of being infected with a disease in a communicable form, or who is a carrier of organisms that cause such a disease or while affected with a boil, an infected wound, or an acute respiratory infection, shall work in a lodging establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons. Such areas include but are not limited to the food service area, guest rooms, laundry room, and the rooms in which multi-use utensils are cleaned, sanitized and stored.
- (b) Clean outer garments shall be worn and good personal hygiene shall be practiced by all employees.
- (c) Whenever the responsible person knows or suspects that a guest room has been occupied by a person with a reportable infectious illness,

the guest room shall be thoroughly cleaned and sanitized, including fumigation, as needed, depending on the suspected or known pathogen.

(d) Food employees shall wash their hands and any exposed portions of their arms, as described in OAC 310:285-5-12 of this Chapter, before handling clean utensils or dishware, ice, beverages, food, or clean laundry.

(e) Food employees shall not use bare hands to handle ready-to-eat foods, except as where provided in OAC 310:285-5-8 (d) in this Chapter.

(f) Single use gloves shall be available for food employees, housekeeping, and laundry staff and provided in the food, laundry, and housekeeping areas. Single use gloves shall be used for only one task, such as handling ready-to-eat food, used for no other purpose, and discarded when damaged, soiled, contaminated, or when interruptions occur in the operation.

(g) Employee personal items shall not be stored with food, equipment or utensils, or bedding items.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-8. Preventing contamination from hands

(a) Employees shall wash their hands as specified under OAC 310:285-5-12.

(b) Except when washing fruits and vegetables or as specified in (d) of this section, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.

(c) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat food form.

(d) Food employees may contact exposed, ready-to-eat food with their bare hands if:

(1) The permit holder obtains prior approval from the regulatory authority;

(2) A written employee health policy that details how the establishment complies with OAC 310:285-5-9, OAC 310:285-5-10, and OAC 310:285-5-11 including:

(A) Documentation that employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified under OAC 310:285-5-9(a),

(B) Documentation that employees acknowledge their responsibilities as specified under OAC 310:285-5-9(e), and

(C) Documentation that the person in charge acknowledges the responsibilities as specified under OAC 310:285-5-9(b), (c) and (d), and OAC 310:285-5-10, and OAC 310:285-5-11;

(3) Documentation that employees acknowledge that they have received training in:

- (A) The risks of contacting the specific ready-to-eat foods with bare hands,
 - (B) Proper handwashing as specified under OAC 310:285-5-12,
 - (C) When to wash their hands as specified under OAC 310:285-5-13,
 - (D) Where to wash their hands as specified under OAC 310:285-5-14,
 - (E) Proper fingernail maintenance as specified under OAC 310:285-5-15,
 - (F) Prohibition of jewelry as specified under OAC 310:285-5-16, and
 - (G) Good hygienic practices as specified under OAC 310:285-5-17 and OAC 310:285-5-18;
- (4) Documentation that employees contacting ready-to-eat foods with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:
- (A) Double handwashing,
 - (B) Nail brushes,
 - (C) A hand antiseptic after handwashing, or
 - (D) Other control measures approved by the Department;
- and
- (5) Documentation that corrective action is taken when (d)(1) - (5) of this section are not followed.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-9. Reporting responsibility of license holder, person in charge, and employees

(a) The license holder shall require food employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee:

- (1) Has any of the following symptoms:
- (A) Vomiting,
 - (B) Diarrhea,
 - (C) Jaundice,
 - (D) Sore throat with fever, or
 - (E) A lesion containing pus such as a boil or infected wound that is open or draining and is:
 - (i) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover,
 - (ii) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or

- (iii) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;
- (2) Has an illness diagnosed by a health practitioner due to:
 - (A) Norovirus,
 - (B) Hepatitis A virus,
 - (C) *Shigella* spp.,
 - (D) Shiga Toxin-Producing *Escherichia Coli*,
 - (E) Typhoid fever (caused by *Salmonella Typhi*) or
 - (F) *Salmonella* (nontyphoidal);
- (3) Had Typhoid fever, diagnosed by a health practitioner, within the past 3 (three) months, without having received antibiotic therapy, as determined by a health practitioner;
- (4) Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:
 - (A) Norovirus within the past 48 (forty eight) hours of the last exposure,
 - (B) Shiga Toxin-Producing *Escherichia Coli* or *Shigella* spp. within the past 3 (three) days of the last exposure,
 - (C) Typhoid fever within the past 14 (fourteen) days of the last exposure, or
 - (D) Hepatitis A virus within the past 30 (thirty) days of the last exposure; or reportable history of exposure.
- (5) Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:
 - (A) Norovirus within the past 48 (forty eight) hours of the last exposure,
 - (B) Shiga Toxin-Producing *Escherichia Coli* or *Shigella* spp. within the past 3 (three) days of the last exposure,
 - (C) Typhoid fever (caused by *Salmonella Typhi*) within the past 14 (fourteen) days of the last exposure, or
 - (D) Hepatitis A virus within the past 30 (thirty) days of the last exposure.
- (b) The person in charge shall notify the regulatory authority when a food employee is:
 - (1) Jaundiced; or
 - (2) Diagnosed with an illness due to a pathogen as specified under (a)(2)(A) - (F) of this section.
- (c) The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified under (a)(1) - (5) of this section is:
 - (1) Excluded as specified under OAC 310:285-5-11(a) - (c), and in compliance with the provisions specified under OAC 310:285-5-11(a) - (h); or

- (2) Restricted as specified under OAC 310:285-5-10(d), (e), (f), (h), (i) and in compliance with the provisions specified under OAC 310:285-5-11(d) - (i).
- (d) A food employee shall report to the person in charge the information as specified under (a) of this section.
- (e) A food employee shall:
 - (1) Comply with an exclusion as specified under OAC 310:285-5-10(a) - (c) and with the provisions specified under OAC 310:285-5-11(a) - (h); or
 - (2) Comply with a restriction as specified under OAC 310:285-5-10(d), (e), (f), (g), (h), or (i) and comply with the provisions specified under OAC 310:285-5-11(d) - (i).

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-10. Food employee exclusions and restrictions

- (a) The person in charge shall exclude or restrict a food employee from an establishment in accordance with the following:
 - (1) Except when the symptom is from a noninfectious condition, exclude an employee if the employee is:
 - (A) Symptomatic with vomiting or diarrhea; or
 - (B) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, Shigella spp., Salmonella (nontyphoidal), or Shiga Toxin-Producing Escherichia Coli.
 - (2) Exclude an employee who is:
 - (A) Jaundiced and the onset of jaundice occurred within the last 7 (seven) calendar days, unless the employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection;
 - (B) Diagnosed with an infection from hepatitis A virus within 14 (fourteen) calendar days from the onset of any illness symptoms, or within 7 (seven) calendar days of the onset of jaundice; or
 - (C) Diagnosed with an infection from hepatitis A virus without developing symptoms.
- (b) Exclude an employee who is diagnosed with Typhoid fever, or reports having had Typhoid fever within the past 3 (three) months as specified under OAC 310:285-5-9(a)(3).
- (c) If an employee is diagnosed with an infection from Norovirus and is asymptomatic, restrict the employee.
- (d) If an employee is diagnosed with an infection from Shigella spp. and is asymptomatic, restrict the employee.
- (e) If an employee is diagnosed with an infection from Shiga Toxin-Producing Escherichia Coli, and is asymptomatic, restrict the employee.
- (f) If an employee is diagnosed with an infection from Salmonella (nontyphoidal) and is asymptomatic, restrict the employee.

(g) If an employee is ill with symptoms of acute onset of sore throat with fever, restrict the employee.

(h) If an employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under OAC 310:285-5-9(a)(1)(E), restrict the employee.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-11. Removal, adjustment, or retention of exclusions and restrictions for food employees

(a) The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of an employee: Except when an employee is diagnosed with Typhoid fever or an infection from hepatitis A virus:

(1) Reinstate an employee who was excluded as specified under OAC 310:285-5-10(a)(1) if the employee:

(A) Is asymptomatic for at least 24 (twenty four) hours; or

(B) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.

(2) If an employee was diagnosed with an infection from Norovirus and excluded as specified under OAC 310:285-5-10(a)

(2), restrict the employee, who is asymptomatic for at least 24 (twenty four) hours, until the conditions for reinstatement as specified under (d)(1) or (d)(2) of this section are met; or

(3) If an employee was diagnosed with an infection from *Shigella* spp. and excluded as specified under OAC 310:285-5-10(a)(2), adjusting exclusion for food employee who was symptomatic and is now asymptomatic. Restrict the food employee, who is asymptomatic for at least twenty four (24) hours and works in a food service establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in (a)(5)(A) or (a)(5)(B) of this Section are met; or

(4) If an employee was diagnosed with an infection from Shiga Toxin-Producing *Escherichia Coli* and excluded as specified under OAC 310:285-5-10(a)(2), restrict the employee, who is asymptomatic for at least 24 (twenty four) hours, until the conditions for reinstatement as specified under (f)(1) or (f)(2) of this section are met; or

(5) If an employee was diagnosed with an infection from *Salmonella* (nontyphoidal) and excluded as specified under OAC 310:285-5-10(a)(2):

(A) Restrict the employee, who is asymptomatic for at least 30 (thirty) days until conditions for reinstatement as specified under (g)(1) or (g)(2) of this section are met; or

(B) Retain the exclusion for the employee who is symptomatic, until conditions for reinstatement as specified under Paragraphs (g)(1) or (g)(2) of this section are met.

(b) Reinstate an employee who was excluded as specified under OAC 310:285-5-10(b) if the person in charge obtains approval from the Department and one of the following conditions is met:

- (1) The employee has been jaundiced for more than 7 (seven) calendar days;
- (2) The employee has been symptomatic with symptoms other than jaundice for more than 14 (fourteen) calendar days; or
- (3) The employee provides to the person in charge written medical documentation from a health practitioner stating that the employee is free of a hepatitis A virus infection.

(c) Reinstate an employee who was excluded as specified under OAC 310:285-5-10(c) if:

- (1) The person in charge obtains approval from the Department; and
- (2) The employee provides to the person in charge written medical documentation from a health practitioner that states the employee is free from Typhoid fever.

(d) Reinstate an employee who was excluded as specified under OAC 310:285-5-10(a)(2), who was restricted under OAC 310:285-5-10(d) if the person in charge obtains approval from the Department and one of the following conditions is met:

- (1) The excluded or restricted employee provides to the person in charge written medical documentation from a health practitioner stating that the employee is free of a Norovirus infection;
- (2) The employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 (forty eight) hours have passed since the employee became asymptomatic; or
- (3) The employee was excluded or restricted and did not develop symptoms and more than 48 (forty eight) hours have passed since the employee was diagnosed.

(e) Reinstate an employee who was excluded as specified under OAC 310:285-5-10(a)(2) or (e) or who was restricted under OAC 310:285-5-10(e) if the person in charge obtains approval from the Department and one of the following conditions is met:

- (1) The excluded or restricted employee provides to the person in charge written medical documentation from a health practitioner stating that the employee is free of a Shigella spp. infection based on test results showing 2 (two) consecutive negative stool specimen cultures that are taken:

(A) Not earlier than 48 (forty eight) hours after discontinuance of antibiotics, and

(B) At least 24 (twenty four) hours apart;

- (2) The employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 7 (seven) calendar days have passed since the food employee became asymptomatic; or
- (3) The employee was excluded or restricted and did not develop symptoms and more than 7 (seven) calendar days have passed since the food employee was diagnosed.

(f) Reinstate an employee who was excluded or restricted as specified under OAC 310:285-5-10(a)(2) or who was restricted under OAC

310:285-5-10(f) if the person in charge obtains approval from the Department and one of the following conditions is met:

- (1) The excluded or restricted employee provides to the person in charge written medical documentation from a health practitioner stating that the employee is free of an infection from Shiga Toxin-Producing Escherichia Coli based on test results that show 2 (two) consecutive negative stool specimen cultures that are taken:
 - (A) Not earlier than 48 (forty eight) hours after discontinuance of antibiotics; and
 - (B) At least 24 (twenty four) hours apart;
- (2) The employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 (seven) calendar days have passed since the employee became asymptomatic; or
- (3) The employee was excluded or restricted and did not develop symptoms and more than 7 (seven) days have passed since the employee was diagnosed.

(g) Reinstate an employee who was excluded as specified under OAC 310:285-5-10(a)(2) or who was restricted as specified under OAC 310:285-5-10(g) if the person in charge obtains approval from the Department and one of the following conditions is met:

- (1) The excluded or restricted employee provides to the person in charge written medical documentation from a health practitioner stating that the employee is free of a Salmonella (nontyphoidal) infection based on test results showing 2 (two) consecutive negative stool specimen cultures that are taken;
 - (A) Not earlier than 48 (forty eight) hours after discontinuance of antibiotics, and
 - (B) At least 24 (twenty four) hours apart;
- (2) The employee was restricted after symptoms of vomiting or diarrhea resolved, and more than 30 (thirty) days have passed since the employee became asymptomatic; or
- (3) The employee was excluded or restricted and did not develop symptoms and more than 30 (thirty) days have passed since the employee was diagnosed.

(h) Reinstate an employee who was excluded or restricted as specified under OAC 310:285-5-10(h) if the employee provides to the person in charge written medical documentation from a health practitioner stating that the employee meets one of the following conditions:

- (1) Has received antibiotic therapy for Streptococcus pyogenes infection for more than 24 (twenty four) hours;
- (2) Has at least one negative throat specimen culture for Streptococcus pyogenes infection; or
- (3) Is otherwise determined by a health practitioner to be free of a Streptococcus pyogenes infection.

(4) Reinstate an employee who was restricted as specified under OAC 310:285-5-10(i) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

- (A) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;

- (B) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or
- (C) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-12. Cleaning procedure

(a) Employees shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands or arms for at least 20 (twenty) seconds, using a cleaning compound in a properly equipped handwashing sink.

(b) Employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

- (1) Rinse under clean, running warm water;
- (2) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer;
- (3) Rub together vigorously for at least 10 to 15 seconds while:
 - (A) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure, and
 - (B) Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers;
- (4) Thoroughly rinse under clean, running warm water; and
- (5) Immediately follow the cleaning procedure with thorough drying using a disposable paper towel.

(c) To avoid recontamination of their hands or surrogate prosthetic devices, employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-13. When to wash

Employees shall clean their hands and exposed portions of their arms immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single use articles and:

- (1) After touching bare human body parts other than clean hands and clean, exposed portions of arms;
- (2) After using the toilet room;
- (3) After caring for or handling service animals or aquatic animals;
- (4) Except as specified in OAC 310:285-5-17(b), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
- (5) After handling soiled equipment and utensils;

- (6) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
- (7) Before donning gloves to initiate a task that involves working with food; and
- (8) After engaging in other activities that contaminate the hands.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-14. Where to wash

Employees shall clean their hands in a handwashing sink and shall not clean their hands in a sink used for food preparation or warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-15. Maintenance

- (a) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.
- (b) Unless wearing intact gloves in good repair, an employee may not wear fingernail polish or artificial fingernails when working with exposed food.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-16. Prohibition

Except for a plain ring such as a wedding band, while preparing food, an employee may not wear jewelry including medical information jewelry on their arms and hands.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-17. Eating, drinking, or using tobacco

- (a) Except as specified in (b) of this section, an employee shall not eat, drink, or use any form of tobacco, vaping product, or Medical Marijuana in areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection may result.
- (b) An employee may drink from a closed beverage container if the container is handled to prevent contamination of:
 - (1) The employee's hands;
 - (2) The container; and
 - (3) Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-5-18. Discharges from the eyes, nose, and mouth

Employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

SUBCHAPTER 7. NEW CONSTRUCTION [REVOKED]

310:285-7-1. General building requirements [REVOKED]

[Source: Revoked at 38 Ok Reg 1982, eff 9-11-21]

310:285-7-2. Submission of plans [REVOKED]

[Source: Revoked at 38 Ok Reg 1982, eff 9-11-21]

310:285-7-3. Pre-operational inspection [REVOKED]

[Source: Revoked at 38 Ok Reg 1982, eff 9-11-21]

SUBCHAPTER 9. COMPLIANCE PROCEDURES

310:285-9-1. Licensure

No person shall operate a lodging establishment who does not have a valid license issued to such person by the Oklahoma State Department of Health pursuant to 63 O.S. Sections 1-1201 et seq. Only a person who is in substantial compliance with the requirements of this Chapter shall be entitled to receive or retain such a license. Licenses are not transferable. A valid license shall be posted in every lodging establishment.

[Source: Amended at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-2. Issuance of license [REVOKED]

[Source: Amended at 8 Ok Reg 3107, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1489, eff 5-1-92 ; Revoked at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-2.1. Public health protection

(a) The regulatory authority shall apply this Chapter to promote its purpose of safeguarding public health.

(b) In enforcing the provisions of this Chapter, the regulatory authority shall assess existing facilities or equipment that were in use before the effective date of this Chapter based on the following considerations:

- (1) Whether the facilities or equipment are in good repair and capable of being maintained in a safe and sanitary condition; and

(2) The existence of a documented agreement, as described in OAC 310:285-9-4, with the license holder that the facilities or equipment will be replaced within an agreed upon timeframe.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-3. Access [REVOKED]

[Source: Revoked at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-3.1. Preventing health hazards, provision for conditions not addressed

(a) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements that are not listed in this Chapter as authorized by law.

(b) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the license applicant or license holder and a copy shall be maintained in the Department file for the establishment.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-4. Suspected infection [REVOKED]

[Source: Revoked at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-4.1. Waiver

(a) Whenever the Department adopts new rules or amends existing language in this Chapter, the owner of a lodging establishment may request that a waiver be granted on any nonconforming use that may then exist, on or before the effective date of the rule change, at the license holder's place of operation.

(b) Waivers requested pursuant to this Subchapter are subject to approval by the Department. In order to have the waiver approved, a license holder must submit a written application on a form provided by the Department. Any waiver request shall be deemed denied unless the license holder subsequently receives notice of approval from the Department.

(c) Variances are not transferable.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-5. Emergency occurrences [REVOKED]

[Source: Revoked at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-5.1. Plans required

A license applicant or license holder shall submit to the regulatory authority plans and specifications for review and approval before:

- (1) The construction of a new establishment;
- (2) The conversion of an existing structure for use as a lodging establishment;
- (3) The extensive remodel of the food service area of the establishment.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-6. Contents of the plans and specifications

The plans and specifications for a lodging establishment shall include the following items if applicable:

- (1) Intended food service menu;
- (2) Anticipated volume of food to be stored, prepared, and sold or served;
- (3) Proposed food preparation equipment types, manufacturer and model numbers;
- (4) Proposed floor plan to include:
 - (A) Food storage, preparation, and service areas;
 - (B) Laundry facilities;
 - (C) Public restrooms; and
 - (D) Ice Machines.
- (5) Other information that may be required by the regulatory authority for the proper review of the proposed construction, conversion or modification.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-7. Preoperational inspections

The regulatory authority may conduct one or more preoperational inspections to verify the establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, and is in compliance with law and this Chapter.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-8. Qualifications and responsibilities of applicants

To qualify for a license, an applicant shall:

- (1) Be an owner of the lodging establishment or an officer of the legal ownership;
- (2) Comply with the requirements of this Chapter;
- (3) Agree to allow access to the lodging establishment and to provide required information; and
- (4) Pay any applicable license fees at the time the application is submitted.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-9. License application

- (a) A person desiring to operate a lodging establishment shall submit to the Department a written application for a license on a form provided by the Department.
- (b) A lodging establishment license shall expire one year from the date of its issuance unless canceled or revoked prior to its expiration. For purposes of determining the expiration date of all licenses under this Chapter, the date of issuance shall be deemed to be the date that an approved application for licensure is first issued by a duly authorized representative of the Health Department.
- (c) The application shall include:
- (1) The name, mailing address, e-mail address, telephone number, and signature of the person applying for the license and the name, mailing address, e-mail address, and location of the lodging establishment;
 - (2) Information specifying whether the lodging establishment is owned by an association, corporation, individual, partnership, or other legal entity;
 - (3) The number of guest rooms available;
 - (4) Any other information required by the regulatory authority;
 - (5) The Department shall issue a license to the applicant after:
 - (A) A properly completed application is received;
 - (B) The required fees are received;
 - (C) The plans, specifications, and information, if applicable, are reviewed; and
 - (D) An inspection shows that the establishment is constructed in accordance with the approved plans and specifications and that the establishment is in compliance with this Chapter and meets the Department's criteria for a license; or
 - (E) Any other information required by the Department.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-10. Existing establishments, license renewal, and change of ownership

The Department may renew a license for an existing lodging establishment or may issue a license to a new owner of an existing lodging establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in substantial compliance with this Chapter.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-11. Denial of application for license, notice

If an application for a license to operate is denied, the regulatory authority shall provide the applicant with a notice that includes:

- (1) The specific reasons and Chapter citations for the license denial; and

(2) The actions, if any, that the applicant must take to qualify for a license.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-12. Responsibilities of the license holder

Upon acceptance of the license issued by the Commissioner of Health, in order to retain the license, the license holder shall:

- (1) Post the license in a location of the establishment that is conspicuous to consumers;
- (2) Comply with the provisions of this Chapter including the conditions of any granted waiver;
- (3) Immediately discontinue or limit operations and notify the regulatory authority if an imminent health hazard may exist within the establishment;
- (4) Allow representatives of the Department access to the establishment for the purpose of inspection;
- (5) Comply with directives of the Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Department in regard to the license holder's establishment or in response to community emergencies;
- (6) Accept notices issued and served by the Department according to law;
- (7) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and
- (8) Submit the annual renewal application and pay all renewal license and late fees.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-13. Licenses not transferable

A license cannot be transferred from one person to another person, from one establishment to another, from one physical address to another, from one corporation to another, from one limited liability company or corporation to another, or from one partnership to another.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-14. Competency of inspectors

An authorized representative of the Department who inspects an establishment or conducts plan review for compliance with this Chapter shall have the knowledge, skills, and ability to adequately perform the required duties, and be licensed pursuant to 59 O.S. §1150.1 et seq.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-15. Allowed at reasonable times after due notice

After the regulatory authority presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the regulatory authority to determine if the lodging establishment is in compliance with this Chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter and to which the regulatory authority is entitled according to law, during the lodging establishment's hours of operation and other reasonable times.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-16. Refusal, notification of right to access, and final request for access

If a person denies access to the regulatory authority, the Department shall:

- (1) Inform the person that:
 - (A) The license holder is required to allow access to the regulatory authority as specified under OAC 310:285-9-12,
 - (B) Access is a condition of the acceptance and retention of a lodging establishment license to operate as specified under OAC 310:285-9-12, and
 - (C) If access is denied, an inspection order issued by the appropriate authority allowing access may be obtained according to law; and
- (2) Make a final request for access.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-17. Refusal, reporting

If after the regulatory authority presents credentials and provides notice as specified under OAC 310:285-9-15, explains the authority upon which access is requested, and makes a final request for access as specified in OAC 310:285-9-16, the person in charge continues to refuse access, the regulatory authority shall document the details of the denial of access on an inspection report form.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-18. Inspection order to gain access

If denied access to a lodging establishment for an authorized purpose and after complying with OAC 310:285-9-16, the Department may issue, or apply for the issuance of, an order to gain access as provided in law.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-19. Documenting information and observations

The regulatory authority shall document on an inspection report form:

- (1) Administrative information about the lodging establishment's legal identity, physical, mailing and e-mail addresses, inspection date, and other information that may be required; and
- (2) Specific factual observations of violative conditions or other deviations from this Chapter that require correction by the license holder. The use of photographs to document observations may be utilized.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-20. Specifying time frame for corrections

The regulatory authority may specify on the inspection report form the time frame for correction of the documented violations.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-21. Issuing report and obtaining acknowledgment of receipt

At the conclusion of the inspection the regulatory authority shall provide a copy of the completed inspection report and the notice to correct violations to the license holder or to the person in charge, and request a signed acknowledgment of receipt.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-22. Refusal to sign acknowledgment

The regulatory authority shall inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified under OAC 310:285-9-21:

- (1) An acknowledgment of receipt is not an agreement with findings;
- (2) Refusal to sign an acknowledgment of receipt will not affect the license holder's obligation to correct the violations noted in the inspection report within the timeframes specified;
- (3) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Department's historical record for the lodging establishment; and
- (4) Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-23. Ceasing operations and reporting

(a) Except as specified in (b) of this Section, a license holder shall immediately discontinue or limit operations and notify the regulatory authority if an imminent health hazard exists because of an emergency such as a fire, flood, sewage backup, no water in the establishment, insufficient refrigeration and/or hot food storage facilities available,

substantial evidence or presence of a large number of insects or evidence of rodents, interruption of safe potable water supply to the establishment, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, interruption of electrical service for more than 4 hours, severe structural damage in the establishment, an employee working with a Salmonella, Shigella, Shiga toxin producing E. coli or Hepatitis A infection, gross unsanitary occurrence or condition, or other circumstance as determined by the Commissioner of Health, or his designee, that may endanger public health.

(b) A license holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-24. Resumption of operations

If operations are discontinued as specified under OAC 310:285-9-23 or otherwise according to law, the license holder shall obtain approval from the regulatory authority before resuming operations.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-25. Timely correction

(a) Except as specified in (b) of this Section, a license holder shall correct violations within a time frame, not to exceed 10 calendar days after the inspection.

(b) The license holder shall correct violations which are structural in nature and do not present a potential health hazard, by a date and time agreed to or specified by the regulatory authority but no later than 90 calendar days after the inspection.

(c) The Department may approve a compliance schedule that extends beyond the time limits specified under (a) of this Section if a written schedule of compliance is submitted by the license holder and no imminent health hazard exists or will result from allowing an extended schedule for compliance.

(d) If corrections are not made according to OAC 310:285-9-25(a), (b) and (c), then the establishment is subject to enforcement action.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

310:285-9-26. Verification and documentation of correction

(a) After observing at the time of inspection a correction of a violation, the regulatory authority shall also record the corrective action on the inspection report.

(b) After receiving notification that the license holder has corrected a violation, or at the end of the specified period of time, the regulatory authority shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

APPENDIX A. CHEMICAL SANITIZATION

Figure 1

TABLE 1. CHEMICAL SANITIZATION WITH CHLORINE FOR WARE WASHING

(OAC 310:285-5-5. Manual and mechanical ware washing equipment, chemical sanitization – temperature, pH, concentration, and hardness when Chlorine is used as a sanitization agent)

Concentration Range	Minimum Temperature	
Mg/L	pH 10 or less °C (°F)	pH 8 or less °C (°F)
25 - 49	49 (120)	49 (120)
50 - 99	38 (100)	24 (75)
100	13 (55)	12 (55)

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

APPENDIX B. REPORTING, EXCLUSION, RESTRICTION, REMOVAL

Figure 1

TABLE 2. REPORTING, EXCLUSION, RESTRICTION AND THE REMOVAL THEREOF

(OAC 310:285-5-9 thru 5-11. Reporting responsibilities, exclusion, restrictions, and removal or adjustment of exclusions or restrictions)

OAS 310:285	SYMPTOM/SICKNESS	NON-HSP	TO REINSTATE	OAS 310:285
5-10(a)(1)	Vomiting or diarrhea	Exclude	Asymptomatic for at least 24 hrs; or Dr. note. Approval from OSDH and: The employee has been jaundiced for more than 7 days; or The employee has been symptomatic with symptoms other than jaundice for more than 14 days; or Dr. Note.	5-11(a)(1)
5-10(b)(1)	Onset of jaundice occurred within the last 7 days, no Dr. note			5-11(b)
5-10 (b)(2)	Diagnosed with hepatitis A within 14 days from the onset of symptoms, or within 7 days of jaundice			
5-10(b)(3)	Diagnosed with hepatitis A without developing symptoms			
5-10(c)	Previous illness with Typhoid fever within the past 3 months		Approval from OSDH and: Dr. Note.	5-11(c)
5-10(f)	STEC infection and asymptomatic	Restrict	Approval from OSDH and: The employee provides a Dr. note showing free of STEC infection; or The employee was excluded or restricted after symptoms resolved, and 7+ days have passed since the employee became asymptomatic; or The employee was excluded or restricted, did not develop symptoms, and 7 + days have passed since the employee was diagnosed	5-11(a)(4); 2-5-11(f)
5-10(a)(2); 2-5-10(d)	Infection from Norovirus; Diagnosed with an asymptomatic infection from Norovirus		Approval from OSDH and: The employee provides a Dr. note showing free of Norovirus infection; or The employee was excluded or restricted after symptoms resolved, and 48+ hrs have passed since the employee became asymptomatic; or The employee was excluded or restricted and did not develop symptoms and 48+ hrs have passed since the employee was diagnosed	5-11(a)(2); 5-11(d)
5-10(a)(2); 5-10(e)	Shigella spp. infection and asymptomatic		Approval from OSDH and: The employee provides a Dr. note showing free of Shigella spp. infection; or The employee was excluded or restricted after symptoms resolved, and 7+ days have passed since the employee became asymptomatic; or The employee was excluded or restricted, did not develop symptoms, and 7 + days have passed since the employee was diagnosed	5-11(a)(3); 5-11(e)
5-10(h)	Symptomatic with sore throat with fever		The employee provides a Dr. note showing: Has received antibiotic therapy for Streptococcus pyogenes infection for 24+ hrs; or Has at least 1 negative throat culture for Streptococcus pyogenes infection; or Is determined by Dr. to be free of a Streptococcus pyogenes infection	5-11(h)
5-10(f)	Symptomatic with uncovered infected wound or pustular boil	Restrict	If the infected wound is properly covered by impermeable cover and single use glove if necessary.	5-11(i)

[Source: Added at 38 Ok Reg 1982, eff 9-11-21]

CHAPTER 290. MECHANICAL INDUSTRY REGULATIONS [REVOKED]

[**Authority:** 59 O.S., §§ 1000.4 and 1850.1 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:290-1-1. Purpose [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-1-2. Definitions [REVOKED]

[**Source:** Amended at 10 Ok Reg 4199, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3819, eff 7-11-94 ; Amended at 12 Ok Reg 507, eff 12-12-94 (emergency); Amended at 12 Ok Reg 2329, eff 6-26-95 ; Amended at 13 Ok Reg 3879, eff 8-7-96 through 7-14-97 (emergency); Amended at 14 Ok Reg 3132, eff 7-25-97 ; Amended at 17 Ok Reg 2931, eff 7-13-00 ; Amended at 18 Ok Reg 1685, eff 5-25-01 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-1-3. License requirement and exemptions [REVOKED]

[**Source:** Amended at 12 Ok Reg 2329, eff 6-26-95 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-1-4. Adopted references [REVOKED]

[**Source:** Amended at 10 Ok Reg 4199, eff 8-1-93 (emergency); Amended at 11 Ok Reg 1109, eff 1-20-94 (emergency); Amended at 11 Ok Reg 3819, eff 7-11-94 ; Amended at 13 Ok Reg 3879, eff 8-7-96 through 7-14-97 (emergency); Amended at 14 Ok Reg 3132, eff 7-25-97 ; Amended at 18 Ok Reg 3591, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1049, eff 5-13-02 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

SUBCHAPTER 3. LICENSE TYPES, LIMITATIONS, QUALIFICATIONS AND DURATION; CONTRACTOR REQUIREMENTS; APPLICATION PROCEDURES; APPRENTICE REGISTRATION; AND LICENSE RETENTION REQUIREMENTS [REVOKED]

310:290-3-1. License types [REVOKED]

[**Source:** Amended at 12 Ok Reg 2329, eff 6-26-95 ; Amended at 18 Ok Reg 1685, eff 5-25-01 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-3-2. Limitations of licenses [REVOKED]

[**Source:** Amended at 10 Ok Reg 4199, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3819, eff 7-11-94 ; Amended at 12 Ok Reg 2329, eff 6-26-95 ; Amended at 18 Ok Reg 1685, eff 5-25-01 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-3-3. Qualifications for mechanical licensure [REVOKED]

[Source: Amended at 18 Ok Reg 1685, eff 5-25-01 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-3-4. Duration of licenses [REVOKED]

[Source: Amended at 10 Ok Reg 4199, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3819, eff 7-11-94 ; Amended at 12 Ok Reg 2329, eff 6-26-95 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-3-5. Contractor special requirements [REVOKED]

[Source: Amended at 12 Ok Reg 507, eff 12-12-94 (emergency); Amended at 12 Ok Reg 2329, eff 6-26-95 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-3-6. Initial mechanical license application procedures [REVOKED]

[Source: Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-3-7. Apprentice registration [REVOKED]

[Source: Amended at 17 Ok Reg 2931, eff 7-13-00 ; Amended at 18 Ok Reg 1685, eff 5-25-01 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-3-8. License retention requirements [REVOKED]

[Source: Amended at 10 Ok Reg 4199, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3819, eff 7-11-94 ; Amended at 14 Ok Reg 3132, eff 7-25-97 ; Amended at 17 Ok Reg 1599, eff 5-25-00 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

SUBCHAPTER 5. PLAN REVIEW AND CODE VARIANCE PROCEDURES AND FEES, AND CODE APPEALS [REVOKED]

310:290-5-1. Procedures of the Variance and Appeals Board [REVOKED]

[Source: Added at 12 Ok Reg 507, eff 12-12-94 (emergency); Added at 12 Ok Reg 2329, eff 6-26-95 ; Amended at 13 Ok Reg 3879, eff 8-7-96 through 7-14-97 (emergency); Amended at 14 Ok Reg 3132, eff 7-25-97 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-5-2. Plan review applications and fees [REVOKED]

[Source: Added at 12 Ok Reg 507, eff 12-12-94 (emergency); Added at 12 Ok Reg 2329, eff 6-26-95 ; Amended at 17 Ok Reg 2931, eff 7-13-00 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-5-3. Code variance applications and fee [REVOKED]

[Source: Added at 12 Ok Reg 507, eff 12-12-94 (emergency); Added at 12 Ok Reg 2329, eff 6-26-95 ; Amended at 13 Ok Reg 3879, eff 8-7-96 through 7-14-97 (emergency); Amended at 14 Ok Reg 3132, eff

7-25-97 ; Amended at 17 Ok Reg 2931, eff 7-13-00 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

310:290-5-4. Code interpretation appeals [REVOKED]

[**Source:** Added at 12 Ok Reg 507, eff 12-12-94 (emergency); Added at 12 Ok Reg 2329, eff 6-26-95 ; Amended at 13 Ok Reg 3879, eff 8-7-96 through 7-14-97 (emergency); Amended at 14 Ok Reg 3132, eff 7-25-97 ; Revoked at 20 Ok Reg 1645, eff 6-12-03]

CHAPTER 295. MILK AND MILK PRODUCT REGULATIONS [REVOKED]

Editor's Note: *Effective 9-1-94, the regulatory authority for this program was transferred from the Oklahoma State Board of Health to the State Board of Agriculture. The legislation stipulated that "[t]he rules promulgated by the State Board of Health for the powers and duties specified in the Oklahoma Milk and Milk Products Act which were in effect June 30, 1994, shall remain effective until the promulgation of new rules by the Board [of Agriculture]."* [Laws 1994, c. 140, § 7(C)] The Board of Agriculture enacted new rules by emergency action on 7-11-95 and by permanent action on 6-14-96 [see OAC 35:35], and the Board of Health revoked the rules in this Chapter on 6-11-98.

[**Authority:** 63 O.S., §§ 1-1301.1 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:295-1-1. Purpose [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2360, eff 6-11-98]

310:295-1-2. Incorporations by reference [REVOKED]

[**Source:** Amended at 9 Ok Reg 3125, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1617, eff 6-1-93 ; Amended at 11 Ok Reg 3163, eff 6-27-94 ; Revoked at 15 Ok Reg 2360, eff 6-11-98]

310:295-1-3. Terms for interfacing with the PMO and the DMO [REVOKED]

[**Source:** Amended at 9 Ok Reg 3125, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1617, eff 6-1-93 ; Revoked at 15 Ok Reg 2360, eff 6-11-98]

310:295-1-4. Suspension and revocation [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2360, eff 6-11-98]

310:295-1-5. Application to manufacture grade dairies [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2360, eff 6-11-98]

310:295-1-6. Severability and repeal [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2360, eff 6-11-98]

SUBCHAPTER 3. CHEMICAL, BACTERIOLOGICAL, AND TEMPERATURE STANDARDS FOR MILK AND MILK PRODUCTS [REVOKED]

310:295-3-1. Chemical, bacteriological, and temperature standards for milk and milk products [REVOKED]

[Source: Amended at 9 Ok Reg 3125, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1617, eff 6-1-93 ;
Revoked at 15 Ok Reg 2360, eff 6-11-98]

SUBCHAPTER 5. GUIDELINES FOR LAGOON CONSTRUCTION [REVOKED]

310:295-5-1. General function [REVOKED]

[Source: Revoked at 15 Ok Reg 2360, eff 6-11-98]

310:295-5-2. Lagoon design requirements [REVOKED]

[Source: Revoked at 15 Ok Reg 2360, eff 6-11-98]

310:295-5-3. Lagoon location [REVOKED]

[Source: Revoked at 15 Ok Reg 2360, eff 6-11-98]

310:295-5-4. Lagoon maintenance and operation [REVOKED]

[Source: Revoked at 15 Ok Reg 2360, eff 6-11-98]

310:295-5-5. Lagoon dimensions [REVOKED]

[Source: Revoked at 15 Ok Reg 2360, eff 6-11-98]

CHAPTER 300. NON-HAZARDOUS WASTE INJECTION WELLS [REVOKED]

[Authority: 63 O.S.1981, §§ 1-901 et seq.]
[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:300-1-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-1-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-1-3. Basis and authority [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-1-4. Applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-1-5. Permit [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-1-6. Permit duration [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-1-7. Exclusionary siting criteria [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-1-8. Sources of fresh water [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-1-9. Incorporation by reference [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

SUBCHAPTER 3. CLASS I INJECTION WELL STANDARDS FOR NON-HAZARDOUS WASTES [REVOKED]

310:300-3-1. Minimum specifications for all Class I injection wells [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-3-2. Plugging and abandonment [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-3-3. Permit requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-3-4. Construction and operation standards [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-3-5. Dedication [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-3-6. Life-time [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

SUBCHAPTER 5. PERMIT PROCEDURES [REVOKED]

310:300-5-1. Application procedure [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-5-2. Modifications [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-5-3. Public notice [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-5-4. Bonding requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

SUBCHAPTER 7. MISCELLANEOUS [REVOKED]

310:300-7-1. Fees for services [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

310:300-7-2. Incidents [REVOKED]

[Source: Revoked at 12 Ok Reg 2335, eff 6-26-95]

CHAPTER 310. PLUMBING INDUSTRY REGULATIONS [REVOKED]

[**Authority:** 59 O.S., §§ 1001 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:310-1-1. Purpose [REVOKED]

[**Source:** Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-1-2. Definitions [REVOKED]

[**Source:** Amended at 12 Ok Reg 511, eff 12-12-95 (emergency); Amended at 12 Ok Reg 3043, eff 7-27-95 ; Amended at 14 Ok Reg 3135, eff 7-25-97 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

SUBCHAPTER 3. COMMITTEE OF PLUMBING EXAMINERS AND THE PLUMBING HEARING BOARD [REVOKED]

310:310-3-1. Committee function [REVOKED]

[**Source:** Amended at 14 Ok Reg 3135, eff 7-25-97 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-3-2. Committee procedures [REVOKED]

[**Source:** Amended at 14 Ok Reg 3135, eff 7-25-97 ; Amended at 17 Ok Reg 2933, eff 7-13-00 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-3-3. Examination procedures [REVOKED]

[**Source:** Amended at 14 Ok Reg 3135, eff 7-25-97 ; Amended at 18 Ok Reg 2477, eff 6-25-01 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-3-4. Hearing board procedures [REVOKED]

[**Source:** Amended at 14 Ok Reg 3135, eff 7-25-97 ; Amended at 18 Ok Reg 2477, eff 6-25-01 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

SUBCHAPTER 5. LICENSE TYPES, LICENSE AND REGISTRATION FEES, AND CONTRACTOR REQUIREMENTS [REVOKED]

310:310-5-1. License types [REVOKED]

[Source: Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-5-2. License and registration fees [REVOKED]

[Source: Amended at 12 Ok Reg 511, eff 12-12-94 (emergency); Amended at 12 Ok Reg 3043, eff 7-27-95 ; Amended at 17 Ok Reg 2933, eff 7-13-00 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-5-3. Bond requirements [REVOKED]

[Source: Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-5-4. Display of license number and firm name [REVOKED]

[Source: Added at 16 Ok Reg 2499, eff 6-25-99 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

SUBCHAPTER 7. PLAN REVIEW AND CODE VARIANCE PROCEDURES AND FEES, AND CODE APPEALS [REVOKED]

310:310-7-1. Procedures of the Variance and Appeals Board [REVOKED]

[Source: Added at 12 Ok Reg 511, eff 12-12-94 (emergency); Added at 12 Ok Reg 3043, eff 7-27-95 ; Amended at 14 Ok Reg 3135, eff 7-25-97 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-7-2. Plan review applications and fees [REVOKED]

[Source: Added at 12 Ok Reg 511, eff 12-12-94 (emergency); Added at 12 Ok Reg 3043, eff 7-27-95 ; Amended at 17 Ok Reg 2933, eff 7-13-00 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-7-3. Code variance applications and fee [REVOKED]

[Source: Added at 12 Ok Reg 511, eff 12-12-94 (emergency); Added at 12 Ok Reg 3043, eff 7-27-95 ; Amended at 14 Ok Reg 3135, eff 7-25-97 ; Amended at 17 Ok Reg 2933, eff 7-13-00 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

310:310-7-4. Code interpretation appeals [REVOKED]

[Source: Added at 12 Ok Reg 511, eff 12-12-94 (emergency); Added at 95 Ok Reg 3043, eff 7-27-95 ; Amended at 14 Ok Reg 3135, eff 7-25-97 ; Revoked at 20 Ok Reg 1651, eff 6-12-03]

CHAPTER 315. PUBLIC BATHING PLACE FACILITY STANDARDS

[Authority: 63 O.S., §§ 1-1013 et seq.]
[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:315-1-1. Purpose

This chapter known as the Public Bathing Place Facility Standards is to be used by engineers and other interested persons in the design and submission of plans to a public bathing place.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Adjustable inlet" means a fitting mounted in the pool wall and connected to the return piping from the recirculation system that is directionally adjustable or a fitting mounted in the pool floor and connected to the return piping from the recirculation system that has a means of flow adjustment.

"Air induction system" means a system whereby a volume of air (only) is induced into hollow ducting built into a spa floor, bench, or other location. The air induction system is activated by a separate air power unit (blower).

"Attendant" means any person capable of providing rescue who is responsible to the management.

"Backwash" means the process of thoroughly cleansing the filter media and/or elements by reverse flow.

"Backwash cycle" means the time required to thoroughly backwash the filter media and/or elements and the contents of the filter vessel.

"Backwash rate" means the rate of application of water through a filter during the cleaning cycle normally expressed in U. S. gallons per minute per square foot of effective filter area.

"Bathing load" means the maximum number of persons allowed in the pool enclosure at one time.

"Cartridge filter" means a filter that utilizes a porous cartridge as its filter medium.

"Collector tank" means a tank receiving the gravity flow from the perimeter overflow gutter and main drain(s) from which the recirculation pump takes suction. It may be referred to as a balance tank.

"Cover/Grate" means a fitting, device or assembly that separates the bather from the suction sump or piping that has been design and specified by the manufacturer to control flow through the open area.

"Department" means the Oklahoma State Department of Health and authorized representatives.

"Diatomaceous earth filter" means a filter that utilizes a layer of filter aid as its filter medium that periodically must be replaced.

"Filter" means a device that separates solid particles from water by recirculating it through a porous substance (a filter medium or element).

"Filter aid" means a type of finely divided medium used to coat a septum type filter, usually diatomaceous earth, processed perlite, or similar material.

"Filter cycle" means the operating time between cleaning and/or backwash cycles.

"Filter element" means a device within a filter tank designed to entrap solids and conduct water to a manifold, collection header, pipe, or similar conduit. Filter elements usually consist of a septum and septum support.

"Filter media" means a finely graded material (such as sand which removes filterable particles from the water.

"Filter septum" means that part of the filter element consisting of cloth, wire screen, or other porous material on which the filter medium or aid is deposited.

"Filtration flow" means the rate of flow, in volume per time (GPM, GPH), through the filter system installed per manufacturer's instructions with new clean media.

"Filtration rate" means the rate of filtration of water through a filter during the filter cycle expressed in U.S. gallons per minute per square foot of effective filter area.

"Hydrotherapy, whirlpool, or spa pool" means a public pool used exclusively in conjunction with high velocity air and/or high velocity water recirculation systems, utilizing hot, cold, or ambient temperature water. These pools will be referred to as spas.

"Individual therapy units" means tanks which are designed for the therapeutic treatment of one individual at one time and are drained and cleaned after each individual use. Individual therapy units are not considered public bathing places.

"Ladders" means a series of vertically separated treads or rungs either connected by vertical rail members or independently fastened to an adjacent vertical spa/pool wall.

"Lower distribution system (underdrain)" means those devices used in the bottom of a permanent media filter to collect the water uniformly during the filtering and to distribute the backwash uniformly during the backwashing.

"Not open to the general public" means access is limited to people who are living or staying on the property associated with the public bathing place or their guests.

"Open to the general public" means not restricted to tenants or guests.

"Overflow system" means perimeter type overflows, surface skimmers, and surface water collection systems of various design and manufacture. The water line shall be established by the height of the overflow rim.

"Perimeter overflow gutter" means a trough or gutter around the inside perimeter of the pool walls with the overflow lip effecting a skimming action to clean the pool water surface.

"Permanent media filter" means a filter that utilizes a medium that can be regenerated and will not have to be replaced.

"Plunge pool" means the receiving body of water located at the terminus of a recreation water slide.

"Pool deck" means the unobstructed area around the outside of the pool curb, diving boards, diving towers, and/or pool slides.

"Pool floor" means the interior bottom pool/spa surface and consists of that surface from a horizontal plane up to a maximum of a 45° slope.

"Public bathing place or public pool" means *all entirely artificially constructed wading pools, swimming pools, bathhouses used collectively by a number of persons for wading, swimming, recreative, or therapeutic bathing, together with all sanitary facilities, bathing suits, buildings, equipment, and appurtenances pertaining to such bathing places; provided, that such term shall not apply to those public or semipublic baths where the main object is the external cleansing of the body, to bathing places maintained by an individual for the use of family and friends, or to bathing places owned or managed by a group or association of the owners of thirty or fewer homes, the use of which is limited to the homeowner group and their nonpaying guests. The term "public bathing place" does not include spray pads or spray grounds. As used in this section, "spray pads or spray grounds" mean interactive recreation areas intended for use by children in which the water is supplied by a system of sprays and is not allowed to accumulate above ground* [63 O.S. § 1-1013].

"Recessed steps" means a riser/tread or series of risers/treads extending down from the deck with the bottom riser/tread terminating at the spa/pool wall, thus creating a "stairwell."

"Recessed treads" means a series of vertically spaced cavities in the spa/pool wall to be used as steps for the ladder.

"Recirculation system" means the system traversed by the recirculated water from the pool until it is returned to the pool.

"Scope of work" means a document outlining proposed changes to a public bathing place, including but not limited to the existing configuration and work to bring the facility into compliance with the provisions of this chapter.

"Skimmer" means a device installed in the pool wall whose purpose is to remove floating debris and surface water to the filter.

"Special purpose pool" means a public bathing place used exclusively for a particular purpose, including but not limited to springboard or platform diving training, scuba diving instruction, and aquatic programs for handicapped individuals and kindergarten children.

"Steps" means a riser/tread or series of risers/treads extending down from the deck into the spa/pool area.

"Submerged suction outlet" means a fitting assembly, cover/grate, and related components below the water level that provides a localized low pressure area for the transfer of water from a swimming

pool, wading pool, spa or hot tub.

"Toxic" means the adverse physiological effect on man.

"Tread contact surface" means the foot contact surfaces of ladder, step, stair, or ramp.

"Turnover rate" means the period of time (usually in hours) required to circulate a volume of water equal to the pool capacity.

"Upper distribution system" means those devices designed to distribute the water entering a permanent media filter in a manner such as to prevent movement or migration of the filter medium. This system shall also properly collect water during filter backwashing unless other means are provided.

"Unblockable suction outlet" means a suction outlet constructed, designed, or fitted with an approved cover, of a minimum size such that an 18 inches by 23 inches body blocking element will not cause a differential pressure that could cause body entrapment.

"Vacuum (or suction) filter" means a filter which operates under a reduced pressure from the suction of a pump.

"Wading pool" means a pool intended for use by children and having a maximum depth not exceeding 18 inches.

"Water line" means the line along the pool that was designed for maximum efficiency and sanitation. For skimmers it is about mid-tile and for gutters they should be overflowing

"Water recreation attraction" means a public bathing or swimming facility with design and operational features that provide patrons recreational activity which is different from that associated with a conventional swimming pool and purposefully involves total or partial immersion in the water. Water recreation attractions include but are not limited to water slides, water amusement lagoons, and wave pools.

[Source: Amended at 26 Ok Reg 2003, eff 6-25-09 ; Amended at 39 Ok Reg 1263, eff 9-11-22]

SUBCHAPTER 3. PLAN DOCUMENTS

310:315-3-1. Plans and specifications

(a) **Plans and specifications required.** Plans and specifications on new or major remodeling of existing public bathing places shall be prepared by and bear the seal of a professional engineer licensed in the State of Oklahoma and submitted to the Department for approval and an approval permit issued prior to construction.

(1) Permits for construction of public bathing place facilities are not transferable.

(2) No permit to construct a public bathing place facility will be granted unless sufficient information has been presented to the Department to indicate a finding that such facility will be constructed and can be operated in accordance with this chapter and in accordance with good practices of public health and safety.

(3) It is unlawful for any person or persons to begin construction, alteration, or modification of any public pool without first having received written approval from the Department.

(4) Any changes or additions to the recirculation system, treatment equipment, physical structure, or appurtenances that, in the opinion of the Department, are not equivalent in operating characteristics to those installed in accordance with the plans and related documents approved by the Department will be considered as an alteration or modification of an existing pool.

(5) Upon completion of all new construction, approved alterations or modification of an existing pool, the owner shall provide written notification to the Department that the construction and/or equipment installation is ready for final inspection.

(6) If construction of a pool (installation of the pool shell) has not commenced within one (1) year from the date of plan approval by the Department, the approval will expire. However, upon request by the owner, the project approval may be extended for a period of six (6) months provided significant changes have not been made in the project plans or have not occurred in local conditions affecting the pool or site, and the plans comply with the standards.

(7) Five (5) or more complete sets of plans and specifications, together with an application for permit on forms provided by the Department, signed by the owner, shall be submitted to the Department for review. If approved, all plans and specifications will be stamped, indicating the approval of the Department. One (1) set will be retained in the files of the Department; one (1) set forwarded to the local health department; one (1) set will be sent to the consult engineer; and two (2) sets returned to the owner, (one (1) for the owner's file and the other to be provided the successful bidder for the pool construction).

(8) If not approved, one (1) complete set will be retained for record and the remainder will be returned to the applicant with recommendations for necessary changes or modifications for compliance.

(9) Plans should be submitted for review at least thirty (30) days prior to advertising for bids or letting a contract for construction of the pool.

(b) **Minor changes.** An owner must submit a scope of work to the Department for proposed changes or additions to existing public bathing places of a minor nature that are not of a sufficient magnitude or scope to involve engineering and the preparation and submission of plans. The scope of work will be reviewed informally by the Department to verify that the proposed changes or additions are in compliance with applicable statutes and rules, and do not necessitate a formal plan review.

(c) **Structural design not reviewed by the Department.** The review of plans and specifications by the Department does not include structural design or structural stability of any section or part of a public bathing place. Certification of adequacy is the responsibility of the design engineer.

(d) **Information needed.** The engineer's report, specifications, or plans shall include all of the minimum design requirements outlined in this chapter; the pool capacity in gallons; estimated bathing load (male and female); capacity of all mechanical equipment; information of water

supplies, pressure, etc., together with such other information as is requested throughout this chapter. When mechanical equipment, devices, plumbing fixtures, etc., are specified by use or trade name, catalog numbers, etc., then individual leaflets, catalogs, or other descriptive material shall be furnished. A plot plan is required showing the location of the pool and adjacent buildings, parking areas, sewers, water lines, fences, and contours. The finding location (legal description or street address) shall be shown on the plot plan.

(e) **New equipment and methods.** The policy of the Department with reference to new types of equipment, new design features, etc., will not be to discourage or obstruct progress in design. However, any newly developed equipment, materials, etc., proposed for use in connection with a public bathing place shall have been qualified by trial elsewhere to the satisfaction of the Department before plans and specifications will be approved or a permit issued. This requirement would not necessarily prohibit any occasional experimental or test installation with adequate impartial supervision, wherein a satisfactory written agreement with reference to replacement of equipment, materials, or changes in design is incorporated in the specifications in the event of failure. In the event public funds are involved, then any such agreement shall be backed by a satisfactory guarantee bond, sufficient in amount to provide for the replacement of unsatisfactory materials or equipment plus any and all additional costs occasioned by changes in design or construction, etc., arising from such replacement.

(f) **Special conditions.** Should special conditions exist, or circumstances be such that in the opinion of the engineer certain items listed as minimum design requirements would not be applicable, then such items shall be submitted in writing to the Department and approved prior to preparation of the final plans and specifications, and shall be explained in detail in the engineer's report.

(g) **Deviations.** Deviations from this chapter may be allowed by the Department upon a finding by the Department that the operation, maintenance, safety, and sanitation of the pool will not be adversely affected by the deviation. No deviation will be allowed unless it is noted on the construction permit. No deviation from approved plans and specifications is permissible unless and until an amended permit has been granted.

[Source: Amended at 26 Ok Reg 2003, eff 6-25-09 ; Amended at 39 Ok Reg 1263, eff 9-11-22]

SUBCHAPTER 5. WATER AND SEWER FACILITIES

310:315-5-1. Water supply

(a) **Potable water supply.** The water supply serving the bathhouse and all plumbing fixtures, including drinking fountains, lavatories, and showers, shall be approved by the appropriate regulatory authority.

(b) **Pool water supply.** The water supply for artificially constructed bathing places shall meet the requirements as set forth in this Section.

(c) **Backflow preventers.** All portions of a public water distribution system serving the pool and ancillary facilities shall be protected against backflow. Water introduced into the pool either directly or through the recirculation system shall be introduced into the pool through an air gap providing two pipe diameters or six (6) inches vertical distance between the maximum flood level of the pool and the lowest point of the inlet pipe. The coping or deck constitutes the flood level, not a drain. The supply shall be protected by an air gap whenever possible. When such connections are not installed, the supply shall be protected by a suitable backflow preventer installed on the discharge side of the last control valve to the fixture, device, or appurtenance. All hose bibs in the bathing facility area shall be so equipped. For a pool autofill system without an air gap, a RPZ backflow preventer is required. The requirements of the American National Standards Institute (ANSI) A40.6-1943; the American Society of Sanitary Engineering (ASSE) 1001-1970; ASSE 1011-1970, ASSE 1012-1972, ASSE 1013-1971, ASSE 1015-1972; or the American Water Works Association (AWWA) C506-69, or latest revisions thereof, will be used in determining substantial compliance with this requirement.

(d) **Pool water quality.** Unless pool water is to be supplied from an approved and properly operated public water supply system, an analysis of the proposed pool water supply shall be submitted with the plans and specifications or as part of a preliminary engineering report. The analysis shall include, as a minimum, the following parameters: pH, total alkalinity, dissolved solids, hardness both carbonate and non-carbonate, copper, iron, manganese and turbidity. Should any of the above parameters exceed the maximum limit set forth in OAC 310: Chapter 320, design and specifications of necessary treatment units required to reduce the contaminant to an acceptable level must be made a part of the swimming pool plans.

(e) **Drinking fountains.** Approved type angle-jet fountains with approved water supply under adequate and regulated pressure must be provided in locations available to pool patrons. In the case of non-municipal pools, this requirement will be considered met by compliance with 310:315-7-7, "Bathing places not open to the general public."

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-5-2. Sewer

(a) **Adequate sanitary and storm sewer system required.** The sewer systems shall be adequate to serve the facility, include bathhouse, locker room, and related accommodations, and to provide for liquid waste disposal and surface drainage.

(b) **Pool wastewater.** Pool wastewater shall be discharged through an air gap to a sanitary sewer, used for pool makeup water after sedimentation and filtration, or used for irrigation after sedimentation. Proposals for a point discharge of the wastewater to a storm drain or receiving stream will be evaluated on a case-by-case basis and will require obtaining a National Pollutant Discharge Elimination System (NPDES) permit and compliance with all permit conditions. Disposal of

wastewater from diatomaceous earth type filters shall be accomplished through adequately sized separation tanks acceptable to the Department, equipped with air bleed valves, bottom drain lines, and isolation valves, or through systems of a settling tank or tanks with final disposal being acceptable to local authorities. Waste lines shall be sized to handle the expected flow. There shall be an indirect connection between any drain from a pool or recirculation system and a sewer line.

(c) **Disposal of sanitary wastewater.** The sanitary sewer serving the bathhouse and ancillary facilities shall connect to the public sewer wherever possible. Where no such sewer is available, the sewer shall connect to a suitable treatment plant designed, constructed, and operated in accordance with the minimum requirements of the Oklahoma Department of Environmental Quality.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

SUBCHAPTER 7. CONSTRUCTION AND OPERATION

310:315-7-1. Pool construction, materials, and finish

Materials and finish.

(1) Pools shall be constructed of concrete or other materials which are smooth, non-absorbent, durable, non-toxic to humans and which can withstand design stresses. All side walls and bottom surfaces shall have a smooth, easily cleanable, and slip-resistant finish. Floors and walls shall be white or light (pastel) in color and shall have the characteristic of reflecting rather than absorbing any natural or artificial light.

(2) Fiberglass panels or other approved panels shall not be installed so that a ledge is created at the junction with other materials except as permitted under 10:315-7-4, "Safety ledges."

(3) Wooden pools, spas, or hot tubs are prohibited.

(4) Plastic liners are prohibited.

(5) Sand or earth bottoms are not permitted in artificially constructed public bathing places.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-2. Pool layout

(a) **Location.** In selecting the site for a proposed public bathing place, the water supply, sanitary sewer, and other drainage facilities shall be given due consideration. Outside pools cannot be located near unpaved highways where road dust and dirt would be carried into the pool by prevailing winds. The site of outdoor pools shall be elevated or otherwise protected by drainage ditches, curbs or retaining walls so that surface water will not flow into and contaminate the pool water.

(b) **Trees, shrubbery.** Trees and shrubbery overhanging or adjacent to the pool or walkway, or in the immediate vicinity on the windward side, are objectionable in that they are the source of dirt, leaves, and other contaminants which may fall into the water.

(c) **Exclusion of unauthorized persons.**

(1) All bathing facilities must be surrounded by an effective barrier that meets the descriptions below:

(A) Outdoor pools open to general public such as municipal pools and pools used by organizations (YWCA, YMCA, etc.), shall be enclosed by a suitable barrier equal to a six (6) foot high woven wire fence.

(B) Indoor pools must either be located in a room with doors that can be locked at all times when the pool is not in use (regardless of whether a fee is charged) or have a barrier that is in compliance with 7-2(c)(1)(C).

(C) Outdoor pools not open to the general public shall be enclosed with a suitable effective barrier to prevent unattended small children from entering the pool. The barrier may be any fence, wall or structure which prevents entry except through self-closing, self-latching gates and does not prevent visual observation of the pool and is not less than four (4) feet in height. Decorative type barriers shall not have open spaces greater than four (4) inches. Where existing construction prohibits compliance with this rule, the owner shall file with the county or state health department, an operation procedure which will serve to ensure the exclusion of animals and unattended small children from the pool area.

(2) A suitable effective barrier shall be accomplished in one of the following manners:

(A) **Wood.**

(i) Wood posts shall be at least four (4) inches in diameter or four (4) inches x four (4) inches, pressure-treated, spaced not more than ten (10) feet apart, and embedded at least eighteen (18) inches into the ground.

(ii) Wood railings, when used, shall be at least two (2) inches x four (4) inches in nominal dimension. There shall be at least two (2) railings. Railings shall provide no horizontal projections or recessions unless at four (4) feet. Railings shall not be used in such a way as to form a ladder.

(B) **Wire.**

(i) Wire posts shall be galvanized pipe at least two (2) inches in diameter and shall be spaced not more than ten (10) feet apart. Such posts shall be embedded to a depth of twelve (12) inches in a concrete jacket at least eighteen (18) inches deep and six (6) inches in diameter.

(ii) Chain link shall be at least eleven (11) gauge galvanized metal.

(iii) Wire supports shall be galvanized metal at least one and one-quarter (1-1/4) inches thick and shall provide no footholds.

(C) **Wrought iron.**

- (i) Wrought iron posts shall consist of at least one-half (1/2) inch thick steel bars spaced not more than four (4) inches apart.
- (ii) Wrought iron fence sections shall consist of at least one-half (1/2) inch thick steel bars spaced not more than four (4) inches apart.
- (iii) Wrought iron horizontal rails shall not form a ladder.

(D) **Masonry.** Walls of brick, concrete or stone shall be constructed so as to provide no projections or recessions within four (4) feet of the ground's surface. Such walls shall meet the visual observation requirement of 310:315-7-2. Construction shall not be such as to form a ladder. There shall not be more than four (4) inches of space between the bottom of the enclosure and the ground's surface or the pool deck. Indoor bathing facilities not open to general public shall be enclosed so that access is only through self-closing, self-latching gates or doors, to control access by unattended small children. Enclosures shall have maximum openings of four (4) inches, and the enclosure design shall not form a ladder.

(E) **Alternate enclosure materials.** The Department may approve alternative enclosure materials and methods where the Department finds such materials and methods equivalent to those described.

(d) **Sand or grass plots.** The area within the pool enclosure of outdoor municipal and other pools open to the general public, and school pools, shall be free of all sand or grass plots used for sun-bathing or play areas. Sand and grass areas provided for sun-tanning or sun-bathing purposes in connection with swimming pools open to the general public shall be separated from the pool and walk area by a fence or other barrier. The exits from the sand or grass sun-bathing area to the pool area shall be provided with continuous or automatic showers, with volume and pressure of water sufficient to remove gross particles of sand, grass, etc., from the bathers. In lieu of the above shower arrangement, sun-bathers may be routed from the sand or grass sun-bathing areas through the regular shower rooms.

(e) **Layout of filter plant and chemical storage facilities.**

- (1) The filter plant and chemical storage areas shall either be enclosed or limit access by the general public through other means.
- (2) The filter area shall be large enough to provide easy access to all equipment and appurtenances with sufficient room for adequate pipe run for the flow meter and for system maintenance.
- (3) There must be at least eighteen (18) inches clearance about freestanding equipment.

(f) **Hose connections.** Ample hose connections shall be provided and suitably arranged in interior shower rooms, toilet rooms, and exterior walks, so that all floors, walks and drains may be flushed with water, using a fifty (50) foot section of flexible hose. Approved vacuum breakers shall be included at all hose bib connections (including any in equipment

rooms).

(g) **Wall, floor, and ceiling material.** Walls, floors, and ceilings of new pool rooms and new filter rooms shall be of non-sorbent, smooth, cleanable material.

[Source: Amended at 22 Ok Reg 231, eff 10-14-04 (emergency); Amended at 22 Ok Reg 1131, eff 5-26-05 ; Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-3. Pool size and bathing load

(a) **Pool size.** Generally, the size of the swimming pool shall be such as to accommodate the anticipated maximum swimming load that will frequently use the pool during the swimming season.

(b) **Diving and swimming areas.** Those portions of the pool from the breakpoint to the shallow end shall be designated as "swimming" area and the portion of the pool from the breakpoint to the deep end shall be designated as "diving" area.

(c) **Computing capacity requirements.** The formula for computing capacity requirements is in Appendix D. (See also OAC 310:320 Public Bathing Place Regulations.)

(d) **Allowance for deck area.** The Department may make additional allowance in cases of pools with extensive deck areas used by patrons for lounging or sun-bathing.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-4. Pool features

(a) Structural.

(1) All pools shall be designed and constructed to withstand all anticipated structural loading, under both filled and empty conditions. A hydrostatic relief valve is required on all new below-grade pools.

(2) Facilities for the Handicapped. All pools open to the general public constructed after May 1, 1981 shall provide for the use of the entire facility by the handicapped as follows:

(A) Raised or cut out depth markings used in the pool and on the deck.

(B) A ramp or lift provided into the pool proper.

(C) Bathhouse construction such that all facilities are readily available to wheelchair and ambulatory handicapped.

(b) **Pool shape.** The shape of any pool shall be such that the circulation of pool water and control of swimmers' safety are not impaired. For all free form, non-diving pools containing any swimming area where the pool perimeter is curved at a radius of less than six (6) feet and the sidewall depth is five (5) feet or less, the design engineer shall separately certify the design of the pool as to its safety.

(c) **Shallow depth.** The pools sixty (60) feet or more in length, such as school pools, municipal pools, institutional pools, and other pools where competitive use is a consideration, the minimum depth of three and one-half (3-1/2) feet at the shallow end.

(d) **Therapeutic pools.** In the case of special pools for water therapy where a design depth less than three (3) feet or other special features are used, the engineer must include in his report a description of the intended use.

(e) **Slope of bottom.**

(1) The slope of the bottom of any portion of the pool having a water depth of less than five (5) feet shall not be more than one (1) foot in twelve (12) feet and said slope shall be uniform. An exception to this requirement will be made permitting a breakpoint to occur at a minimum water depth of four and one-half (4-1/2) feet for pools less than sixty (60) feet in length or special indoor pools used for instructional or therapeutic purposes.

(2) For pools without uniform bottom slope, without diving facilities, and with maximum depths of five (5) feet or more, the slope in the shallower section shall not exceed one (1) in twelve (12) and there shall be a life line at the change in slope. The slope of the transition section shall not exceed one (1) in three (3).

(f) **Side walls.**

(1) Walls of a pool shall be vertical for a water depth of at least five (5) feet below the water level, below which the wall shall be curved to the bottom with a radius equal to the difference between the depth and five (5) feet, except that for water depths under four (4) feet, a radius of one (1) foot shall be permitted; for water depths between four (4) and five (5) feet, a radius of two (2) feet may be used.

(2) Walls of pools without diving areas shall be vertical (constructed not more than eleven (11) degrees from plumb) for a water depth of at least three (3) feet in all areas where the side wall depth is five (5) feet or greater. The walls shall be vertical for a depth of at least two and one-half (2-1/2) feet in areas with less than five (5) feet side wall depth. The wall shall then be curved to the bottom with a radius equal to or less than the difference between the minimum vertical wall depth and the side wall depth. Side wall depth shall be defined as the distance between the water surface and the point at which the side wall curvature intersects the constant slope of the bottom.

(g) **Diving area requirements.** Wherever diving facilities are provided in connection with public bathing places, the design shall be such as to provide adequate, clear head room and diving depths to assure the safety of the bathers. It is recommended that pools with diving facilities be designed in accordance with standards promulgated by FINA, NCAA, or U.S. Diving, Inc. The following are minimum requirements.

(1) There shall be a completely unobstructed clear vertical distance of sixteen (16) feet above any spring board measured from a point at the center of the end of the board over the water, and the clear area extends horizontally at least eight (8) feet behind, eight (8) feet to each side, and sixteen (16) feet ahead of that point.

(2) A schedule of depths and their locations is given in Appendix A and B . These depths are to be interpreted as minimum

requirements compatible with safety of design, and greater clearances are recommended.

(3) The area of deep water provided shall comply with the following requirements: For pools utilizing deck level boards which will be not more than eighteen (18) inches above the normal operating level of the pool, and other small pools used for diving, the diving area shall have a minimum depth of eight (8) feet. The area where this minimum depth shall prevail shall be described as follows: at a point on the center line of the axis of the diving board eight (8) feet from the deep end wall, a circle shall be circumscribed with a six (6) foot radius; from a point eleven (11) feet from the deep end wall or three (3) feet in front of the first center, also on the diving board center line axis, a second circle shall be circumscribed with a five (5) foot radius extending from where the arc of the second circle intersects the arc of the first circle on one side to the point of intersection on the other side; all of that area within these two (2) circles shall have a normal operating depth of not less than eight (8) feet; all of this combined area shall be sloped to a point or points where main drains are located and where the depth is not less than eight (8) feet six (6) inches.

(4) In free form pool design (such as kidney-shaped), a deck level diving board may be accommodated in Appendix C design using a pool width of sixteen (16) feet at the tip of the diving board. The deck shall not encroach on the pool water surface inside a triangle whose base is sixteen (16) feet long and is centered at the tip of and is perpendicular to the center line of the diving board and whose apex is three (3) to four (4) feet back from the tip of the diving board. (This places the apex at the wall below the diving board.)

(A) **Slides, swings, and recreational equipment.** It is recommended that where slides, swings, climbing walls, and similar recreational equipment are installed at pools, a lifeguard be on duty at the pool when it is in use.

(B) **Diving boards or platforms.**

(i) Because of the hazards involved, diving boards or platforms exceeding three (3) meters in height must not be available to the general public and will be approved only for instructional or competitive pools, supervised by capable instructors or coaches. Water depths below such platforms shall conform to NCAA, AAU, or FINA Standards. Preliminary plans for the pool construction shall be submitted for appraisal and concurrence prior to the submission of final construction plans. Preliminary plans shall provide sufficient information on the operation of the pool to allow determination as to whether or not the high diving platforms can be used without hazard.

(ii) These design requirements are for recreational swimming and diving. Where it is anticipated that

pools with diving boards will be used for competitive diving events or training for such events, greater water depths will be required. In such instances the water depths given in the listed standards shall be used in order to avoid safety hazards for this type of activity.

(h) Safety ledges.

(1) Safety ledges are acceptable for instructional pools where full-time lifeguards are on duty, provided the ledges are located not less than four (4) feet nor more than five (5) feet below the water surface. The corners shall be rounded.

(2) Ledges shall be painted or constructed with a material of contrasting color to be easily visible. Ledge surfaces shall have slip-resistant textures.

(3) Off-sets or protrusions from the pool wall resulting from design or construction variations shall fall within the area defined by an eleven (11) degree line from plumb and a plumb line starting at the junction of the pool wall and water surface.

(i) Depth markings.

(1) The depth of water shall be plainly marked at or above the water surface on the vertical wall of the swimming pool and on the edge of the deck or walk next to the swimming pool, at maximum and minimum points; at the points of break between the deep and shallow portions; and at intermediate one (1) foot increments of depth in the shallow end up to the breakpoint; and at two (2) foot increments of depth from the breakpoint to the deep end wall, spaced at not more than twenty-five (25) feet intervals measured peripherally; and at two (2) foot increments of depth (with at least three (3) markers per pool) throughout the length of non-diving pools with uniform bottom slope.

(2) Depth markers shall be in numerals of four (4) inches minimum height and a color contrasting with the background. Where depth markers cannot be placed on the vertical walls above the water level, other means shall be used, and be plainly visible to persons in the pool area.

(3) It is strongly recommended that a six (6) inch black stripe be painted on the bottom of the pool at the breakpoint between the swimming and non-swimming areas, and that lengthwise stripes be painted on the pool bottom for better delineation of the bottom contour.

(j) Coping. Bullnosed or rounded coping is recommended. Other coping will be approved on a case-by-case basis. None shall extend more than three (3) inches inside the pool wall nor have sharp corners, and the top surface shall not be more than nine (9) inches above the normal water level.

(k) Isolation panels. Where movable panels are used to separate pools, such as in a water channel connecting an indoor and outdoor pool, the design shall include a system of counterweights or springs, or other device, to prevent "guillotine" action. Also, a minimum of one (1) additional inlet shall be positioned on each side of the panel to assure disinfectant distribution in the connecting water channel.

310:315-7-5. Ladders, recessed treads, stairs, and decorative fountains

(a) Steps, ladders, stairs.

(1) A minimum of one (1) ladder shall be provided for each seventy-five (75) feet of perimeter and not less than two (2) ladders shall be provided at any pool. Where stairs are provided in a pool, one (1) ladder may be deleted for each set of stairs provided. A side handrail extending up above and returning to the horizontal surface of the pool deck curve or coping shall be provided at each side of each ladder.

(2) All stairs entering a pool shall be recessed. An exception to this will permit the construction of steps extending completely across the shallow end of the pool, which will be construed as not projecting into the pool proper.

(3) Steps leading into the pool shall have a minimum tread length of twenty-four (24) inches, a minimum tread width of twelve (12) inches, and a maximum rise, or height, of ten (10) inches. Intermediate treads and risers between the top and bottom treads and risers shall be uniform in width and in height, respectively. The front edge (intersection of the tread and riser) of all steps shall have colored stripes contrasting with the interior color of the pool. These stripes shall be a minimum of two (2) inches in width on the tread and on the riser and shall extend the full length of the steps. Step treads shall be slip resistant.

(b) **Decorative fountains.** No fountains may be constructed within the swimming pool. They may be recessed around the periphery of a pool and may be equipped with benches and hand rails. Where water from a fountain is returned to the pool, the water supply to the fountain must be withdrawn from the pool recirculation system downstream from the filter and from the point of disinfectant injection. Fountains adjacent to the pool shall not include any structures which will invite patrons to climb and dive from them into the pool.

(c) **Recessed seats.** Underwater seats recessed from the pool wall may be approved provided they are surrounded by barriers to discourage pool entry by way of the seats. The barriers shall not form a ladder, nor provide a platform for diving.

310:315-7-6. Walkways or decks

(a) **Width.** A walkway shall entirely surround the pool. It shall not be less than four (4) feet wide at indoor pools. The walk area about outdoor pools and within the fence shall be equivalent to that provided by a walk at least eight (8) feet wide around the pool. In no case shall the minimum width of the walk be less than four (4) feet at outdoor pools. Where an outdoor pool is covered for cold weather use, the walkway requirements for indoor pools shall govern the size of cover.

(b) **Slope.** All walks, decks and terraces shall have a minimum slope of one-fourth (1/4) inch per foot to drains or points at which the water will

have a free, unobstructed flow to points of disposal at all times. Drainage connections to the recirculation system, scum gutter or suitable waste are acceptable. Drainage into the pool is prohibited.

(c) **Finish.**

(1) It is recommended that decks adjoining the pool at public bathing places be constructed of concrete or other impervious material, have a slip-resistant finish, be easily cleanable, not allow standing water, and not cause discomfort to bare feet. Epoxied gravel should not be used as deck material unless the interstices are filled with a stable, inert material.

(2) Wooden decks or walkways are prohibited adjoining the pool at public bathing places open to the general public but may be approved at public bathing places not open to the general public, indoors where such decks are sealed by a resin or other waterproof material, and outdoors where the design provides for adequate cleaning, sanitation, safety, and exposure to the drying action of the sun and wind.

(3) Indoor/outdoor carpets, absorbent or adsorbent coverings or similar deck materials are not recommended for use on the deck or walkways around outdoor public bathing places and prohibited at all indoor public bathing places. If carpeting or other porous materials are used as deck covering at outdoor pools, the substrate supporting the covering, and all ancillary features, shall comply with the recommendations of paragraph one of this chapter and with 310:315-7-6.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-7. Bathhouse

(a) **General bathhouse requirements for all pools.**

(1) **Separate facilities.** Bathhouses to be used simultaneously by both sexes shall be divided into two parts, each appropriately designated for men and women and separated by a tight partition. The entrances and exits shall be screened to break the line of sight. If pools are to be used by one sex only, then all of the required plumbing facilities shall be provided for that sex.

(2) **Wash water temperature.** An adequate supply of warm water within the temperature range of 95 to 100 degrees Fahrenheit is required for all showers and lavatories. On all new construction or the remodeling of present public bathing places, all shower heads shall be provided with fully automatic control valves to prevent scalding of persons under the shower. Control of shower water temperature by hand-operated mixing valves will not be considered as being in compliance with this safety requirement.

(3) **Bathhouse construction details.**

(A) **Walls and ceilings.** All interior walls and partitions shall be smooth, impervious, and of non-corrosive material, free of open cracks, kept in good repair, and painted a light color, with painted surfaces refinished

when necessary. Walls and ceilings of showers shall be constructed of materials which are not adversely affected by water or heat.

(B) **Floors.** All floors of showers, toilets, and dressing rooms of public bathing shall be constructed with a proper slope of one-fourth (1/4) inch per foot so that they can be readily flushed with a hose. Floors shall be of a smooth, non-slip finish, impervious to moisture, and without open cracks or joints. Walkways shall be so constructed that they will readily drain. Junctions between walls and floors shall be of coved, or equivalent sanitary construction.

(C) **Shower stalls.** The floor drains in shower rooms or stalls shall be so arranged, and of sufficient number, and with floors constructed and graded, so that wastewater from individual shower heads will not flow over the floor of another shower stall. Floors of the shower stalls shall be slightly depressed below surrounding floor areas. Raised curbs between shower stalls and walks are, however, not acceptable.

(D) **Baskets, lockers, furniture.** Baskets, lockers, and all furniture used in the bathhouse and the pool area shall be constructed of non-absorbent, easily cleanable material. Lockers shall be set either on solid masonry bases at least four (4) inches high or on legs with bottom of locker at least ten (10) inches above the floor. Lockers shall be properly ventilated.

(E) **Soap.** Liquid soap with suitable dispensers shall be provided and be easily available to all persons using the showers and lavatories. Glass-type dispensers are not allowed.

(F) **Emergency fire exit.** An emergency fire exit, other than the entrance, shall be provided in the bathhouse and in the fencing or structure enclosing the pool area, and such exit shall be plainly marked. No fire traps shall be established in the meaning of adequate exits as provided for in the current edition of the National Fire Prevention Association, National Fire Codes, Vol. 9, Section 101, Life Safety Code for Assembly Occupancies. Exits shall be plainly marked.

(G) **Fire extinguishers.** A fire extinguisher of a type suited to the structures, wiring, and equipment to be protected shall be provided and located where readily available. Carbon tetrachloride extinguishers are not acceptable.

(b) Bathhouse requirements for facilities open to the general public.

(1) **Facilities and fixtures.** All public bathing places open to the general public shall be provided with adequate toilet facilities, hot water showers, lavatories, drinking fountains, and other required appurtenances. Since the number of each type of plumbing fixture required is based on the maximum number of persons likely to be

in the pool area at one time, based on the formulas in 310:315-7-3, or otherwise approved, the engineer, in designing new public pools intended for swimming, should determine the number of such fixtures based on design load.

(2) **Facilities and fixtures accessibility.** Shower controls, toilet facilities, and lavatories shall be provided at all bathing places open to the general public such that they can be easily reached by small children and the handicapped.

(3) **Minimum toilet facilities.**

(A) **Men.** A minimum of one (1) water-flush toilet and two (2) water-flush urinals shall be provided in the men's division of all bathing places open to the general public. This minimum number of toilet fixtures is considered sufficient for the first one hundred (100) males. In addition to the above, one (1) water closet and one (1) urinal shall be provided for each additional one hundred (100) males or major fraction thereof. A number less than twenty-five (25) will necessitate only one (1) additional urinal. For pools of less than sixteen hundred (1600) square feet surface area in size, used simultaneously by both sexes, this requirement may be reduced by one (1) urinal.

(B) **Women.** A minimum of three (3) water-flush toilets shall be provided in the women's division of all bathing places open to the general public. This minimum number of toilet fixtures is considered sufficient for the first one hundred (100) females. In addition to the above, one (1) water closet shall be provided for each additional fifty (50) females or major fraction thereof. For pools of less than sixteen hundred (1600) square feet surface area in size, used simultaneously by both sexes, this requirement may be reduced by one (1) flush closet.

(4) **Showers and lavatories.** The minimum number of shower and lavatory fixtures shall be as follows:

(A) **Men.**

(i) One (1) lavatory for each one hundred (100) men

(ii) One (1) shower head for each forty (40) men

(B) **Women.**

(i) One (1) lavatory for each one hundred (100) men

(ii) One (1) shower head for each forty (40) women.

(5) At least three (3) shower heads for men and two (2) shower heads for women shall be provided. It is recommended that all shower stalls and dressing booths in the women's shower room be arranged so that privacy may be obtained while dressing and undressing and while under the shower, a minimum design recommendation being that one (1) such shower stall and dressing booth be provided.

(c) **Bathhouse requirements for institutional pools.** The number of toilet facilities necessary for indoor pools at schools, colleges, and similar institutions where it is intended that the swimmers be in groups or

classes at regular intervals shall be based on institutional needs, and methods of operation, the number of persons permitted in each swimming class, and time allowed for bather's preparation. As a general guide, it is recommended that one (1) water closet be provided for each ten (10) females and one (1) toilet and two (2) urinals for each twenty-five (25) males.

(d) Bathhouse requirements for facilities not open to the general public.

(1) For motels, hotels, apartment complexes constructed after November 1, 2022 where all units are less than 300 ft away from the pool or spa, and similar establishments, pool side bath or sanitary facilities are not required, providing the following conditions are met:

(A) All lodging units include bath and toilet facilities.

(B) Use of bathing facilities is restricted to tenants and their guests.

(C) Nothing in this section shall be construed to allow openings directly into the pool enclosure without a suitable effective barrier as per 310:315-7-2.

(2) Bathing places not open to the general public, such as Home Owner Associations and apartments, constructed after November 1, 2022 where units are more than 300 ft away from the pool or spa, shall have a bathhouse located adjacent to the pool walkway with the following items separately provided for each sex: one (1) water-flush toilet, one (1) lavatory, and one (1) shower. At least one (1) drinking fountain located so that it is available to both sexes, shall be provided.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-8. Ventilation

(a) **Indoor areas.** Indoor pools, shower rooms, dressing rooms, and toilets of all public bathing places shall be properly ventilated, with the further provision that the ventilating system for indoor pools be so designed as to prevent direct drafts on the bathers.

(b) **Interior rooms.** All interior rooms shall be ventilated so that they do not remain excessively damp.

(c) **Toilet rooms.** Toilet rooms shall be ventilated to the outside so that no odor nuisance may develop.

310:315-7-9. Wading pools

(a) **Wading pools used by children.** Since wading pools will be used by children, who are more susceptible to disease than adults, the standards of sanitation shall be equal, or superior, to those for swimming pools. The maximum depth of all wading pools cannot exceed eighteen (18) inches. A reasonably non-slip surface shall be provided. Bottom slopes shall not exceed one (1) foot in twelve (12) feet. Bathing water shall meet all of the water quality requirements as specified for all artificially constructed bathing places.

(b) **Recirculation.** Wading pools shall have a minimum of one (1) turnover every four (4) hours (two (2) hours is strongly recommended). Unless a separate recirculation system is provided for the wading pool, the main pool recirculation system shall be designed for the additional flow. All recirculation piping to and from the wading pool shall be valved utilizing valves designed for proportioning flows. Rate of flow indicators shall be installed to indicate the flow rate to the wading pool. The piping, fittings, and hydraulic requirements shall be in accordance with OAC 310:315-7-14.

(1) **Inlets, outlets.** Adjustable inlets shall be provided for wading pools based on a minimum of one (1) inlet for each twenty (20) feet, or fraction thereof, of pool perimeter except that wading pools with twenty (20) feet or less of perimeter shall have a minimum of two (2) equally spaced adjustable inlets. Submerged suction outlets shall meet the requirements of OAC 310:315-7-14(h).

(2) **Surface skimmers.** One (1) surface skimmer shall be provided for each four hundred (400) square feet of surface area or fraction thereof. Multiple skimmers shall be equally spaced and shall meet all the requirements of OAC 310:315-7-14.

(3) **Emergency drainage.** All wading pools shall have drainage to waste (with indirect connection) through a quick opening valve to facilitate emptying the wading pools should accidental bowel or other discharge occur.

(b) **Wading pool integral with a swimming pool.** Where a wading pool is built integral with a swimming pool, the pool design must prevent children from falling into the deeper water. The two pools shall be separated by a wall extending to the surface of the water, topped by a barrier complying with OAC 310:315-7-2.

(c) **Wading pool rules sign.** At all wading pools, a sign shall be displayed prominently using the following or equivalent language:

- (1) Wading Pool
- (2) Children are required to be supervised
- (3) Children over 12 Years of Age Prohibited.

[Source: Amended at 26 Ok Reg 2003, eff 6-25-09 ; Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-10. Spray pools [REVOKED]

[Source: Amended at 26 Ok Reg 2003, eff 6-25-09 ; Revoked at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-11. Public spas

(a) **Spas.** Spas shall be made of concrete or other impervious materials with a finish adapted to the needs of the facility. Spas shall be of such shape and size as to be operated and maintained in a safe and sanitary manner. In addition to the requirements of this section, compliance is required with all other applicable sections of this chapter.

(b) **Water depths and floor slopes.** The maximum water depth of a spa is four (4) feet. The spa floor shall slope uniformly to a main drain and cannot exceed one (1) foot in twelve (12) feet (1:12).

(c) **Steps.** Steps shall be provided for adequate entrance to and exit from the spa. The number of sets of steps required equals one (1) for each fifty (50) feet, or major fraction thereof, of spa perimeter. They shall be constructed of an easily cleaned impervious materials having a slip resistant finish. Step sets for spas with more than two hundred (200) square feet of spa water surface area shall comply with OAC 310:315-7-5(a). Step sets for spas with two hundred (200) square feet or less of spa water surface area shall comply with the following:

(1) Step treads have a minimum continuous tread length of twelve (12) inches and a minimum tread width of ten (10) inches.

(2) Step riser heights do not exceed twelve (12) inches, except that when the bottom step is used for a bench or seat, the bottom riser may be a maximum of fourteen (14) inches.

(3) Intermediate treads and risers between the top and bottom treads and risers are uniform in width and height, respectively.

(d) **Handrails.** Handrails that are anchored in the bottom and extend over the coping and anchor in the deck shall be provided for all sets of steps. Where "figure 4" handrails are used, they shall be anchored in the deck and shall extend laterally to a point vertically above the bottom step.

(e) **Decks.** A spa deck shall comply with all of the following requirements in addition to the applicable parts of OAC 310:315-7-6:

(1) Slope a minimum of one-fourth (1/4) inch per foot away from the spa to drainage or to deck drains.

(2) Have a minimum four (4) foot unobstructed width around the entire spa perimeter except that small indoor spas of less than one hundred twenty (120) square feet of spa water surface area shall have a minimum four (4) foot unobstructed deck around a minimum of fifty (50) percent of the spa perimeter.

(3) Provide adequate access for cleaning and maintenance of the spa, and for assisting persons in distress.

(4) Decks cannot be more than ten (10) inches below the top of the curb.

(f) **Surface skimmers.** Surface skimmers or overflow gutters shall be provided. The minimum number of surface skimmers required is one (1) skimmer for each fifty (50) square feet or fraction thereof of spa water surface area. Multiple surface skimmers shall be equally spaced. The system shall be designed for thirty (30) gallons per minute per skimmer.

(g) **Air or water jet systems.** Therapy or jet systems shall be independent of the recirculation-filtration and heating systems. In particular, therapy suction outlets shall be separated from filter system outlets sufficiently to ensure no interference with required filter system flow.

(h) **Filtration system inlets.** Adjustable filtration system inlets shall be provided for spas based on a minimum of one (1) for each twenty (20) feet or fraction thereof of spa perimeter. Additional inlets shall be installed if needed to meet flow requirements. Spas with less than twenty (20) feet of perimeter shall have a minimum of two (2) equally spaced adjustable inlets.

(i) **Filtration recirculation.** Spas shall have a minimum of one (1) turnover every thirty (30) minutes. Strainers shall be sized at least twice

the area required in OAC 310:315-7-14. Spa water shall not be allowed to overflow or be piped into another bathing facility unless it is first disinfected and filtered.

(j) **Temperature.** The maximum water temperature for spas cannot exceed 105oF (40.6oC) and this maximum temperature shall be posted pool side. A thermostatic control for the water shall be provided.

(k) **Capacity.** The maximum capacity for public spas is one (1) person per three (3) feet of spa perimeter, or one (1) person per two hundred (200) gallons of water, whichever is less. For spas four hundred fifty (450) gallons or smaller, the maximum capacity is one (1) person per one hundred fifty (150) gallons. The design capacity shall be posted prominently in the area adjacent to the spa.

(l) **Spa contiguous with pool.** Where a spa and a swimming pool share a wall in common, a barrier shall be mounted atop the common wall to discourage patrons from walking on the wall. The barrier shall not form a ladder nor a diving platform nor include any impalement hazard.

[Source: Amended at 26 Ok Reg 2003, eff 6-25-09 ; Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-12. Water recreation attractions

(a) **General.** Water recreation attraction projects require special consultation with the Department in order that consideration can be given to concepts of design variations and to areas where potential problems may exist. In addition to the requirements of this section, compliance is required with all other applicable sections of this chapter. Plans for supervision, attendants, and lifeguards will be an important feature to be considered for water recreation attractions, and shall be presented in the engineering report accompanying plans and specifications.

(b) **Water slides.**

(1) **Recreational water slide.** A recreational water slide facility shall consist of one (1) or more flumes, plunge pool, a pump reservoir, filtration, disinfection, and chemical treatment facilities.

(2) **Water slide plunge pool.** Plunge pools are located at the base of slide flumes. They shall be constructed of concrete or other impervious materials with a smooth slip-resistant finish. The plunge pool design shall be built according to the slide manufacturer's requirements/recommendations and the design engineer of the project or in compliance with the following standards:

(A) The minimum plunge pool operating water depth at the slide flume terminus is three (3) feet. This depth shall be maintained for a minimum distance of ten (10) feet in front of the slide terminus from which point the plunge pool floor may have constant upward slope to allow a minimum water depth of two (2) feet at the base of the steps. The floor slope cannot exceed one (1) foot in ten (10) feet. The plunge pool water depth shall be commensurate with safety and the ease of exit from the plunge pool.

(B) The plunge pool dimension between any slide flume exit or terminus and the opposite side of the plunge pool is a minimum of twenty (20) feet excluding steps.

(C) The slide flume terminus shall be at a minimum depth of six (6) inches below the plunge pool operating water surface level or it may be at the water surface level or up to a maximum of two (2) inches above the water surface level provided the terminal portion of the slide flume is parallel to the water surface for a minimum distance of ten (10) feet. The minimum distance between any plunge pool side wall and the outer edge of any slide flume terminus is four (4) feet. A minimum length of ten (10) feet of slide flume shall be perpendicular to the plunge pool wall at the exit end of the flume(s).

(D) The main drain piping shall be sized to handle one hundred (100) percent of the design flow rate of the filtration system in accordance with 310:315-7-14.

(E) The plunge pool floor shall slope to the main drain(s) and the slope cannot exceed one (1) foot in ten (10) feet.

(F) Plunge pool decks shall meet the following requirements:

(i) have a minimum 10 foot width along the exit side;

(ii) have a minimum six (6) inch high curb; and

(iii) slope (drain) away from the plunge pool unless the curb is located at the outside perimeter of the deck. If the curb is located at the outside perimeter of the deck, the plunge pool deck shall slope to the plunge pool and/or pump reservoir or to deck drains which discharge to the same. All slopes shall be a minimum of three (3) inches in ten (10) feet.

(3) **Pump reservoirs.** Pump reservoirs shall be made of concrete or other impervious material with a smooth slip-resistant finish and shall be connected to the plunge pool by a weir. Pump reservoirs shall be for the slide pump intakes.

(A) The minimum reservoir volume shall be equal to two (2) minutes of the combined flow rate in gpm of all filter and slide pumps.

(B) Pump reservoirs shall be isolated by a locking cover or enclosure and accessible only to authorized individuals.

(C) Access decks shall be provided for the reservoir such that all areas are accessible for vacuuming, skimming, and maintenance. The decks shall have a minimum width of three (3) feet and a minimum slope of three (3) inches in ten (10) feet away from the reservoir. A minimum six (6) inch high curb shall protect the reservoir.

(D) Pump reservoir slide pump intake(s) shall be located in the pump reservoir and designed to allow cleaning without danger of operator entrapment.

(E) The pump reservoir shall have a main drain, complying with OAC 310:315-7-14.

(4) **Slide pump check valves.** Slide pumps shall have check valves on all discharge lines.

(5) **Perimeter overflow gutters or skimmers.** Plunge pools and pump reservoirs shall have perimeter overflow gutter systems and/or skimmers which shall be an integral part of the filtration system.

(A) Perimeter overflow gutter systems shall meet the requirements of OAC 310:315-7-14 except the gutters are not required directly under slide flumes or along the weirs which separate plunge pools and pump reservoirs.

(B) Surface skimmers may be used in lieu of perimeter overflow gutters and shall be appropriately spaced and located according to the structural design. Unless an overflow gutter system is used, a minimum of two (2) surface skimmers each shall be provided in the plunge pool. Skimmers are subject to OAC 310:315-7-14.

(6) **Water slide recirculation-filtration equipment.**

(A) The recirculation-filtration system of water slides shall recirculate and filter a water volume equal to the total water volume of the facility in a period of one (1) hour or less.

(B) Minimum filter area requirements shall be twice the filter areas specified for the recirculation rate stipulated in OAC 310:315-7-15.

(C) Any filtration system pump which takes suction directly from the plunge pool and reservoir shall have a minimum eight (8) inch diameter hair and lint strainer, meeting the requirements of OAC 310:315-7-14 on the suction side of the pump.

(7) **Water slide chemical feed equipment.** Feeders for pH adjustment complying with OAC 310:315-7-16 and capable of meeting the feed rate for the specific installation shall be provided.

(c) **Water amusements, wave pools, and tube rides.** The recirculation-filtration system of water amusements, wave pools, and tube rides shall be capable of a minimum of one (1) turnover every six (6) hours.

[Source: Amended at 26 Ok Reg 2003, eff 6-25-09 ; Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-13. Chemicals and chemical storage

(a) **Chemical storage and equipment.** For chemicals necessary in water treatment, disinfection, and pH control, provision shall be made for dry storage of at least a two (2) weeks supply. Equipment shall be provided for batch preparation of chemicals sufficient for twenty-four (24) hours feeding.

(b) **Storage room marking.** All rooms or areas used for storage of pool chemicals shall be plainly marked on the outside door. This may be done as follows:

(1) A sign stating "POOL CHEMICALS".

- (2) A sign approved by the local fire officials which indicates that the contents are potentially dangerous.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-14. Recirculation system

(a) General considerations.

- (1) A circulation system shall be provided which will include pumps, hair-catcher, and filters, together with all necessary piping connections to the inlets and outlets of the pool, including features, such as the water heater, chlorinator, and suction cleaner, etc. The entire system and all component parts of swimming pools shall be designed to provide a minimum of three (3) replacements of the bathing water volume every twenty-four (24) hours (four (4) turnovers are recommended), with maximum frictional resistance. At pools and spas with skimmers, the required skimmer flow, rather than turnover, may determine the minimum flow. Design is based on main drain flow at thirty (30) percent of the total recirculation, and thirty (30) gpm through each skimmer. This is represented as $0.3Q + 30n = Q = \text{total recirculation flow rate}$ and $n = \text{number of skimmers}$. (Main drain flow is $0.3Q$.) These criteria, plus the maximum allowable filter flux (15 gpm/ft² for rapid sand filters) and the maximum total dynamic head loss calculated assuming a "dirty" filter ready for backwash, comprise the basic design requirements for pools and spas.
- (2) A collector tank or other means for accommodating surge capacity shall be provided for all pools using overflow gutters connected to the recirculation system.

(b) Pumps.

- (1) A pump which will develop good vacuum must be used. The pump and piping at swimming pools shall be of such capacity as to provide for a turnover of pool water in at least eight (8) hours. When pressure filters are used, pumps must be designed to pass the required volume under the maximum head which may develop in the filters.
- (2) The pump shall have adequate capacity to provide the design recirculation flow rate at maximum calculated head loss, and 15 gpm/ft² of sand filter area during backwash; the pump should be located below the water level of the pool when feasible, to avoid air-lock. Should it be necessary to locate the pump above the water level of the pool, a check valve shall be provided on the suction side of the pump unless a self-priming pump is furnished.
- (3) If the filter is located above the water level of the pool, then valves shall be provided in the inlet and discharge lines which can be closed when the filter is not in use.
- (4) A filtration pump equipped with a device that disables the pump operation shall be equipped with both an audible and visual alarm to alert the operator to the condition.

(c) **Strainers.** The recirculation system shall include a strainer to prevent hair, lint, and other solids from reaching the pump and filters. Strainers shall be corrosion-resistant with openings not more than one-eighth (1/8) inch in size and shall be readily accessible for frequent cleaning. Larger openings for strainers will be considered only on a trial basis. At least two (2) baskets, or screens, must be provided. The area of strainer openings shall be at least four (4) times the cross-sectional area of the connecting pipe. A compound pressure gauge shall be installed to measure the pressure between the pump and the hair and lint strainer. Where filter systems are located above the pool water level, a standard vacuum gauge is acceptable.

(d) **Vacuum cleaner.** Vacuum cleaner facilities, either portable or installed integrally in the pool piping system for the operation of a vacuum cleaner, shall be provided. Piping and hose shall be required to produce not more than fifteen (15) feet total head loss at the pump, while moving four (4) gallons per minute per linear inch of cleaner head. All pools shall be designed with pipes for vacuum cleaning facilities integrally with the pool piping or portable facilities will be provided. The mixture of water and sediment from a suction cleaner may, in the case of outdoor pools subjected to heavy dust loads, be discharged to an approved waste treatment system. The discharge from suction cleaners used in cleaning indoor pools, which are not subjected to heavy dust loads or in which sedimentation is slight, may be returned to the pool through the filter system. Any point source discharge must comply with the requirements of OAC 310:315-5-2.

(e) **Water heater.** Indoor pools operated during the colder months shall be provided with a heater for the pool water. Introduction of steam directly into the pool or the use of heating coils placed directly in the pool is prohibited. Such a heater may be designed for use with steam or hot water and ample surface for heat interchange must be provided. Automatic thermal control is desirable. The heater parts must be easily removable for cleaning. A check valve shall be installed between the filter and the inlet side of the heater. On all heated pools, a fixed thermometer shall be placed on the recirculation line immediately downstream from the heater after blending and another on the return line from the pool. Thermometers shall be accessible and have a Fahrenheit scale.

(f) **Piping system.** The determination of sizes of pipe, fittings, and valves on the complete main pump suction line from the swimming pool shall be based upon a rate of friction losses for piping of not more than six (6) feet per one hundred (100) feet of pipe based upon the Hazen-Williams formula for fifteen (15) year old piping. All piping on the discharge side of the pump for filtration and to the point for discharge of backwash water from the filter plant shall have pipe sizes determined on a basis of friction losses which shall be not more than twelve (12) feet per one hundred (100) feet and the velocity in any pipe shall not exceed ten (10) feet per second. Pipe selection shall be made based upon the Hazen-Williams formula for fifteen (15) year old pipe. In the determination of pipe sizes required, the criterion which would call for the largest pipe size shall govern. All pool piping shall be supported by piers or other substantial means to preclude possible settlement which will either

provide dirt traps or air pockets and a condition which might result in rupture of the lines. All plastic pipe used shall bear the approval seal of the National Sanitation Foundation. All piping shall be labeled or color coded and all valves shall be labeled.

(g) **Rate-of-flow indicator.** Every public swimming pool distribution system including those for wading pools shall be provided with an accurate and durable rate-of-flow indicator, installed in accordance with the manufacturer's recommendations and with the required uniform distance upstream and downstream for accurate response. In pressure sand filter installations, a rate indicator shall be provided and located on the filter inlet line so as to record both filtration and backwashing rates. It shall be calibrated for and provided with an easily readable scale reading in gallons per minute, and shall have a range at least ten (10) percent below the required filtration rate and ten (10) percent above the required backwash rate. It shall be accurate within ten (10) percent of true flow. In a diatomite type filter installation, a rate-of-flow indicator can be located wherever convenient to visibly indicate the flow rate, preferably in the filter effluent line.

(h) **Outlets.**

(1) All pools must be provided with an outlet at the deepest point to permit the pool to be completely and easily drained. Each public bathing place subject to licensure by the Department permitted after September 1, 2009 that does not utilize indirect suction shall be provided with an unblockable suction outlet as defined in American National Standards Institute (ANSI) A112.19.8-2007, or have multiple outlets, placed a minimum of 3 feet apart measured from center point of the drain cover/grate. Outlet openings of the grating in the floor of the pool shall be at least four (4) times the area of the discharge pipe. Each submerged suction outlet shall be fitted with a cover/grate that conforms to the entrapment protection standards of the ANSI A112.19.8-2007 performance standard. Submerged suction outlet cover/grate shall be installed according to the manufacturer's installation instructions. Field fabricated sumps shall be constructed according to ANSI A112.19.8-2007. Openings in the drain cover(s) shall be designed for a maximum velocity of one and one-half (1-1/2) feet per second. The outlet shall be marked by a dark colored stripe outlining the main drain, disk, or circle unless the plate or grating is of a contrasting color. Multiple outlets to meet this requirement shall be provided where the width of the pool is more than thirty (30) feet. In such cases, outlets shall be spaced not more than twenty (20) feet apart and not more than fifteen (15) feet from the side walls. A line shall run from the main drain(s) to a manifold connected to the inlet of the hair and lint strainer. A separate line shall run from each skimmer to the manifold. A valve that will permit adjustment of flow shall be installed in each line carrying water from the pool. Where provided, the vacuum line shall connect to the manifold through a suitable valve. Vacuum lines shall have a cover in place when not in use.

(2) After September 1, 2009 any existing pool licensed by the Department that plans modifications relative to the replacement or modification of submerged suction outlet cover/grates, or the addition of systems or devices intended to minimize the risk of physical or suction entrapment, shall submit a scope of work. Although a permit is not required, the Department will inspect the replacement or modification before the pool is refilled with water. At a minimum the scope of work proposal shall include the make and model of all equipment to be installed. Documentation shall be provided that all cover/grates conform to the entrapment protection standards of the American Society of Mechanical Engineers/American National Standards Institute (ASME/ANSI) A112.19.8-2007. Additionally, the modification shall incorporate at least one of the following devices or systems relative to prevention of suction entrapment:

- (A) A safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to American Society of Mechanical Engineers/American National Standards Institute (ASME/ANSI) A112.19.17 or American Society for Testing Materials (ASTM) standard F2387;
- (B) A suction-limiting vent system with a tamper-resistant atmospheric opening;
- (C) A gravity drainage system that utilizes a collector tank;
- (D) An automatic pump shut-off system;
- (E) A device or system that disables the drain; or
- (F) An unblockable suction outlet as defined in American National Standards Institute (ANSI) A112.19.8-2007, multiple outlets placed a minimum of 3 feet apart measured from center point of the drain cover/grate, or any other system determined by the department to be equally effective as, or better than, the systems described in (1) through (5), at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(i) **Inlets.** Multiple inlets shall be provided and shall be so spaced that each inlet will serve a linear distance of not more than fifteen (15) feet, provided that the distance from side wall or corner to adjacent inlet in an end wall shall not exceed five (5) feet. At least four (4) inlets are required at pools of any size, and more may be required at recessed features (stairs, seats, etc.) or in pools with irregular shapes, to achieve satisfactory disinfectant distribution. On pools less than sixteen hundred (1600) square feet in area, only directional (eye-ball type) inlets are permitted. In pools with surface area greater than sixteen hundred (1600) square feet or length in excess of sixty (60) feet, inlets shall be placed at fifteen (15) feet intervals around the entire perimeter. In any case, an adequate number of inlets shall be provided, properly spaced, and located to accomplish complete and uniform recirculation and maintenance of uniform disinfectant residual at all times. Inlets shall be a minimum of eighteen (18) inches below the water surface. Each inlet

shall be designed as an orifice subject to adjustment or at least must be provided with an individual gate valve to permit adjustment of water volume and/or velocity to obtain a balanced circulation. In the event recessed stairs are used, an inlet at the stairs must be provided to assure adequate circulation.

(j) **Overflow gutters.** Overflow gutters are required on all pools having a surface area or more than twenty-four hundred (2400) square feet. Pools having a surface area of twenty-four hundred (2400) square feet or less shall be provided either with overflow gutters or skimmers. Overflow gutters shall extend completely around the pool except at steps or recessed ladders, and shall be designed to assure that water does not wash back into the pool from the gutter. Guttered pools shall be designed for at least some water to be overflowing into the gutters or into surge weirs at all times, not just when the pool is at full bather capacity, for continuous removal of surface oils and debris. The gutter, drains, and piping shall be designed to rapidly remove overflow water caused by recirculation displacement, wave action, or other causes produced from the maximum pool bathing load. The opening into the gutter beneath the coping shall be not less than four (4) inches, and the interior of the gutter shall be not less than four (4) inches wide with a depth of at least three (3) inches. Where large gutters are used, they shall be designed to prevent entrance or entrapment of bathers' arms or legs. The overflow edge shall be rounded and shall not be thicker than two and one-half (2-1/2) inches for the top two (2) inches. Prefabricated gutter and return systems will be evaluated on a case-by-case basis.

(k) **Gutter outlets.** Drainage outlets shall be provided at least every fifteen (15) feet and the gutter bottom may be level, or preferably pitched slightly, to these outlets. Outlet pipes shall have a minimum inside diameter of two (2) inches. Outlets shall be covered by gratings. Angle gutter drains, which are not as subject to stoppage, are recommended. Drainage from overflow gutters may be discharged to sewers (without direct connection), or connected to the recirculation system through a properly designed surge tank or through other approved surge capacity designs, such as deep gutter channels. The gutter, drains, and return piping to the surge tank shall be designed to rapidly remove overflowing water caused by recirculation displacement, wave action, or other causes produced from the maximum pool bathing load. The outlet fittings shall have a clear opening in the grating at least equal to one and one-half (1-1/2) times the cross-sectional area of the outlet pipe. Open, roll-over, semi-recessed, or overflow gutters recessed in the side wall of the pool may be used, provided the design is such as to minimize accidents and to enable the gutter to be easily cleaned.

(l) **Skimmers.** Skimming devices are permitted in lieu of gutters on swimming pools with not more than twenty-four hundred (2400) square feet of surface area, providing approved handholds are installed. At least one (1) skimming device shall be provided for each six hundred (600) square feet or fraction thereof. The required surface skimmers shall be located at least thirty (30) feet apart, measured horizontally. Where used, skimming devices shall be built into the pool wall, shall develop sufficient velocity on the pool water surface to induce floating oils and wastes into the skimmers from the entire pool area, and shall meet the following

general specifications:

- (1) The piping and other pertinent components of the skimmers shall be designed for a total capacity of at least fifty (50) percent of the required filter flow of the recirculation system, and no skimmer shall be designed for a flow-through rate of less than thirty (30) gallons per minute.
- (2) The skimmer weir shall be automatically adjustable and shall operate freely with continuous reaction action to variations in water level over a range of at least four (4) inches. The weir shall operate at all flow variations as described in the above paragraphs. The weir shall be of such buoyancy and design as to develop an effective velocity.
- (3) An easily removable and cleanable basket or screen through which all overflow water must pass shall be provided to trap large solids.
- (4) The skimmer shall be provided with a device to prevent air-lock in the suction line. If an equalizer pipe is used, it shall provide an adequate amount of water for pump suction should the water of the pool drop below the weir level. If any other device or arrangement is used, a sufficient amount of water for pump suction shall be assured. When the equalizer pipe is used, it shall be sized to meet the capacity requirements of the filter and pump and shall in no case be less than two (2) inches in diameter. This pipe shall be located at least one (1) foot below the lowest overflow level of the skimmer. It shall be provided with a valve or equivalent device that will remain tightly shut under normal operating conditions but will automatically open when the skimmer becomes starved. Equalizer openings shall comply with the drain cover provisions of OAC 310:315-7-14(h).
- (5) The skimmer shall be of sturdy corrosion-resistant materials.
- (6) In addition to the above requirements, the skimmers must be listed as currently approved by the National Sanitation Foundation (NSF) Standard 50 - Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs.

[Source: Amended at 26 Ok Reg 2003, eff 6-25-09 ; Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-15. Filters

(a) **General.** The filter plant shall be provided with influent and effluent pressure gauges for each tank, backwash sight glass, air relief valves, and rate-of-flow indicator, as provided in this chapter. All filters must be approved and listed by the National Sanitation Foundation. In vacuum filter installations where the circulating pump has a rating of two (2) horsepower or higher, an adjustable high vacuum automatic shutoff shall be provided to prevent damage to the pump by cavitation. A compound gauge shall be installed in the pump suction line, between the pump and hair catcher (see 310:315-7-14 for exception). The sight glass may be omitted if the backwash discharge can be clearly viewed from the backwash control valves. The filter plant shall be provided with fixed piping and valving to permit the functions of filtering to pool or

backwashing to approved waste disposal with the battery as a whole or any unit operated singly. The filter plant shall be provided with means for draining all filter units and piping, so that all parts of the system may be completely drained to prevent damage from freezing. Pressure tanks should be supported by jack legs or other supports to give a free movement of air under each tank and to permit access for painting. Where dissimilar metals are used in the filters which may set up galvanic electric currents, the filter plant design must resist electrolytic corrosion. The filters shall be designed in such a manner that they may be easily disassembled with allowances made for adequate working space above and around the filter to allow the removal and replacement of any part and for other maintenance.

(b) **Filters, sand, conventional low-rate.** This chapter shall apply where applicable to either gravity or pressure sand filters, designed for a filtration rate not to exceed three (3) gallons per square foot per minute. Filter tanks shall be designed with a factor of safety of four (4) in relation of working pressure to ultimate strength. The filter bed shall consist of suitable grades of filter sand and supporting bed of graded gravel or other porous material which shall serve to support the filter bed and distribute both filtered and backwash water uniformly. The supporting bed shall consist of graded gravel or other material and shall support not less than twenty (20) inches of filter media. The filter media shall consist of silica sand or other durable, inert material. The filter media shall be free of clay and limestone, with effective size between 0.35 and 0.65 millimeter and uniformity coefficient not exceeding 1.75. The minimum freeboard to the draw-off point of backwash water shall be not less than twelve (12) inches above the normal level the top of the filter bed. The minimum backwash rate shall be not less than twelve (12) gallons per square foot of filter bed per minute. Where anthracite coal or other filter media are employed, the freeboard shall be adequate to prevent the media being carried off to waste when the filter bed is backwashed at a rate adequate to carry off foreign material filtered from the water. The freeboard and the rate of backwash shall be the subject of individual design, based upon specific gravity of the media. The under-drain system shall be constructed of material which is corrosion resistant and enduring and the design of the system shall be such that uniform collection of the filtered water and distribution of the backwash water is effected over the entire filter bed area. Unless other effective means are provided of distributing the water entering the unit above the filtering media, the filter shall be equipped with a baffle plate for this purpose. Each conventional sand and gravel filter unit shall be provided with an access opening of not less than a standard eleven (11) x fifteen (15) inch manhole and cover.

(c) **Filters, sand, pressure high-rate.** High rate pressure sand filters are acceptable provided the filter-pump combination is designed and sized to limit the filtration rate to a maximum of fifteen (15) gallons per square foot per minute. The filter media shall consist of silica sand or other durable, inert material, free from clay and limestone and with an effective size between 0.40 and 0.55 millimeters and a uniformity coefficient not exceeding 1.75. The minimum depth for filter sand shall be twenty (20) inches for rapid rate filters and twelve (12) inches for

high-rate filters.

(d) **Filters, diatomite.** These may be of either pressure or vacuum type. The design filter rate shall not exceed two and one-half (2-1/2) gallons per minute per square foot of effective filter area. If an approved body feed is not used, the rate shall be reduced to two (2) gallons per minute per square foot of effective filter area. For pools with surface area of sixteen hundred (1600) square feet or more, an approved body feed is required. The determination of the filter area shall be made on the basis of a true and effective supported septum surface. In the case of fabric septums, the area computation will be made on the basis of measurements of the septum support in a reasonably constant plane. Area allowances shall not be granted for folds in the septum fabric or deviations in the septum surface which would easily bridge. The filter cycle of the diatomite filter shall not be less than seventy-two (72) hours of continuous operation before cleaning. This shall not apply to the initial operation of a pool, but only the operation where the pool water at least meets the conditions of water quality given in OAC 310: Chapter 320. A precoat of filter aid that evenly covers the filter elements must be used before placing the equipment into initial operation and after each cleaning. The amount of filter aid shall be selected to provide at least the same protection to the filter septum as that given by 0.1 pound of diatomaceous earth filter aid per square foot of filter area where body feed is employed, or 0.15 pound per square foot where no body feed is used. The equipment shall be so arranged that during the precoating the effluent shall be refiltered or discharged to an approved waste facility without passing into the pool until the effluent is clear of suspended matter. Slurry feeders shall include an agitator and positive feed pump. Where provided, the body feeding equipment designed for feed of filter aid to the filter influent shall have a rate capacity to feed at a reasonably constant rate within a calibrated range. The equipment will have capacity to operate at the maximum feed rate of ten (10) parts per million at the design filter rate for a period of twenty-four (24) hours without refilling. The tank containing the filter elements shall be constructed of steel, plastic, or other suitable material which will satisfactorily provide resistance to corrosion, with or without coating. Pressure filters shall be designed for a working pressure equal to the shutoff head of the pump, with a factor of safety of four (4). Vacuum filters shall be designed to withstand the pressure developed by the weight of the water contained therein and closed vacuum filters shall, in addition, be designed to withstand the crushing pressure developed under a vacuum of twenty-five (25) inches of mercury, both with a safety factor of three and one-half (3-1/2). The septa or elements which support the filter aid shall be of corrosion resistant material and shall be provided with openings the minimum dimensions of which shall not be greater than 0.005 inches, or as specified in the National Sanitation Foundation Standards for Diatomite Filters. The septa shall be constructed to be adequately resistant to rupture with the maximum differential pressure between influent and effluent of not less than the maximum pressure which can be developed by the circulating pump and of adequate strength to resist any additional stresses developed by the cleaning operation.

(e) **Surface skimmer filters.** Skimmer filters are acceptable on pools less than sixteen hundred (1600) square feet surface area, and on wading pools. The unit shall be designed to filter at a rate of two (2) gallons per minute per square foot and shall be equal to the design capacity of the skimmer. All requirements in 310:315-7-15 are applicable to skimmer filters.

(f) **Cartridge filters.** Cartridge filters are acceptable if they conform to the following criteria:

(1) The maximum flow through the filter is not greater than 0.375 gpm/square foot.

(2) A sump or other means of collecting water and wastes drained from the filter, or from the filter elements during cleaning, is provided, and discharges into an approved wastewater collection system.

(g) **Filter operating instructions.** At the time of final inspection of the swimming pool construction, there shall be provided to the operator two (2) sets of filter operation instructions, for the operator and owner, which refers to valve operation by number. Each valve shall be equipped with a numbered metal, plastic, or other durable tag permanently attached by a chain or otherwise permanently secured.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-16. Disinfection and pH control

(a) **Chlorinator or other disinfection feeder.** The pool shall be equipped with a chlorinator or other residual disinfectant feeder which meets the following requirements:

(1) **Feeders.** All chemicals and chemical solutions shall be added to the pool water recirculation flow using a feeder that is acceptable to the Department.

(2) **Construction and materials.** It shall be of sturdy construction and materials which will withstand wear, corrosion, or attack by disinfectant solutions or vapors and which are not adversely affected by repeated regular adjustments or other conditions anticipated in the use of the device. Feeders requiring field maintenance or cleaning are required to be easily disassembled. The design and construction shall be such as to preclude stoppage from chemicals used or foreign material. The feeder shall incorporate failure-proof features so that the disinfectant cannot feed directly into the pool, the pool piping or pool enclosure following any type of failure of the equipment or its maintenance. Super-chlorination shall be accomplished by the addition of calcium hypochlorite, sodium hypochlorite, or other approved chlorine compounds. Solution chemical feeders and flow through chemical feeders need to be listed as meeting the appropriate National Sanitation Foundation Standard and bear the NSF seal of approval.

(3) **Sizing of disinfection equipment.** Solution and gas feeders shall be capable of supplying the equivalent of 1.5 pounds of available chlorine in eight (8) hours, for each ten thousand

(10,000) gallons of pool capacity. Feeders used with organic chlorine compounds or other stabilized chlorine shall be capable of supplying the equivalent of 0.5 pounds of available chlorine in eight (8) hours, for each ten thousand (10,000) gallons of pool capacity and the cyanurate concentration in the pool shall be at least thirty (30) mg/1 and does not exceed one hundred (100) mg/1.

(4) **Erosion type feeders.** Erosion type chlorinators using stabilized chlorine compounds shall have a flow meter, calibrated valve, or other device acceptable to the regulatory authority to determine the rate of flow of water through the chlorinator. The device can be either calibrated in pounds chlorine feed per unit of time or calibrated in gallons of flow per unit of time with an attached chart to convert the water flow rate to pounds of chlorine feed. The feeder shall be capable of continuous delivery within ten (10) percent of the dosage setting.

(5) **Solution type feed pumps.** The pump shall have a calibrated rate control and be adjustable from zero (0) to full range. The feeder shall have the capability of feeding the required dosage using a two and one-half (2-1/2) percent solution.

(6) **Chlorination for normal operation.** Chlorinators shall be installed per the manufacturer's recommendation. Where super-chlorination is accomplished by chemical feeders, the solution shall be introduced before the sand filter. When the disinfectant is introduced at the suction side of the pump, a device or method shall be provided to prevent air-locking of the pump or recirculation system.

(7) **Chlorination to prevent backflow.** The chlorinators shall be designed to prevent the backflow of water into the chlorine container.

(8) **Compressed chlorine gas.** When compressed chlorine gas is used, the following additional features are required:

(A) The chlorine and chlorinating equipment are located either out-of-doors or in a separate well-ventilated room. Such rooms should preferably be above ground and provided with vents near the floor which terminate outdoors. The door of the room shall have a viewport, not open to the pool enclosure, and open outward. When located out-of-doors, the cylinders shall be securely anchored to prevent them from falling over and surrounded by a six (6) foot high, woven wire fence, or equivalent, and a locked gate.

(B) Where gaseous chlorine equipment is provided below grade in a filter room, or in any part of a building which provides housing, the mechanical proportioning device and cylinders of chlorine shall be housed in a reasonably gas-tight, corrosion-resistant, and mechanically vented enclosure. Air-tight duct work from the bottom of the enclosure to atmosphere in an unrestricted area and a motor-driven exhaust fan capable of producing at least one (1) air change per minute is required. Automatic louvers of

good design near the top of the enclosure for admitting fresh air are required. An opening at least eighteen (18) inches square, glazed with clear glass, and artificial illumination shall be provided in an amount such that the essential performance of the equipment may be observed at all times without opening the enclosure. The floor area of the enclosure shall be of adequate size to house the chlorinator, fan, scales, and one (1) extra chlorine cylinder. (C) Electrical switches for the control of artificial lighting and ventilation shall be on the outside of the enclosure adjacent to the door.

(D) The chlorine equipment shall be of rugged design capable of withstanding wear without developing leaks.

(E) Chlorine cylinders shall be on platform scales and anchored to prevent their falling over. An approved and accessible chlorine cylinder valve stem wrench is required.

(F) The chlorine feeding device shall be designed so that during accidents or interruptions of the water or electric power supply, the chlorine feed will shut off automatically and leaking chlorine gas will be vented outdoors. The device shall be capable of delivering chlorine at its maximum rate without releasing chlorine gas to the atmosphere.

(G) A gas mask and fresh replacement canister designed for use in a chlorine atmosphere and of a type approved by the U.S. Bureau of Mines is required.

(H) The gas mask and canister shall be kept in a closed cabinet accessible without a key and located well away from the gas chlorinator or the room where the gas chlorinator is installed, such that it may easily and safely be reached and be put on out of range of possible gas fumes.

(I) Canister-type gas masks are suitable only with low concentrations of chlorine gas. In the event of a serious leak, the fire department shall be called.

(b) **Brominators or other disinfectant devices.** Where brominators or other disinfectant devices are proposed, the design with respect to equipment, maintenance, and safety shall be in accordance with the applicable provisions of 310:315-7-16.

(c) **Prohibitions and exceptions.** Hand feeding. Hand feeding of disinfectants to maintain normal disinfectant residuals is not acceptable; however, the addition of chlorine solution by hand may be used periodically to super-chlorinate for algal control. Super-chlorination shall be accomplished at times when the pool is closed and a safe range of chlorine disinfection shall be attained before patrons are permitted to return to the pool.

(d) **Electrolytic chlorine generators.** The electrolytic chlorine generator shall be of sturdy construction and of materials which will withstand continual usage typical of public pools and the feed rate shall be adjustable from zero (0) to full range. The generator shall be capable

of feeding a chlorine dosage of one and one-half (1-1/2) pounds of available chlorine in eight (8) hours for each ten thousand (10,000) gallons of pool capacity. The generator unit shall be UL approved or NSF listed, and a failure-proof electrical interlock with the recirculation pump shall be incorporated into the system such that the generator operates only during recirculation pump operation. The generator units shall be installed according to the manufacturer's instructions and the saline content of the pool water shall be maintained in the required range specified by the manufacturer. Ventilation and housing shall meet the requirements of 310:315-7-16 for compressed chlorine gas.

(e) **Feeders for pH adjustment.** Feeders for pH adjustment shall be provided on all pools using gaseous chlorine for disinfection. They shall be adjustable from zero (0) to full range, and shall meet the requirements of 310:315-7-16. When soda ash is used for pH adjustment, the maximum concentration of soda ash solution to be fed shall not exceed one-half (1/2) pound soda ash per gallon of water. Feeders for soda ash shall be capable of feeding a minimum of three (3) gallons of the above soda ash solution per pound of gas chlorination capacity. The minimum size of the solution reservoir(s) shall not be less than fifty (50) percent of the maximum daily capacity of the feeder. The solution reservoir(s) shall be marked to indicate contents.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-17. Testing equipment

(a) **Test kits.** Test kits are required at all pools to determine free active chlorine and total or combined available chlorine (using DP.D. reagents), or bromine, total alkalinity, calcium hardness, and pH.

(b) **Cyanuric acid test kits.** Cyanuric acid test kits are required at all pools in which cyanurates or cyanuric acid stabilized chlorine products are used. The concentration of cyanuric acid in the pool water shall not exceed one hundred (100) ppm.

(c) **Sodium chloride test kits.** Sodium chloride test kits are required at all pools which utilize accepted electrolytic chlorine generators which require sodium chloride concentrations in the pool water. The concentration of sodium chloride in the pool water shall be maintained in the range specified by the electrolytic chlorine generator manufacturer.

(d) **Thermometers.** All facilities heating the water to temperatures over 90 °F shall maintain on the premises, in the pool or pool enclosure, a thermometer to take the temperature of the water. Those facilities requiring the ambient air temperature to be monitored shall maintain a suitable thermometer with a Fahrenheit scale at deck level in the pool room to monitor air temperature.

(e) **Test kits, spas.** In addition to fulfilling the foregoing requirements of this section, spa facilities shall be equipped to test for concentrations of total dissolved solids, copper, and iron.

310:315-7-18. Lighting

(a) **Artificial lighting.** A complete system of artificial lighting shall be provided for all pools, rest rooms, toilet rooms, shower rooms, store

rooms, and other areas of public bathing places.

(b) **Arrangement.** The arrangement and design of the lighting shall be such that attendants may clearly observe every part of the pool, spring boards, towers, floats, or other appurtenances. The lighting system of outdoor pools shall be designed with sources of illumination located so as to prevent insects attracted by the lights from falling into the water.

(c) **Underwater lights.** Where underwater lighting is used, it is recommended that the minimum illumination be eight (8) foot-candles at any point in the pool. Such lights shall be spaced to provide illumination so that all portions of the pool and pool bottom may be seen without glare.

(d) **Area lighting.** Area lighting shall provide a minimum of ten (10) foot-candles at all points on the deck.

(e) **Interior rooms.** All rooms shall be provided with sufficient light so that all sections may be observed and are easily visible for cleaning purposes. A minimum of ten (10) foot-candles shall be provided in all interior rooms.

(f) **Emergency lighting.** Emergency lighting shall be provided at all indoor bathing facilities, in accordance with the requirements of the current edition of the NFPA 101 Life Safety Code, unless assurance can be provided that the facility will always be locked and not used at night.

[Source: Amended at 39 Ok Reg 1263, eff 9-11-22]

310:315-7-19. Electrical requirements

(a) **Wiring standards.** All wiring in connection with requirements for a swimming pool for lighting or power shall conform with the National Electrical Code of the National Underwriters Laboratories.

(b) **Grounding.** In addition to the grounding requirements for electrical equipment and circuits by the National Electrical Code, all metal water and other metal piping to and from the public bathing place, including inlet and outlet pipes, shall be metallically bonded together and adequately connected to the same grounding electrode used to ground the neutral conductor of the electrical system. Where metal fence is used, it shall be grounded at both sides of the entrance gate.

(c) **Electrical devices.** All electrical devices such as portable announcing systems, radios, and soft drink dispensers that might be used around the pool deck and immediate environment shall be prohibited within reach of bathers. Further special grounding of such fixtures must be provided.

(d) **Overhead conductors.** No electrical wiring shall pass overhead within twenty (20) feet of the pool enclosure.

(e) **Ground fault interrupter type circuit breakers.** Ground fault interrupter type circuit breakers shall be provided for all outlets within fifteen (15) feet of the pool and those located in the bathhouse and pump room.

(f) **Underwater light assemblies.** All underwater light assemblies shall comply with 310:315-7-19 and shall be connected in one of the following manners.

- (1) Using a low-voltage twelve (12) volt system with three hundred (300) watt or less underwater light(s).
- (2) New one hundred-ten (110) volt systems will have an approved junction box (deck box) in excess of eight (8) inches above the deck level and must have a ground fault interrupter installed at the main panel.
- (3) All existing underwater lighting systems using one hundred-ten (110) volts shall have a ground fault interrupter installed at the main panel.
- (4) Low water cutoffs are strongly recommended.

APPENDIX A. DIVING AREA

Figure 1

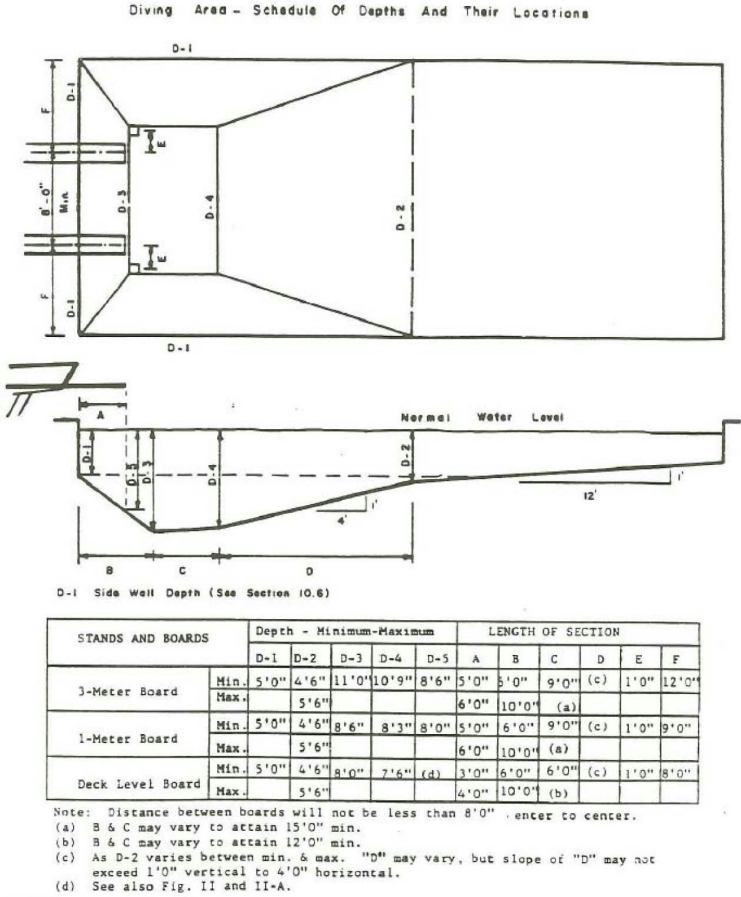


Figure 1

[Source: Added at 39 Ok Reg 1263, eff 9-11-22]

[Source: Added at 39 Ok Reg 1263, eff 9-11-22]

APPENDIX C. POOL DESIGN

Figure 1

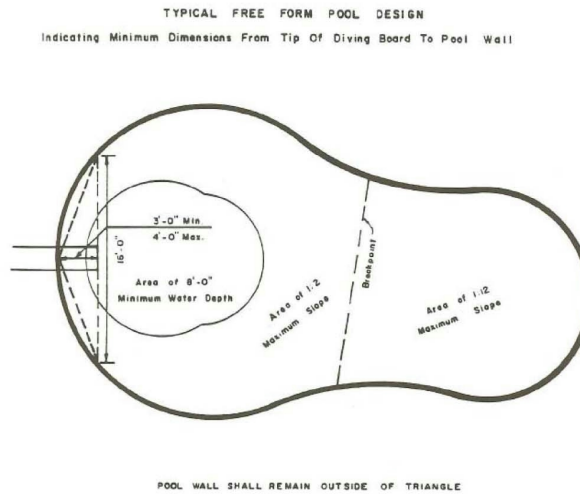


Figure II - A

[Source: Added at 39 Ok Reg 1263, eff 9-11-22]

APPENDIX D. COMPUTING CAPACITY REQUIREMENTS FOR INDOOR PUBLIC SWIMMING POOLS AND OUTDOOR SWIMMING POOLS

Figure 1

(1) Indoor public swimming pools and outdoor swimming pools with average required walk area, sun-bathing area, etc.:

$$\text{Number of persons} = \frac{\text{Swimming Area}}{15} + \frac{\text{Diving Area}}{24}$$

(2) Deduct three hundred (300) square feet for each installed diving board from the diving area.

(3) The entire surface area shall be considered "Swimming Area" for non-diving pools having a uniform bottom slope (maximum slope: one (1) foot vertical to twelve (12) feet horizontal) from the Shallow end to the deepest part of the pool.

CHAPTER 320. PUBLIC BATHING PLACE OPERATIONS

[Authority: 63 O.S., §§ 1-1013 et seq.]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:320-1-1. Purpose

The Public Bathing Place Operational Regulations are minimum design criteria and will be used as such by the State Department of Health. Nothing in these operational regulations should be construed as preventing the consulting engineer from recommending, or the reviewing authority from approving, more effective treatment where local conditions dictate such action.

310:320-1-2. Definitions

"Adjustable inlet" means a fitting mounted in the pool wall and connected to the return piping from the recirculation system that is directionally adjustable or a fitting mounted in the pool floor and connected to the return piping from the recirculation system that has a means of flow adjustment.

"Air induction system" means a system whereby a volume of air (only) is induced into hollow ducting built into a spa floor, bench, or other location. The air induction system is activated by a separate air power unit (blower).

"Attendant" means any person capable of providing rescue who is responsible to the management.

"Backwash" means the process of thoroughly cleansing the filter media and/or elements by reverse flow.

"Backwash cycle" means the time required to thoroughly backwash the filter media and/or elements and the contents of the filter vessel.

"Bathing load" means the maximum number of persons allowed in the pool enclosure at one time.

"Department" means the Oklahoma State Department of Health and authorized representatives.

"Diatomaceous earth (DE) filter" means a filter that utilizes a layer of filter aid as its filter medium that periodically must be replaced.

"Filter" means a device that separates solid particles from water by recirculating it through a porous substance (a filter medium or element).

"Filter aid" means a type of finely divided medium used to coat a septum type filter, usually DE, perlite, or similar material.

"Filter media" means a finely graded material (such as sand) which removes filterable particles from the water.

"Hydrotherapy, whirlpool, or spa pool" means a public pool used exclusively in conjunction with high velocity air and/or high velocity water recirculation systems, utilizing hot, cold, or ambient temperature water. These pools will be referred to as spas.

"Individual therapy units" means tanks which are designed for the therapeutic treatment of one individual at one time and are drained and cleaned after each individual use. Individual therapy units are not considered public bathing places.

"Ladders" means a series of vertically separated treads or rungs either connected by vertical rail members or independently fastened to an adjacent vertical spa/pool wall.

"Open to the general public" means not restricted to tenants or guests.

"Overflow system" means the term overflow system encompasses perimeter type overflows, surface skimmers, and surface water collection systems of various design and manufacture. The water line shall be established by the height of the overflow rim or the midpoint of the skimmer channel.

"Perimeter overflow gutter" means a trough or gutter around the pool walls with the overflow lip effecting a skimming action to clean the pool water surface.

"Pool deck" means the unobstructed area around the outside of the pool curb, diving boards, diving towers, and/or pool slides.

"Pool floor" means the interior bottom pool/spa surface and consists of that surface from a horizontal plan up to a maximum of a 45° slope.

"Pool turnover" means the circulation of a quantity of water equal to the pool volume through the filtration system.

"Portable pool" means a shallow pool, with depth not exceeding 4.5 feet, intended only for swimming instruction, which can be quickly erected, used for an instruction period then dismantled and moved to another location.

"Private pool" means a pool maintained by an individual for the use of their family and friends, with no other formal admission requirement.

"Public bathing place" or "public pool" means *all entirely artificially constructed wading pools, swimming pools, bathhouses used collectively by a number of persons for wading, swimming, recreative, or therapeutic bathing, together with all sanitary facilities, bathing suits, buildings, equipment, and appurtenances pertaining to such bathing places; provided, that such term shall not apply to those public or semipublic baths where the main object is the external cleansing of the body, to bathing places maintained by an individual for the use of family and friends, or to bathing places owned or managed by a group or association of the owners of thirty or fewer homes, the use of which is limited to the homeowner group and their nonpaying guests. The term "public bathing place" does not include spray pads or spray grounds, As used in this section, "spray pads or spray grounds" mean interactive recreation areas intended for use by children in which the water is supplied by a system of sprays and is not allowed to accumulate above ground* [63 O.S. § 1-1013].

"Recessed" means open areas that may or may not include steps, benches, or fountains that extend down from the deck and terminating at the pool wall

"Recessed steps" means a riser/tread or series of risers/treads extending down from the deck with the bottom riser/tread terminating at the spa/pool wall, thus creating a "stairwell."

"Recessed treads" means a series of vertically spaced cavities in the spa/pool wall created treat areas for stepholes.

"Recirculation system" means the system traversed by the recirculated water from the pool until it is returned to the pool (from the outlets, through the pump, filter, chemical treatment, and heater, to the return inlets).

"Special purpose pool" means a public pool used exclusively for a particular purpose, including but not limited to springboard or platform diving training, scuba diving instruction, and aquatic programs for handicapped individuals and kindergarten children.

"Turnover rate" means the period of time (usually in hours) required to circulate a volume of water equal to the pool capacity.

"Wading pool" means a pool intended for use by children and having a maximum depth not exceeding 18 inches.

"Water line" means the line along the pool that was designed for maximum efficiency and sanitation. For skimmers it is about mid-tile and for gutters they should be overflowing:

"Water recreation attraction" means a public bathing or swimming facility with design and operational features that provide patrons recreational activity which is different from that associated with a conventional pool and purposefully involves total or partial immersion in the water. Water recreation attractions include but are not limited to water slides, water amusement lagoons, and wave pools.

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-1-3. Operational license

(a) No person, municipality, or entity shall operate a public bathing place without obtaining a license from the Commissioner of Health pursuant to 63 § 1-1013.1.

(b) A license to operate a public bathing place is not required for *those public or semipublic baths where the main object is the external cleansing of the body, "Private Pools", or to bathing places owned or managed by a group or association of the owners of thirty or fewer homes, the use of which is limited to the homeowner group and their nonpaying guests.*

(c) A public bathing place may be inspected by representatives of the Department at any reasonable time to determine if the public bathing place complies with applicable statutes and rules administered by the Department [63 O.S. § 1-1018].

[Source: Added at 26 Ok Reg 1491, eff 6-11-09 ; Amended at 39 Ok Reg 1290, eff 9-11-22]

SUBCHAPTER 3. OPERATIONAL PROVISIONS

310:320-3-1. Life saving equipment

(a) **Adequate life saving equipment.** Adequate life saving equipment shall be provided at all public bathing places where the water is sufficiently deep for swimming and diving, to minimize the danger of drowning and of injuries to bathers from falls or collisions.

(b) **Lifeguard chairs.** Each public bathing place open to the general public shall have at least one (1) elevated lifeguard chair. This shall be presumed to be adequate for two thousand (2000) square feet of pool surface area with an additional lifeguard chair being provided for each additional area of two thousand (2000) square feet or fraction thereof. Lifeguard chairs shall be located so that a lifeguard is not required to protect a segment in excess of one hundred-eighty (180) degrees. Where a pool is provided with more than one (1) lifeguard chair and the pool width is forty (40) feet or more, chairs shall be located on each side of the pool. See OAC 310:315-7-3 and OAC 310:320-3-2.

(c) **Small pools.** Every public pool having a horizontal dimension that is thirty (30) feet or less or a surface area less than sixteen hundred (1600) square feet shall provide:

(1) One (1) or more poles each at least sixteen (16) feet in length. These shall end in a shepherd's crook with an opening of at least eighteen (18) inches and shall be constructed of light sturdy material such as aluminum or bamboo and used according to the manufacturer's instructions.

(2) Two (2) or more ring-buoys fifteen (15) to eighteen (18) inches in diameter, constructed of light material, with at least one-quarter (1/4) inch rope attached to reach the length of the pool, not to exceed forty (40) feet.

(d) **Large pools.** Every public pool having a horizontal dimension that is more than thirty (30) feet or a surface area more than sixteen hundred (1600) square feet, the unit requirements listed under (c) of this section shall be doubled, and a backboard provided. The maximum length of pole required will be sixteen (16) feet. For large pools requiring more than two (2) lifeguard chairs, the requirements of OAC 310:320-3-1(c) shall be provided for each additional two (2) chairs.

(e) **Life line.** A life line shall be at or near the break in grade between the shallow and deep portions of a public bathing place, with its position marked with colored floats spread on five (5) foot centers. Life lines shall be three-quarters (3/4) of an inch minimum diameter. Terminals shall be securely anchored to a receptacle of corrosion-resistant material and recessed into the pool wall.

(f) **Location of life saving equipment.** Life saving equipment shall be mounted in conspicuous places, distributed around the pool edge at lifeguard chairs, or elsewhere, readily accessible.

(g) **First aid kit.** A stocked first aid kit shall be conveniently available at each bathing place. Contents shall be suitable for the type facility.

(h) **Telephone.** An accessible telephone to reach emergency assistance without the use of coinage shall be accessible to the pool during all hours of operation.

310:320-3-2. Personnel

(a) **Transfer of ownership.** Each license holder of a public bathing facility shall notify the Department upon sale, lease, or other transfer of responsibility for the premises and shall supply the Department with the name and address of the new operator and/or owner.

(b) **Operation and management.** The bathing place shall be maintained under the supervision and direction of a properly trained operator with duties and responsibilities outlined in (d) below. Proper training can be obtained through attendance at short courses for swimming pool operators sponsored by the state, county, and municipal health departments; state colleges and universities, and organizations such as the YMCA, YWCA, and Red Cross.

(c) **Lifeguard.**

(1) One (1) or more lifeguards shall be on duty at the pool side of all bathing places open to the general public, and all pools with diving boards or platforms higher than one (1) meter at all times when the pool is open and in use. These individuals have authority to enforce all rules and regulations pertaining to sanitation and safety.

(2) Lifeguards of public bathing places in Oklahoma shall have satisfactorily completed an advanced course of instruction in life saving and water safety equivalent to that offered by the American Red Cross or YMCA. Except for situations that satisfy (6) of this subsection, lifeguards shall be not less than sixteen (16) years of age. Lifeguards shall have a current life saving certificate, be capable swimmers, shall be competent in life saving methods, and be able to perform artificial respiration, and shall be in good physical condition. At least one (1) lifeguard holding a current certificate in cardiopulmonary resuscitation (CPR) and trained in multi-media or equivalent first aid shall be on duty at all times the pool is in use. The CPR and current advanced life saving certificate for each lifeguard employed shall be prominently displayed or posted at the checking stand or other convenient point so as to be easily read by the patrons. Bathing places open to the general public with water depths of four (4) feet or less may substitute persons passing an American Red Cross Basic Water Safety Course or its equivalent, rather than the Advanced Life Saving Course.

(3) Lifeguards assigned to the pool side shall not be subject to duties that would distract their attention from proper observation and supervision of persons in the pool area, or that would prevent immediate assistance for persons in distress in the water.

(4) The number of lifeguards on duty shall be such as to provide reasonable general supervision of the activities of all persons in the pool area, with detailed supervision and close observation of those persons in the pool water. The number shall also be sufficient to enable periodic relief or rest periods so that they will be alert while on duty. As a general approximation, it is recommended that the pool management provide at least one (1) lifeguard at the pool side for each seventy-five (75) persons in the

swimming pool, with the determining factors being the type of pool, size of pool, ratio of surface area of deep water to the area of pool, temperature of the water, and quality of the water. Lifeguards shall wear distinguishing suits or emblems so that they may be easily identified by persons using the swimming facilities. (5) In the case of pools not open to the general public, that limit the use of the pool to their tenants or guests, it is recommended that a lifeguard or attendant who is responsible to pool management be in attendance when the bathing place is in use. Pools not open to the general public which do not have lifeguards or attendants present during all hours of operation must post a sign at the entrance to the pool area stating "NO LIFEGUARD OR ATTENDANT ON DUTY."

(6) If there is a shortage of certified lifeguards (age 16 or older) due to an uncontrollable event, including but not limited to a public health emergency, war, severe acts of nature, or a labor shortage, adversely impacting a licensed public bathing place (establishment), the Department may approve an establishment's request to lower the age restriction stated in (2) of this subsection to individuals who have reached the age of 15. Each exemption is limited to the establishment making the request and to only one physical location operated by the establishment. An approved exemption is valid for one year from the date of approval and may be rescinded by the Commissioner of Health at any time. A letter submitted to the Department and requesting this exemption, must be signed by an individual with authority to bind the establishment, notarized, and include the following statements:

- (A) the establishment states the nature of the uncontrollable event prompting the request;
- (B) the establishment states how the uncontrollable event adversely impact ability to hire certified lifeguards;
- (C) the establishment attests that the 15-year-old is in compliance with all other lifeguard regulations;
- (D) the establishment attests that the responsibilities for 15-year-old lifeguards will be in compliance with 29 CFR 570.34(l); and
- (E) an estimate of the percentage of 15-year-old lifeguard staff.

(d) Duties and responsibilities of pool personnel. All owners, managers, operators, and other attendants in charge of any public bathing place shall be responsible for the safety and sanitation of public bathing places. Pool personnel are responsible for the following:

- (1) Duties and responsibilities pertaining to bathers and general pool operation.
 - (A) See that all rules and regulations affecting the patrons are properly enforced.
 - (B) Report all drownings and accidents requiring hospitalization immediately to the local health authorities by telephone and in writing within seven (7) days. If there is no local health department, contact Consumer Health Services at the State Health Department.

(C) Report to the operator or management any condition of the bathing place or equipment which may be detrimental to its safe operation.

(D) See that showers are used and are operating properly.

(E) See that all persons known to be infected with a communicable disease are excluded from the pool.

(F) See that all persons who are under the influence of an intoxicating liquor or drugs, are excluded from the shower rooms and the pool area.

(G) See that all doors and gates to the bathing place are locked when the bathing place is not in use or when the facility is closed for health or safety reasons. Signs stating "POOL CLOSED" shall be placed at all entrances to the pool when not open for use.

(H)

Submit required records of the pool operations to the Department upon request.

(I) See that animals are not allowed inside the pool enclosure.

(J) See that safety equipment is not used for anything other than its intended use.

(2) Duties and responsibilities pertaining to the bathhouse and appurtenances.

(A) See that walk areas, overflow gutters, counters, lockers, equipment, furniture, interior partitions, and walls are in good repair and are clean. Where porous deck coverings are used, they shall be disinfected with a one hundred (100) ppm solution of chlorine at least once each day the facility is in use.

(B) See that floors of dressing rooms, shower stalls, and other interior rooms are scrubbed, using hot water with a suitable detergent, rinsed thoroughly, and disinfected daily or more often as needed. The floors should be scrubbed with soap or a suitable detergent, using hot water, then disinfected with a 3000 ppm to 6000 ppm solution of available chlorine, or a suitable commercial cleaner and disinfecting agent.

(C) See that toilet rooms and fixtures are kept clean, sanitary, and in good repair.

(D) See that liquid soap dispensers, paper towel dispensers, and toilet paper holders are kept adequately supplied.

(E) See that no food, drinks, debris, or foreign substances are thrown or carried into the pool. No glass containers of any type may be used in or near the pool. Beverages should be dispensed in disposable or shatterproof containers. Waste containers shall be conveniently located within the walk areas.

(F) Exclude unauthorized persons from the bathing place area.

(3) Duties and responsibilities pertaining to mechanical equipment.

(A) See that the pool finish is free from dirt and discoloration, and that the overflow gutters and skimmers are clean and flushing properly. See that the pool finish is brushed or suction cleaned as often as necessary to keep the pool free of sediment, hair, debris, algae, and slime.

(B) See that the level of the water is maintained at such a height as to ensure a constant slight overflow into the gutter when no bathers are in the pool.

(C) Operate the pool equipment to maintain clear and safe water, and be responsible for maintaining the chemical parameters as outlined under OAC 310:320-3-7 and 310:320-3-8.

(D) Keep on hand at all times at least a two (2) weeks supply of chemicals for disinfection and pH control of bathing water.

(E) Keep on hand diatomite filter aid sufficient for two (2) weeks operation for filtration with diatomite filters, including diatomite skimming filters.

(F) Adjustable inlets should provide approximately ten (10) PSI pressure on the effluent gauge when the filter is clean. Approximately seventy (70) percent of the water should return to the pool through the inlets in shallow portion of the pool.

(G) Provide for filtration plant operation.

(i) All bathing place operators shall know how to properly operate the filtration system and its appurtenances. These include hair catchers, filters, pumps, chemicals, and vacuum cleaners.

(ii) Where surface skimmers are provided as a means of control of floatage, bathing place personnel shall regularly ensure that the flow of makeup water is adequate to assure proper skimming operation. Baskets or screens provided to trap large solids shall be cleaned regularly.

(iii) An adequate supply of septa and diatomite filter aid shall be available at all times where skimmer filters are provided. When two (2) or more skimmer filters are in operation, they shall be inspected periodically to ensure balanced operation.

(iv) Pool volume and turnover rate shall be posted in the equipment area.

(H) Post a sign indicating the presence of chemicals on the door to any room used for pool chemical storage.

(4) Duties and responsibilities pertaining to water chemistry.

(A) Be responsible for taking all tests as per OAC 310:320-3-8.

(B) No pool is allowed to remain open for use if the free active chlorine, pH, or turbidity are not within the limits

required by these regulations as per OAC 310:320-3-7. It is the responsibility of the pool personnel to close the pool if any one (1) of these three (3) are not within the required limits.

(C) Store all chemicals in a safe manner and in an area not accessible to unauthorized persons. No chemical shall be stored in a container that does not have a complete label on it for that product.

(D) See that the proper chemicals are on hand for the type disinfection feeder in use. Hand feeding of chlorine is permitted only for super-chlorination or cleaning the pool. Only chemicals recommended by the manufacturer of solution or flow-through feeders shall be used.

(E) Chlorine and pH readings from an electrode type automatic controller may be substituted, with approval of the Department for three (3) of the four (4) required daily readings in OAC 310:320-3-8.

[Source: Amended at 38 Ok Reg 771, eff 6-28-21 (emergency); Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-3-3. Rules and precautions for patrons

(a) **Rules for pools.** Rules governing the use of pools, spas, and other public bathing places shall be displayed on signs large enough for easy reading which are posted at the entrance to the pool, dressing rooms, or other appropriate places. Sign shall provide, in similar language, that:

(1) A cleansing shower bath, using warm water and soap, must be taken before entering the pool.

(2) Persons with open wounds, bandages, or any symptom of communicable disease shall be prevented from entering the pool.

(3) Swimming alone is prohibited.

(4) At pools which do not have attendants or lifeguards on duty, children under twelve (12) years of age must be accompanied by an adult responsible for that individual child at the pool side.

(5) Running and rough play are prohibited in and around the pool.

(6) "Cut-offs" should be hemmed.

(7) Excess body lotions should be removed prior to entering the water.

(8) Bathing load limits shall be posted and enforced. See Standards Section 310:315-7-3.

(9) "NO LIFEGUARD OR ATTENDANT ON DUTY" where appropriate. See OAC 310:320-3-2.

(b) **Precautions for spas.** Precautions for spa patrons shall be posted on a sign which provides, in similar language, that "Persons who are pregnant, taking medication, or have any history of cardiovascular disease should consult a physician before entering hot water. Drugs and alcohol are prohibited."

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-3-4. Safety provisions

(a) **Emergency telephone numbers.** Every bathing place shall provide, immediately adjacent to its telephone, a notice to dial 911 in the event of an emergency.

(b) **Bathing load.** The bathing load must be observed and enforced by pool personnel and shall not exceed design standards as per OAC 310:315-7-3. The bathing load limit shall be posted in plain sight at all pools.

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-3-5. Swimming suits and towels furnished by management

(a) **Suits and towels.** All swimming suits and towels used by and maintained for public use shall be thoroughly washed with hot water and soap or detergent, rinsed, and thoroughly dried and sterilized by heat each time they are used, or an equivalent approved process shall be used.

(b) **Clean suits and towels.** Clean swimming suits and towels cannot come in contact with unwashed suits and towels or be stored on shelves or in baskets which have been used for storing dirty swimming suits and towels. The issuing of clean suits and towels at the same counters where dirty towels and suits are turned in shall be prevented.

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-3-6. Wading pool operation

(a) **Operation.** All artificially constructed bathing places, including wading pools using recirculation systems, shall be free of turbidity, algae, and slime or floating matter, and the water quality shall comply with the same standards as all other artificially constructed bathing places.

(b) **Supervision.** A supervisor shall be present at all times when a wading pool is in use. The supervisor's main duties consist of maintaining proper conduct and guarding against accidents. Children over twelve (12) years of age should be permitted to enter the enclosure but not the pool. Children with open sores or cuts, bruises, etc., or any contagious disease should not be admitted to the pool. The pool should be operated on definite hours on prescribed days. This supervisor replaces lifeguards and other safety requirements.

(c) **Drains.** Wading pool drains shall have grates or covers complying with OAC 310:315-7-14. This stipulation shall apply to all existing wading pools with recirculation systems, as well as those to be constructed.

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-3-7. Quality of Bathing Water

The pool water of all artificially constructed public bathing places shall undergo treatment necessary to comply with the standards set forth in OAC 310:320-3-8.

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-3-8. Table

MINIMUM IDEAL MAXIMUM COMMENTS				
A.				
DISINFECTANT LEVELS				
1. Free chlorine, mg/l (ppm)	1.0	1.0-1.5	5.0	Note: Chlorine should be maintained at this level continually. Super-chlorinate regularly. See B-1 below. If combined chlorine* is too high you may have: Sharp chlorinous odors Eye burn Algal growth Bacteria growth (*combined chlorine is eliminated by super-chlorination)
2. Combined chlorine, mg/l (ppm)	None	None	0.2	Note: Health department officials should be consulted before use.
3. Bromine, mg/l (ppm)	2.0	3.0	4.0	
B. CHEMICAL VALUES				
1. pH	7.2	7.5	7.8	If pH is: TOO HIGH: Low chlorine efficiency Scale formation Cloudy water Increased chemical demand Eye discomfort TOO LOW: Rapid dissipation of chlorine Plaster/concrete etching Eye discomfort Corrosion of metals
2. Total alkalinity as CaCO ₂ , mg/l (ppm)	80	100	200	If total alkalinity is: TOO HIGH: Cloudy water

Increased scaling potential
pH maintained too high

TOO LOW:
pH bounce
Corrosion tendency

MINIMUM IDEAL MAXIMUM COMMENTS

3. Undissolved solids, mg/l (ppm) (Turbidity)	None	None	None	If undissolved solids are: TOO HIGH: If dissolved solids are: TOO LOW: Total alkalinity may be too low Aggressive water
4. Dissolved solids, mg/l (ppm)	300	...	1500	TOO HIGH: Chlorine may be less effective Scaling may occur Fresh water should be added to reduce solids Salty taste Dull water Chemical balance difficult to maintain If hardness is: TOO LOW: Plaster or concrete etching may occur
5. Hardness, as CaCO ₂ mg/l	50	125	500	TOO HIGH: Scaling may occur Water has bad "feel" Corrosion Short filter runs
6. Copper, mg/l (ppm)	None	None	0.3	If copper content is: TOO HIGH: Staining may occur

					Water may discolor Chlorine dissipates rapidly Filter may plug May indicate pH too low, corrosion, etc. If iron content is: TOO HIGH: Staining may occur Water may discolor Chlorine dissipates rapidly Filter may plug
7. Iron, mg/l (ppm)	None	None	/0.2	0.3	

MINIMUM IDEAL MAXIMUM COMMENTS

8. Manganese, mg/l (ppm)	None	None	0.05		If manganese content is: TOO HIGH: Staining may occur
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C. BIOLOGICAL VALUES

					If algae are observed: Super- chlorine or shock treat pool Supplement with brushing and vacuuming Maintain adequate free chlorine residual Use approved algacide according to label
1. Algae	None	None	None		

				direction If bacteria count exceeds health department requirements: Super chlorinate pool and follow proper maintenance procedures Maintain proper free chlorine residual
2. Bacteria	None	None	Refer to local health code	

**D.
STABILIZER**

				If stabilizer is: TOO LOW: Chlorine residual rapidly destroyed by sunlight TOO HIGH: May exceed health department regulation NOTE: Stabilizer is not needed for indoor pools and should not be used in hot water facilities. Cyanuric acid
1. Cyanuric acid, mg/l (ppm)	30	...	100	

may titrate as alkalinity. See Appendix.

**E.
ALGACIDES**

1. Quaternary algacides, mg/l (ppm)
2. Copper based algacides, (nonchelated), mg/l (ppm)	0.1	0.2	0.3

NOTE: Not permitted in public pools.

NOTE: Ineffective against some algae. Health department officials should be consulted before using. May contribute to staining.

	MINIMUM	IDEAL	MAXIMUM	COMMENTS
3. Copper based (chelated), mg/l (ppm)	0.1	1.0	3.0	NOTE: See note above.
4. Silver based, mg/l (ppm)	0.5	1.5	3.0	NOTE: Precipitates with cyanuric acid. Ineffective against some algae. Health department officials should be consulted before use.

F. REMEDIAL

PRACTICES

		When combined chlorine is 0.2 mg/l (ppm) or more	Weekly	NOTE: See design sections.
1. Super- chlorination frequency	Monthly			
2. Required super- chlorination chlorine, mg/l (ppm)	5	10	...	
3. Required shock treatment chlorine, mg/l (ppm)	10	
4. Floccing frequency	Not recommended			NOTE: Health department officials should be consulted before using. Change water and clean monthly as a minimum, more frequently when heavy use and chemical treatment difficulties are experienced.
5. Water replacement Hot water facilities	

G. TEMPERATURE

1. Water	90°	...	105 °	If
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temperature ° F					temperature is: TOO LOW: Bather discomfort
Hot water facilities					TOO HIGH: Threat to health of certain persons with high blood pressure Excessive fuel requirement Increased evaporation Bather discomfort

MINIMUM IDEAL MAXIMUM COMMENTS

2. Swimming pools (Artificially heated water)	75 °	...	90 °	
3. Indoor pools (air)				Water temperature plus 8 ° max.
Excluding hot water facilities				Water temperature minus 2 ° min.
H. WATER CLARITY				
1. Water turbidity				Must be able to see main drain

or six inch
black disk on
bottom of
deepest part of
pool from pool
sidewalk.

TOO HIGH:
Chlorine level
may be too low
Filtration
system may
be inoperative
Too turbid
water may lead
to drowning
because of
reduced
visibility

310:320-3-9. Sampling and testing procedures

(a) **Bathing place operators.** All bathing place operators shall know how to perform the following:

- (1) Collect a sample for bacterial analysis.
- (2) Collect at proper places, a representative sample for determination of applicable chemical and operational parameters required by OAC 310:320-3-9.
- (3) Be able to perform all applicable chemical analyses and operational determinations required by OAC 310:320-3-9. The D.P.D. method should be used for free and combined chlorine determination. Orthotolidine (OTO) is not an acceptable method for determination of free chlorine.
- (4) Observe the proper procedure of turbidity determination. Close pool any time the main drain cannot be seen from the sidewalk. Determine cause and reduce turbidity to acceptable level before reopening pool.
- (5) Observe the water temperature in hot water pools and spas.
- (6) Balance the pool water in relation to pH, total alkalinity, and calcium hardness as per OAC 310:320-3-7 (see OAC 310:320-5-2 for Tables).

(b) **Sampling and testing required.** All bathing place operators shall comply with the testing and sampling procedures set forth in Appendix A.

310:320-3-10. Satisfactory compliance of records

(a) The management of a facility is responsible for maintaining records only on those line items of the report that apply to their bathing place. All bathing places must maintain information on turbidity, pH, and chlorine residual; and for pools using stabilized chlorine compounds, cyanuric acid

(b) Records shall be submitted to the county health department, or for those counties without a county health department, to the appropriate sanitarian upon request.

(c) **Records forms.** Public bathing place operation record forms may be obtained from the Department. The information must be filled in completely for each day the public bathing place is open. Forms tailored to suit the needs of the management may be substituted for Department forms provided that all information required by these standards is included and the forms are submitted to the Department for approval prior to use.

(d) **Laboratory reports.** The laboratory reports covering any chemical or bacteriological examination of the water in a public bathing place must be kept on the premises and made accessible to authorized representatives of the Department.

(e) **Operation report form.** The public bathing place operation record forms are designed to cover one (1) full week of operation. A copy shall be forwarded to the appropriate health department upon request.

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-3-11. Winterizing and securing outdoor pools

When the pool is closed, all gates shall be locked. All outdoor pools shall be secured in one of the following approved methods:

(1) **Draining.** Drained and kept drained until put back into service; or

(2) **Pools not drained or covered.** Turbidity shall be controlled so that the main drain is visible from the pool deck. Maintaining disinfectant concentrations will suppress algae growth and maintaining water balance will protect concrete and metal surfaces.

(3) **Covering.** Provide a pool cover of a type that is securely anchored to the deck area with bolts or similar hardware and capable of supporting a minimum of one thousand (1000) pounds. Water must not be allowed to accumulate on the top. Swimming in the pool with a partial cover is prohibited. If water is left in the pool, it should be drained below the tile and skimmers (eighteen (18) to twenty-four (24) inches) and kept chlorinated. The air should be blown out of the skimmer and fill lines. Lights should be stored on the deck or in the bottom of the pool and with switches taped in the off position.

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-3-12. Special conditions

Should special conditions exist or circumstances be such that in the opinion of the manager or operator, certain items listed as requirements would not be applicable, then alternate items shall be submitted in writing to the Department for appraisal as an acceptable substitute for the requirement, and upon approval may be used.

310:320-3-13. Subsequent examination, investigation, and inspection

Subsequent to examination, investigation, and inspection by the State Commissioner of Health or his representative, any public bathing place found to be in non-compliance with the requirements of this chapter and therefore constituting a public nuisance, shall be reinspected within a reasonable time to determine if the public bathing place has been brought into compliance with the requirements of this chapter. A \$125.00 reinspection fee may apply in cases when the applicant fails an initial licensure inspection due to items not found to be on site or operational as reported by the applicant during the pre-inspection assessment.

[Source: Added at 22 Ok Reg 2393, eff 7-11-05 ; Amended at 39 Ok Reg 1290, eff 9-11-22]

SUBCHAPTER 5. FORMS AND TABLES

310:320-5-1. Portable pools

(a) **Conditions governing operation.** The following conditions govern operation of portable pools:

- (1) To be used for instructional purposes.
- (2) For installation only at public buildings where adequate toilet and other sanitary facilities are conveniently available.
- (3) The pool(s) to have continuous supervision by instructors or supervisors certified as lifeguards per OAC 310:320-3-2.
- (4) Instruction classes to be sized on the basis of one (1) pupil for each four hundred (400) gallons of pool volume.
- (5) Use of the pool(s) to be limited to daylight hours unless the lighting requirements of these standards are met.
- (6) The pool(s) to be covered and locked whenever unattended or out of use.
- (7) The pool(s) installation at each location to be authorized by a permit issued by the Department for a scheduled period, preferably about two (2) weeks, extendable at the option of the Department, upon receipt of a written request giving justification for the time extension.
- (8) The operations of the pool(s) to be coordinated with the county health department for the purposes of inspections and supervision.
- (9) Pool(s) to be located on paved surface with paved area and walkway from shower and toilet facilities to the pool.

(b) **Application data required.** Application data required for portable pools is as follows:

- (1) Location(s) to be used.
- (2) List of sanitary facilities available and the distance from the pool at each location. The number of showers, toilets, and lavatories for boys and girls.
- (3) Square feet of paved ground available for each installation.
- (4) The name of the owner of the installation.
- (5) The name and mailing address of the responsible individual and phone number.
- (6) The duration of the term of instruction for which classes are to be scheduled for each location.
- (7) Each installation will require an application for permit with the above information.

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-5-2. Water balance and water balance tables

Water balance recommended values are:

- (1) pH 7.2 to 7.8
- (2) Total alkalinity 80-120 ppm (pools) 100-150 ppm (spas)
- (3) Calcium hardness 100-150 ppm (pools) 150-300 ppm (spas)
- (4) Temperature: 75-90 °F for pools and 90-105° F for spas. See Appendix B.

[Source: Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-5-3. Signs for storage of pool chemicals [REVOKED]

[Source: Revoked at 39 Ok Reg 1290, eff 9-11-22]

310:320-5-4. Operation record form and instructions [REVOKED]

[Source: Revoked at 39 Ok Reg 1290, eff 9-11-22]

310:320-5-5. Application for license [REVOKED]

[Source: Amended at 26 Ok Reg 1491, eff 6-11-09 ; Amended at 39 Ok Reg 1290, eff 9-11-22]

310:320-5-5.1. Application for license

(a) The applicant shall file an application for a license to operate a public bathing place on the forms provided by the Department, as set forth in this Chapter with the filing fee payable to the Oklahoma State Department of Health, prior to operating a public bathing place. The filing fee is established by rule in Chapter 310:250 of the Oklahoma Administrative Code, Fee Schedule For Consumer Health Services.

(b) The application for a license to operate a public bathing place must include a copy of the permit to construct the public bathing place for which the applicant seeks a license, or reference the construction permit in the application, in order to be eligible for a license to operate a public bathing place.

[Source: Added at 39 Ok Reg 1290, eff 9-11-22]

310:320-5-6. Application guidelines for permits to construct and licenses to operate public bathing places [REVOKED]

[Source: Amended at 22 Ok Reg 2393, eff 7-11-05 ; Revoked at 39 Ok Reg 1290, eff 9-11-22]

310:320-5-6.1. Application guidelines for licenses to operate public bathing places

(a) **Applicant requirements.** An applicant shall be an owner/operator of the public bathing place, as defined in 63 O.S. Section 1-1013 et. Seq. complying with the requirements of this chapter, agree to permit access to the public bathing places, provide required information, and pay the applicable license fee and submit application on a form provided by the Department.

(b) **Application contents.** The application shall include:

- (1) The name, mailing address, telephone number, approximate number of employees, and signature of the person applying for the license and the name, mailing address and location of the public bathing places;
- (2) Information about the legal entity for the public bathing places; and
- (3) Information about the type of public bathing places.

(c) **Fee.** The fee shall be made payable to the Oklahoma State Department of Health.

(d) **Facility definition.**

- (1) A public bathing facility, for permitting purposes, will be a single swimming pool, spa, water slide, or other bathing unit.
- (2) A new permit and fee will apply for a new bathing unit added later to an existing facility, and for a major modification of an existing unit.

(e) **Applicant identification.**

- (1) The application may take these forms:
 - (A) Applicant is the owner and signs as such.
 - (B) Applicant is an authorizing officer of the organization which is the owner; the full name of the organization and the signer's title must be supplied.

(C) Application includes a letter from the owner (or from an officer as in part (B), or from an authorized agent of the owner) authorizing the applicant to act on his behalf for the purpose of obtaining the permit.

(D) Application is signed "XXX, agent for YYY, owner." If there is any question whether "expediency" may have resulted in misrepresentation, the Department may require an authorizing letter as in part (C) above.

(2) If the application does not show whether the owner and/or agent is an individual, a partnership, or a corporation, processing of the permit will be delayed until this information is supplied.

(3) The application form also requires that information is to be provided on who will be responsible for the facility following completion of construction. In the case of joint ownership, such as a condominium or housing development, the applicant may state on the application that, for example, a homeowners association will own and operate the bathing facility. In such cases, a provision in the permit will assign this future responsibility accordingly, if no Affidavit of Responsibility is supplied with the application. In other cases there must be submitted with the application, a notarized Affidavit of Responsibility signed appropriately. The purpose of this is to remove any doubt that the responsible party is aware of its responsibility.

[Source: Added at 39 Ok Reg 1290, eff 9-11-22]

310:320-5-7. Figures [REVOKED]

[Source: Revoked at 39 Ok Reg 1290, eff 9-11-22]

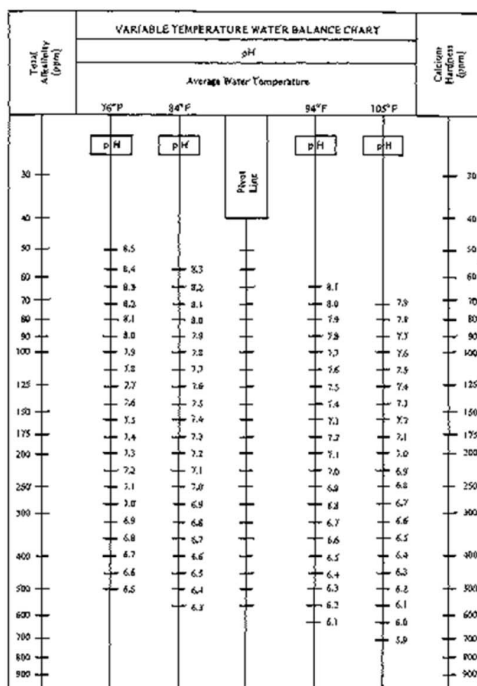
APPENDIX A. POOL WATER SAMPLING AND TESTING

Figure 1

- (1) Tests shall be made of the pool water as follows:
- | | |
|-------------------------|------------------------|
| Free chlorine | Four (4) times per day |
| Bromine (if applicable) | Four (4) times per day |
| pH | Four (4) times per day |
| Turbidity | Four (4) times per day |
| Combined chlorine | Daily |
| Turnover | Daily |
| Total alkalinity | Weekly |
| Calcium hardness | Weekly |
| Cyanuric acid | Weekly |
- (2) Hot water facilities (above 90°F). In addition to the above tests, the following shall be determined:
- | | |
|------------------------|------------------------|
| Temperature | Four (4) times per day |
| Copper | Weekly |
| Iron | Weekly |
| Total dissolved solids | Weekly |
- (3) Bacteriological samples. Hot water facilities and pools open to the general public may be required to submit a sample weekly to the local or the state health department.

APPENDIX B. VARIABLE TEMPERATURE WATER BALANCE CHART

Figure 1



[Source: Added at 39 Ok Reg 1290, eff 9-11-22]

CHAPTER 325. PUBLIC WATER SUPPLY FACILITY STANDARDS [REVOKED]

[**Authority:** 63 O.S., §§ 1-901 and 1-904]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:325-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-1-2. Definitions [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-1-3. Permits: public or private entities; eligibility [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2343, eff 6-26-95]

SUBCHAPTER 3. PLAN DOCUMENTS [REVOKED]

310:325-3-1. Plan documents [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-3-2. Preliminary report [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-3-3. Engineer's report [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-3-4. Plans [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-3-5. Specifications [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-3-6. Design criteria [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-3-7. Revisions to approved plans [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-3-8. As built plans [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

SUBCHAPTER 5. GENERAL DESIGN CONSIDERATIONS [REVOKED]

310:325-5-1. Design considerations [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-2. New processes, methods, and equipment [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-3. Plant layout [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-4. Building layout [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-5. Location of structures [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-6. Electrical controls [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-7. Standby power [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-8. Shop space and storage [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-9. Laboratory equipment [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

**310:325-5-10. Flow monitoring: raw and finished water
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-11. Sample taps [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-12. Facility water supply [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-13. Sanitary facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-14. Piping and conduits [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-15. Piping color code [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-16. Disinfection [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-17. Bypasses [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-18. Drains [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-19. Operating equipment [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

**310:325-5-20. Operation and maintenance of water systems
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-5-21. Other considerations [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

SUBCHAPTER 7. SOURCE DEVELOPMENT [REVOKED]

310:325-7-1. Source development [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-7-2. Surface water [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-7-3. Springs [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-7-4. Ground water [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-7-5. Purchase water [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-7-6. Raw water supply conduit [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

SUBCHAPTER 9. TREATMENT [REVOKED]

310:325-9-1. General [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-2. Clarification [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-3. Filtration [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-4. Disinfection [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-5. Softening [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-6. Aeration [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-7. Iron and manganese control [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-8. Fluoridation [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-9. Stabilization and corrosion control [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-10. Taste and odor control [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-11. Microscreening [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-9-12. Waste handling and disposal [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

SUBCHAPTER 11. CHEMICAL APPLICATION [REVOKED]

310:325-11-1. Chemical application [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-11-2. Facility design [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-11-3. Chemicals [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-11-4. Operator safety [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-11-5. Specific chemicals [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

SUBCHAPTER 13. PUMPING FACILITIES [REVOKED]

310:325-13-1. Pumping facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-13-2. Types of pumping stations [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-13-3. General location [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-13-4. Pumping station building [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-13-5. Pumps [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-13-6. Booster pumps [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-13-7. Automatic and remote controlled stations [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-13-8. Appurtenances [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-13-9. Power [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

SUBCHAPTER 15. FINISHED WATER STORAGE [REVOKED]

310:325-15-1. Finished water storage [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-15-2. Plant storage [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-15-3. Pressure tanks [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-15-4. Distribution storage [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

SUBCHAPTER 17. DISTRIBUTION SYSTEM [REVOKED]

310:325-17-1. Distribution system [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-17-2. Water main design for municipal systems and others providing fire protection [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-17-3. Water main design for rural water systems providing domestic water only [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

310:325-17-4. Installation of mains [REVOKED]

[Source: Revoked at 12 Ok Reg 2343, eff 6-26-95]

CHAPTER 330. PUBLIC WATER SUPPLY [REVOKED]

[**Authority:** 63 O.S.1981, §§ 1-901 et seq.]

[**Source:** Codified 12-31-91]

310:330-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-2. Definitions [REVOKED]

[**Source:** Amended at 8 Ok Reg 3393, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1533, eff 5-1-92 ; Amended at 9 Ok Reg 1537, eff 5-1-92 ; Amended at 9 Ok Reg 3147, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1621, eff 6-1-93 ; Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-3. Standards of inorganic and organic chemical, physical, radio-chemical, and microbiological quality [REVOKED]

[**Source:** Amended at 8 Ok Reg 3393, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1533, eff 5-1-92 ; Amended at 9 Ok Reg 3147, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1621, eff 6-1-93 ; Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-4. Analytical methods for assessing compliance with maximum allowable levels [REVOKED]

[**Source:** Amended at 9 Ok Reg 3147, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1621, eff 6-1-93 ; Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-5. Laboratory checks [REVOKED]

[**Source:** Amended at 8 Ok Reg 3393, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1533, eff 5-1-92 ; Amended at 9 Ok Reg 3147, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1621, eff 6-1-93 ; Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-6. Public notification [REVOKED]

[**Source:** Amended at 8 Ok Reg 3393, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1533, eff 5-1-92 ; Amended at 9 Ok Reg 3147, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1621, eff 6-1-93 ; Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-7. Control tests [REVOKED]

[**Source:** Amended at 8 Ok Reg 3393, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1533, eff 5-1-92 ; Amended at 9 Ok Reg 3147, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1621, eff 6-1-93 ; Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-8. Operating records and reports [REVOKED]

[**Source:** Amended at 9 Ok Reg 3147, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1621, eff 6-1-93 ; Revoked at 12 Ok Reg 2345, eff 6-26-95]

**310:330-1-9. Determining necessity of full-time disinfection
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-10. Operation of equipment and facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-11. Plugging abandoned wells [REVOKED]

[Source: Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-12. Flushing of dead-ends [REVOKED]

[Source: Revoked at 12 Ok Reg 2345, eff 6-26-95]

**310:330-1-13. Permit requirements for water systems extensions
[REVOKED]**

[Source: Amended at 8 Ok Reg 3393, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1537, eff 5-1-92 ;
Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-14. Validation of data [REVOKED]

[Source: Amended at 8 Ok Reg 3393, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1537, eff 5-1-92 ;
Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-15. Federal facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-16. Operator certification [REVOKED]

[Source: Revoked at 12 Ok Reg 2345, eff 6-26-95]

310:330-1-17. Wastewater [REVOKED]

[Source: Revoked at 12 Ok Reg 2345, eff 6-26-95]

CHAPTER 335. RESERVOIR SANITATION [REVOKED]

[Authority: 63 O.S.1981, § 1-912]

[Source: Codified 12-31-91]

310:335-1-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-3. Sewage disposal devices and equipment [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-4. Waste disposal [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-5. Sewage disposal systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-6. Cottage water supply systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-7. Concession water supply systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-8. Community water supply systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-9. Concessions plans to be submitted [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-10. Waste disposal [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-11. Dumping [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

310:335-1-12. Penalty [REVOKED]

[Source: Revoked at 12 Ok Reg 2361, eff 6-26-95]

CHAPTER 340. RESIDENTIAL SEWAGE DISPOSAL [REVOKED]

[**Authority:** 63 O.S.Supp.1986, §§1-904 and 1-910]
[**Source:** Codified 12-31-91]

310:340-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-2. Definitions [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-3. Applicability [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-4. Residential development requirements [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-5. Septic tank systems [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-6. Lift station [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-7. House sewer and other solid pipe [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-8. Subsurface absorption field [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-9. Percolation tests [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-10. Requirements for individual residential lagoons [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

**310:340-1-11. Evapotranspiration/Absorption (ET/A) systems
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-12. Other systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2363, eff 6-26-95]

310:340-1-13. Existing systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2363, eff 6-26-95]

APPENDIX A. WATER USAGE AND SEPTIC TANK CARE [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2363, eff 6-26-95]

APPENDIX B. DESIGN AIDS AND FIGURES [REVOKED]

[Source: Revoked at 12 Ok Reg 2363, eff 6-26-95]

CHAPTER 345. REGISTRATION OF SANITARIANS AND ENVIRONMENTAL SPECIALISTS

[**Authority:** 59 O.S., §§ 1150.1 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:345-1-1. Purpose

The rules in this Chapter implement the Oklahoma Sanitarian and Environmental Specialist Registration Act, 59 O.S., Section 1150.1 et seq.

[**Source:** Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 20 Ok Reg 1655, eff 6-12-03]

310:345-1-1.1. Definitions

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

"Certificate of course completion" means a document acceptable to the Council which signifies satisfactory completion of course work and reflects the hours of credit earned.

"Classroom hour" is equal to fifty (50) minutes out of each sixty (60) minute segment.

"Continuing education" means education that is approved by the Council to satisfy education requirements in order to renew a certificate of registration.

"Continuing education verification form" means a form or document acceptable to the Council and completed by the course provider that documents compliance with the continuing education requirements.

"Council" means the Sanitarian Registration Advisory Council established in 59 O.S. Sections 1150.2 and 1150.6.

"Department" means the State Department of Health.

"Person" means an individual for the purposes of the issuance of a certificate of registration in this chapter.

"Provider" means a person, corporation, professional association, governmental agency, tribal agency, or any other entity, which provides or verifies completion of approved continuing education to Registered Professional Sanitarians and Registered Professional Environmental Specialists.

"Sanitarian/Environmental Specialist Duty/Task List" means the document adopted by the Council that includes the various environmental and public health program areas that a Registered Professional Sanitarian or Registered Professional Environmental Specialist may be involved with, in the performance of their professional duties.

[**Source:** Added at 11 Ok Reg 897, eff 12-17-93 (emergency); Added at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Amended at 24 Ok Reg 1955, eff 6-25-07 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

310:345-1-2. Sanitarian and Environmental Specialist Registration Advisory Council [REVOKED]

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Revoked at 38 Ok Reg 2001, eff 9-11-21]

SUBCHAPTER 3. APPLICATIONS

310:345-3-1. Life registration

Life Registration Sanitarian or Life Registration Environmental Specialist is available to those individuals who are 62 years of age or older before January 1, in the application year, hold a valid current registration and have been registered for not less than 25 years at the time of application.

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Amended at 26 Ok Reg 2014, eff 6-25-09 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

310:345-3-2. Form

An applicant must submit the following:

- (1) Name, mailing address, name and address of employers, official transcripts showing degree, date of conferral and the 30 semester hours of acceptable science, details of appropriate experience, and such other information and material as the Department may reasonably require.
- (2) All applications shall be made on printed form furnished by the Department.
- (3) All application forms and information furnished thereon and all examinations and answers thereto shall be entirely in the English language.

[Source: Amended at 38 Ok Reg 2001, eff 9-11-21]

310:345-3-3. Fees

- (a) **Payable when.** Fees shall be payable upon review by the Department and approval of an application.
- (b) **RPS or RPES.** The fee for registration as a Registered Professional Sanitarian (RPS) or Registered Professional Environmental Specialist (RPES) is Twenty-Five Dollars (\$25.00).
- (c) **SIT or ESIT.** The fee for registration as a Sanitarian-In Training (SIT) or Environmental Specialist-In-Training (ESIT) is Ten Dollars (\$10.00).
- (d) **SIT or ESIT approved as RPS or RPES.** An applicant that has been a SIT or ESIT for two years, and is in good standing pays a registration fee of Twenty-Five Dollars (\$25.00) on application for RPS or RPES.
- (e) **Life Registered Sanitarian or Environmental Specialist.** The one time fee for registration as a Life Registered Sanitarian or Environmental Specialist is Sixty Dollars (\$60.00).

(f) **Examination Fee.** The fee for the Oklahoma registration examination is determined by the facility that administers it.

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Amended at 25 Ok Reg 2410, eff 7-11-08 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

310:345-3-4. Examinations

The Council shall conduct examinations for registration as RPS, RPES, SII, or ESII. Where the education and experience of an applicant has been in a specialized field, the Council reserves the right to narrow or extend the limits of the examination in a reasonable manner.

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

310:345-3-5. Action on application

- (a) When the Council, after due consideration of an applicant and of information pertaining thereto, is satisfied that the applicant is eligible for registration, the applicant shall be approved for registration.
- (b) The Council will notify the applicant of its approval.
- (c) The applicant will be considered registered upon payment of fees.

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 12 Ok Reg 515, eff 12-12-94 (emergency); Amended at 12 Ok Reg 3047, eff 7-27-95 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

310:345-3-6. Reciprocity [REVOKED]

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Amended at 25 Ok Reg 2410, eff 7-11-08 ; Revoked at 38 Ok Reg 2001, eff 9-11-21]

SUBCHAPTER 5. REGISTRATION

310:345-5-1. Number

At the time an applicant is approved for registration by the Council, the applicant is assigned a registration number. The number for Sanitarian In Training or Environmental Specialist-In-Training is preceded by the letters "S.I.T." or "E.S.I.T.". The applicant shall be advised of this registration number in the notice sent to the applicant by the Department. A registration number which has once been issued to a registrant shall become obsolete in event of revocation, death, or nonpayment of dues. If a former registrant is reinstated, he shall be re-issued his original number. Registration numbers, which have become obsolete will not be re-issued to any registrant other than the original holder thereof.

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

310:345-5-2. Certificate

(a) As soon as possible after the approval of an application and payment of fees, a certificate of registration shall be issued to the applicant, signed by the Commissioner with the registration number of the applicant on the face of the certificate.

(b) After approval and payment of fees, the applicant is issued a wallet card certificate, which shall be designated by the Commissioner identifying the holder as a RPS, RPES, ESIT or SIT.

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

310:345-5-3. Expiration and renewal

(a) **Expiration.** Each certificate of registration as a RPS or RPES expires on the last day of December following its issuance or renewal, and becomes invalid on that date unless renewed.

(b) **Renewal by December 31.** Each RPS or RPES desiring to continue the practice of the profession shall renew the certificate prior to the last day of December by paying to the Department a fee of Twenty-Five Dollars (\$25.00); in return the Department shall issue a renewal certificate for the ensuing year.

(c) **Renewal after February 1.** Expired certificates may be renewed prior to February 1 of the year following their expiration without penalty. Beginning February 1 of the year following its expiration, expired certificates shall only be renewed by submitting a renewal fee of Twenty-Five Dollars (\$25.00) plus a penalty of Ten Dollars (\$10.00) for a total of Thirty-Five Dollars (\$35.00).

(d) **Renewal ineligibility.** Except for extraordinary circumstances to be determined by the Council, all certificates which have not been renewed by March 1 of the year following its expiration are ineligible for renewal unless the registrant has successfully passed the sanitarian or environmental specialist examination, and the names of such registrants shall not appear in the roster issued annually during the month of September.

(e) **Department to notify.** As of February 1 of each year, the Department shall mail a notice to each registrant who has failed to renew his certificate prior to February 1 and has not successfully completed the sanitarian or environmental specialist examination that his certificate shall be ineligible for renewal as of March 1 of the year following its expiration.

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 12 Ok Reg 515, eff 12-12-94 (emergency); Amended at 12 Ok Reg 3047, eff 7-27-95 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Amended at 25 Ok Reg 2410, eff 7-11-08 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

SUBCHAPTER 7. REVOCATION AND REINSTATEMENT

310:345-7-1. Cause for revocation

Certificates may be revoked by the Commissioner for cause after proper hearing, pursuant to the Oklahoma Sanitarian and Environmental Specialist Registration Act. Separate rules and regulations are issued by the Department covering the preference of charges and the hearing of same and the revocation of certificates resulting therefrom.

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 12 Ok Reg 515, eff 12-12-94 (emergency); Amended at 12 Ok Reg 3047, eff 7-27-95 ; Amended at 20 Ok Reg 1655, eff 6-12-03]

310:345-7-2. Reinstatement

- (a) Former registrants who have successfully completed the sanitarian or environmental specialist examination may make application for reinstatement on the basis prescribed in subsection (b) of this Section.
- (b) The certificate of an applicant shall be reinstated on simple application therefore on a form prescribed by the Department and accompanied by remittance equal to the total amount of money which would have been paid to the Department in late renewal fees up to the time of application, had the original certificate not been permitted to expire, plus an additional fee of Ten Dollars (\$10.00) to reimburse the Department for expense of special handling required by this procedure.
- (c) However, if the amount of the remittance computed as described in subsection (b) of this Section exceeds Thirty-Five Dollars (\$35.00), the applicant may file for registration as though he had not previously been registered.
- (d) A former registrant whose certificate was originally issued without examination shall not be eligible for reinstatement, but may be issued a new registration after successful completion of the sanitarian or environmental specialist registration examination.
- (e) SIT or ESIT who are unable to maintain their employment to complete their two (2) years of postgraduate work experience may request the Department to change their registration status to inactive in order to preserve the thirty (30) month limitation for an individual to register as a SIT or ESIT. Such inactive status shall not be granted if the individual's employment was terminated for acts or omissions which constitute a violation of this Chapter or the Oklahoma Sanitarian and Environmental Specialist Registration Act. An individual may only be granted inactive status as a SIT or ESIT one time for no more than one (1) year. A certification of registration in training shall not be eligible for reinstatement.

[Source: Amended at 11 Ok Reg 897, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2631, eff 6-25-94 ; Amended at 12 Ok Reg 515, eff 12-12-94 (emergency); Amended at 12 Ok Reg 3047, eff 7-27-95 ; Amended at 20 Ok Reg 1655, eff 6-12-03 ; Amended at 25 Ok Reg 2410, eff 7-11-08 ; Amended at 26 Ok Reg 2014, eff 6-25-09 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

SUBCHAPTER 9. CONTINUED EDUCATION

310:345-9-1. Course approval requirements

(a) The Council shall only approve continuing education that is directly related to program areas outlined in the "Sanitarian/Environmental Specialist Duty/Task List" approved by the Council. Upon hearing the appeal, the Council has the authority to approve the course, to approve a modified version of the course, or deny the course. Topic areas such as communication skills and report writing are considered for approval if they are relevant to a program area listed in the "Sanitarian/Environmental Specialist Duty/Task List".

(b) Any provider seeking course approval for continuing education credit shall make application and submit documents, statements and forms as may reasonably be required by the Council. All providers shall submit to the Department:

- (1) Name and address of the provider;
- (2) The method of presentation (on-line course, classroom instruction, seminar, instructional video, college course, etc.);
- (3) A contact person with contact information;
- (4) The location of the courses or programs;
- (5) The number of education credit hours requested for each course and/or topic;
- (6) Topic outlines, which summarize the topics covered in each course and upon request a copy of any course materials; and,
- (7) Course objectives.

(c) If a prior approved course has substantially changed, a summarization of the changes shall be provided to the Department.

(d) At the completion of each course, the provider shall furnish the Department a list of the names and registration numbers for all participants who completed the course.

(e) In addition to accepting courses approved as described in this section, continuing education credits may be granted to an individual if said individual supplies acceptable documentation to the Council showing the course meets applicable requirements, including proof the individual successfully completed the course. This provision shall apply when considering education courses completed, for which the provider did not receive approval from the Council.

[Source: Amended at 24 Ok Reg 1955, eff 6-25-07 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

310:345-9-2. Continuing education requirement

(a) **Continuing education requirement.** Verification of fourteen (14) hours of continuing education is required every two years to renew a RPS and/or RPES registration. An applicant for reinstatement of registration shall not be reinstated without submitting evidence of completing fourteen (14) hours of continuing education within the twenty-four months preceding reinstatement. A person shall not apply for a new registration in an attempt to circumvent the requirement for continuing education.

(b) **Continuing education reciprocity.** The Council shall exempt a non-resident registrant from the continuing education requirement, if the individual lives in and is registered in another state with a continuing education requirement and provides the Department with evidence of

current registration in that state when renewing an Oklahoma registration.

(c) **Exemptions from the continuing education requirement.** An individual who holds a "Life Registration" is not required to complete continuing education. Any individual who is registered as a SIT and/or ESIT is encouraged but is not required to complete continuing education. Continuing education is not required for the first year of registration as a RPS and/or RPES.

(d) **Hardship waiver of continuing education.** An individual may submit a hardship waiver application to the Council for the continuing education requirement. The Council has the authority to deny or approve the waiver for medical hardships, military reasons, or other reasons deemed appropriate by the Council.

[Source: Amended at 24 Ok Reg 1955, eff 6-25-07 ; Amended at 38 Ok Reg 2001, eff 9-11-21]

CHAPTER 350. SEPTIC TANK CLEANER REGULATIONS [REVOKED]

[Authority: 63 O.S.Supp.1981, § 1-1009]
[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:350-1-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2379, eff 6-26-95]

310:350-1-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2379, eff 6-26-95]

SUBCHAPTER 3. LICENSING, REGISTERING AND DISPOSING REGULATIONS [REVOKED]

310:350-3-1. License [REVOKED]

[Source: Revoked at 12 Ok Reg 2379, eff 6-26-95]

310:350-3-2. Vehicle inspection [REVOKED]

[Source: Revoked at 12 Ok Reg 2379, eff 6-26-95]

310:350-3-3. Registration and labeling of vehicles [REVOKED]

[Source: Revoked at 12 Ok Reg 2379, eff 6-26-95]

310:350-3-4. Cleaning operations [REVOKED]

[Source: Revoked at 12 Ok Reg 2379, eff 6-26-95]

310:350-3-5. Disposal [REVOKED]

[Source: Revoked at 12 Ok Reg 2379, eff 6-26-95]

310:350-3-6. Fees [REVOKED]

[Source: Revoked at 12 Ok Reg 2379, eff 6-26-95]

CHAPTER 355. SMOKING IN PUBLIC PLACES AND INDOOR WORKPLACES

[**Authority:** 63 O.S.Supp.1987, §§ 1-1521 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:355-1-1. Purpose and scope

This Chapter implements:

- (1) the Smoking in Public Places and Indoor Workplaces Act Title 63 O.S. §§ 1-1521, et seq.;
- (2) Smoking in Certain Public Places Prohibited - Punishment, Title 21 O.S. § 1247; and
- (3) Statutory provisions of the Oklahoma Medical Marijuana and Patient Protection Act: *All smokable, vaporized, vapable and e-cigarette medical marijuana product inhaled through vaporization or smoked by a medical marijuana licensee are subject to the same restrictions for tobacco under Section 1-1521 of Title 63 of the Oklahoma Statutes, commonly referred to as the "Smoking in Public Places and Indoor Workplaces Act".* [Title 63 O.S. § 427.8(L)]

[**Source:** Amended at 18 Ok Reg 2031, eff 6-11-01 ; Amended at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 28 Ok Reg 2290, eff 9-1-11 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-1-2. Policy development [REVOKED]

[**Source:** Amended at 18 Ok Reg 2031, eff 6-11-01 ; Revoked at 23 Ok Reg 2363, eff 6-25-06]

310:355-1-3. Signs [REVOKED]

[**Source:** Added at 18 Ok Reg 2031, eff 6-11-01 ; Revoked at 23 Ok Reg 2363, eff 6-25-06]

310:355-1-4. Implementation [REVOKED]

[**Source:** Codified 12-31-91 ; Revoked at 23 Ok Reg 2363, eff 6-25-06]

310:355-1-5. Administrative penalties [REVOKED]

[**Source:** Added at 18 Ok Reg 2031, eff 6-11-01 ; Revoked at 23 Ok Reg 2363, eff 6-25-06]

310:355-1-6. Definitions

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

"Act" means the Oklahoma Smoking in Public Places and Indoor Workplaces Act [63:1-1521 et seq].

"Building" means an entire free standing structure enclosed or predominantly enclosed by exterior walls.

"Department" means the Oklahoma State Department of Health.

"Eating establishment" means an establishment licensed by the Department under Chapter 256 or any Chapter adopted to replace Chapter 256 that is primarily engaged in preparing and selling food, exclusive of low-point beer and alcoholic beverages, for immediate consumption on or off the premises, based upon gross receipts of the establishment.

"Indoor workplace" means *any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways or the like. The provisions of this section shall apply to such indoor workplace at any given time, whether or not work is being performed.* [21 O.S. § 1247(A)]

"Nonsmoking area" or "nonsmoking space" means a smoke-free area or space.

"Recirculate" means movement of air or smoke from one area to another either mechanically by way of the heating, air conditioning and ventilation system or by other means of circulation, drifting, transfer or migration.

"Secondhand smoke" means the aerosol produced from vapor devices or combustion of marijuana or tobacco products---consisting of a combination of many different gases, types of particulate matter, and semi-volatile organic compounds, visible and invisible, odorless and with odors---including smoke or vapor exhaled by smokers, smoke from the burning tip of a cigarette or other marijuana or tobacco product, and materials escaping through cigarette paper.

"Smoke-free location" means *a location where the use of tobacco, nicotine, marijuana or other lawful products consumed in a smoke or vaporized manner are prohibited.* [21 O.S. § 1247]

"Smoke" means smoke from combustion of marijuana or tobacco products, including secondhand smoke.

"Smoke-free area" or "smoke-free space" means an area or space within or outside a building where smoking is prohibited. Within a building that is not entirely exempt from the Act, if smoking is permitted anywhere in the building, the air in the smoke-free areas inside the building is protected from secondhand tobacco smoke from the smoking spaces by a combination of direct exhaust from the smoking spaces to the outside, full enclosure surrounding the smoking spaces, and sufficient negative air pressure in the smoking spaces relative to the smoke-free areas to prevent the escape of smoke from the smoking spaces to any smoke-free areas.

SUBCHAPTER 3. SMOKING PROHIBITIONS AND EXEMPTIONS [REVOKED]

310:355-3-1. Indoor prohibition and exemptions [REVOKED]

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

310:355-3-2. Public transportation prohibition [REVOKED]

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

310:355-3-3. Outdoor prohibitions at restaurants [REVOKED]

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

310:355-3-4. Outdoor prohibitions at educational facilities [REVOKED]

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

SUBCHAPTER 5. SITUATIONS IN WHICH SMOKING MAY BE PERMITTED

310:355-5-1. Smoking spaces

Smoking spaces are those spaces where smoking is permitted as provided in 63 O.S. § 1-1523.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-5-2. Requirements for smoking spaces

Smoking rooms, as well as other smoking spaces, must meet the conditions in subchapters 7, 9, 11, 13 and 15 of this Chapter.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-5-3. No required smoking

No public place or indoor workplace is required to permit smoking. Any such place may prohibit all smoking.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-5-4. Exempted spaces occupying an entire building

Exempted places as listed in 63 O.S. § 1-1523(H) that occupy an entire building so that smoke cannot escape to adjacent indoor nonsmoking spaces are exempt from the rules in this Chapter.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

SUBCHAPTER 7. PLANS REVIEW AND INSPECTIONS

310:355-7-1. Plans review by the Department

The Department may review plans for smoking rooms to assist the proprietor, if requested. This review may assist in identifying obvious design deficiencies, but it cannot assure that the installed and operating smoking rooms will comply with these rules.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-7-2. Inspections

Personnel of the Department, including employees and others designated by the Commissioner of Health, shall have access to the premises for inspections, announced or unannounced, including examination and testing for compliance and including access to smoke-free areas and smoking spaces.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

SUBCHAPTER 9. SMOKING ROOM ENCLOSURE

310:355-9-1. Fully enclosed

The enclosure for a smoking room shall be continuous including floor, ceiling and all sides so that smoke is contained within the smoking room and away from smoke-free areas.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-9-2. Door opening and closure

Any tendency for air to escape from the smoking room because of doors opening or closing shall be counterbalanced by increased exhaust ventilation or other means to assure that air containing smoke is kept within the smoking room and prevented from recirculating to nonsmoking areas.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-9-3. Transfer air vents

Transfer air vents may be part of the enclosure to allow flow of air from the adjacent nonsmoking areas into the smoking room as a result of the negative air pressure in the smoking room. Such vents shall automatically close when airflow into the smoking room stops, to prevent recirculation of air from the smoking room to nonsmoking areas.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

SUBCHAPTER 11. SMOKING ROOM NEGATIVE AIR PRESSURE AND SMOKE CONTAINMENT

310:355-11-1. Negative pressure and full enclosure relationship

Negative air pressure shall be provided continuously while a smoking room is in use and until it has been cleared as specified in section 3 of this subchapter, to assure that the flow of air is from smoke-free spaces into the smoking room. The more that normal leakage occurs, such as through cracks and under doors, the greater will be the direct exhaust required to provide adequate negative air pressure to meet the conditions in OAC 310:355-13-1.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-11-2. Negative air pressure requirements with changing occupancy and activity

(a) Exhaust from and ventilation to a smoking room can be reduced with reduced occupancy, as permitted by local mechanical codes, providing that sufficient negative air pressure is maintained to satisfy OAC 310:355-13-1.

(b) As activity in a smoking room increases, causing more frequent opening and closing of the doors, greater negative air pressure shall be utilized, if needed, to contain smoke within the smoking room and prevent its recirculation to nonsmoking areas.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-11-3. Negative air pressure after smoking ends

After smoking ends, negative air pressure must be maintained at levels required to satisfy the requirements of OAC 310:355-13-1 until smoke components are cleared from the air.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-11-4. Successive smoking and nonsmoking uses of a smoking space

If a space used at one time as a smoking room or other smoking space is to be used as a smoke-free area at a subsequent time, the space must first be cleared of smoke components.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

SUBCHAPTER 13. SMOKING ROOM EVALUATION FOR COMPLIANCE

310:355-13-1. Compliance

For a public place or indoor workplace with a smoking room or other smoking space to be in compliance with the Act, no smoke shall escape or be recirculated to any nonsmoking areas.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-13-2. Testing

Smoking rooms and spaces may be examined and tested for compliance by Department personnel, including employees and others designated by the Commissioner of Health, as part of normal inspection processes or in response to complaints, as provided in OAC 310:355-7-2.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

SUBCHAPTER 15. PRESENCE OF SMOKE AND NEGATIVE AIR PRESSURE

310:355-15-1. Visual indications and odors

Observations of smoke or odors of smoke in nonsmoking areas may be an indicator of smoke in these areas and a basis for air quality testing pursuant to 310:355-15-2.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-15-2. Airflow into the smoking room or other smoking space

The direction of airflow through an open doorway to a smoking room can be observed, with airflow into the room indicating negative air pressure with respect to the nonsmoking areas. The rate of airflow required into a smoking room or other smoking space shall comply with sections 9-2, 11-1, 11-2, 11-3, and 13-1 of this Chapter.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-15-3. Detecting smoke by instrument [REVOKED]

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

SUBCHAPTER 17. SIGNAGE

310:355-17-1. Entrances to buildings where smoking is prohibited

All buildings that are public places and where smoking is prohibited inside the entrance pursuant to the Act shall have posted at each such entrance a conspicuous sign or decal at least 4" x 2" in size clearly stating that smoking is prohibited or that a smoke-free environment is provided. Signs provided by the Department for this purpose shall meet this requirement.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-17-2. Entrances to smoking rooms

The owner or operator of a place with a smoking room shall post outside each entrance to a smoking room a sign at least two inches by four inches identifying the space inside as a smoking room.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-17-3. Sign contents for entrances to smoking rooms

Signs outside smoking rooms shall be white text on red or other highly visible contrasting colors including at least the words "SMOKING ROOM" in letters at least 1/2 inch high.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-17-4. Entrances to other smoking spaces within shared buildings

(a) The owner or operator of a place exempted from the Act, which shares a building with nonsmoking spaces and which elects to permit smoking within its exempted space, shall post outside each interior entrance from a nonsmoking space to its smoking space a sign at least two inches by four inches identifying the space inside as a space in which smoking is permitted.

(b) Commencing 30 days after these rules become effective, as exempted places establish new smoking spaces inside buildings shared with nonsmoking spaces, this signage shall be in place prior to occupancy.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

SUBCHAPTER 19. DUTIES OF OWNER OR OPERATOR

310:355-19-1. Signage [REVOKED]

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

310:355-19-2. Required intervention in public places

(a) When the owner or operator or an employee in a public place observes smoking in an area where smoking is prohibited, the owner, operator or operator's designee shall ask the smoker to refrain from

smoking.

(b) When anyone reports smoking in violation of the Act to the owner, operator or an employee of an establishment, the owner, operator or operator's designee shall ask the smoker to refrain from smoking.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-19-3. Compliance by employees

Employers shall be responsible for compliance by their employees with these rules.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

SUBCHAPTER 21. COMPLIANCE

310:355-21-1. Enforcement by political subdivisions

Any provision of these rules may, pursuant to 63 O.S.' 1-215, be enforced in the manner provided herein by any City/County Health Department. Cities and incorporated towns of the State of Oklahoma may, pursuant to the provisions of 63 O.S. § 1-209, incorporate these rules in their respective ordinances by reference.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-21-2. Complaint resolution

(a) Any person who observes a violation of this Chapter may report the violation to the owner, operator or employee of the place where the smoking has occurred and/or may report the condition to the Department or local law enforcement.

(b) Complaints received by the Department may result in the issuance of a letter stating the nature and description of the complaint lodged and providing information regarding Oklahoma's laws on smoking and the health hazards related to secondhand smoke. The letter shall request that the responsible person respond to the Department within ten (10) calendar days with information as to how the condition causing or creating the complaint will be resolved.

(c) Based upon the complaint, the response received and any other evidence that may be available to the Department, the Department may determine whether a violation of this Chapter has occurred.

(d) If the Department determines that a violation has occurred, the Department may issue a warning letter to the responsible person and seek other remedial measures authorized by law.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06]

310:355-21-3. Enforcement proceedings

The Department may initiate enforcement proceedings against any responsible party whom the Department has reason to believe is

presently in violation of this Chapter, the Act, 21 O.S. § 1247, or 63 O.S. § 427.8(L) by imposing administrative penalties including fines, seeking injunctive relief in the district court, and/or by referring the complaint to the district attorney for criminal prosecution.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

310:355-21-4. Administrative hearings, appeals, and fines

(a) Any hearing and appeal requested under this Chapter shall be conducted in accord with the Oklahoma Administrative Procedures Act ("Oklahoma APA") and Chapter 2 of this title.

(b) Administrative fines for violations will be in accordance with 63 O.S. § 1-1526.1.

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Amended at 39 Ok Reg 1328, eff 9-11-22]

**310:355-21-5. Nursing homes and employees of nursing facilities
[REVOKED]**

[Source: Added at 23 Ok Reg 2363, eff 6-25-06 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

**SUBCHAPTER 23. REBATE PROGRAM FOR THE
CLEAN AIR IN RESTAURANTS ACT [REVOKED]**

310:355-23-1. Definitions [REVOKED]

[Source: Added at 28 Ok Reg 2290, eff 9-1-11 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

310:355-23-2. Eligibility [REVOKED]

[Source: Added at 28 Ok Reg 2290, eff 9-1-11 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

310:355-23-3. Application [REVOKED]

[Source: Added at 28 Ok Reg 2290, eff 9-1-11 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

310:355-23-4. Rebate [REVOKED]

[Source: Added at 28 Ok Reg 2290, eff 9-1-11 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

310:355-23-5. Waiver [REVOKED]

[Source: Added at 28 Ok Reg 2290, eff 9-1-11 ; Revoked at 39 Ok Reg 1328, eff 9-11-22]

CHAPTER 360. SOLID WASTE MANAGEMENT REGULATIONS [REVOKED]

[**Authority:** 63 O.S.Supp.1990, §§ 1-2300 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:360-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-1-2. Definitions [REVOKED]

[**Source:** Amended at 8 Ok Reg 3205, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-1-3. Location standards, previous permits, post-closure [REVOKED]

[**Source:** Amended at 8 Ok Reg 3205, eff 7-18-91 (emergency); Amended at 9 Ok Reg 491, eff 12-13-92 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-1-4. Classification of disposal facilities [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 3. WATER PROTECTION AND MONITORING REQUIREMENTS [REVOKED]

310:360-3-1. Surface waters [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-3-2. Ground waters [REVOKED]

[**Source:** Amended at 8 Ok Reg 3205, eff 7-18-91 (emergency); Amended at 9 Ok Reg 491, eff 12-13-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-3-3. Water supply [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-3-4. Water monitoring requirements [REVOKED]

[**Source:** Amended at 8 Ok Reg 3205, eff 7-18-91 (emergency); Amended at 9 Ok Reg 491, eff 12-13-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 5. OPERATIONAL STANDARDS [REVOKED]

310:360-5-1. Type I - IV landfill facilities [REVOKED]

[Source: Amended at 8 Ok Reg 3205, eff 7-18-91 (emergency); Amended at 9 Ok Reg 491, eff 12-13-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-5-2. Type V - other industrial waste landfills [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-5-3. Type VI - waste processing facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-5-4. Type VII - sludge landfill facilities [REVOKED]

[Source: Amended at 9 Ok Reg 491, eff 12-13-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-5-5. Type VIII facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-5-6. Type IX - innovative or experimental disposal/treatment facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-5-7. Type X - landfill reclamation [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 7. PERMIT PROVISIONS AND PROCEDURES [REVOKED]

310:360-7-1. Permit required [REVOKED]

[Source: Amended at 8 Ok Reg 3205, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-7-2. Permit issuance [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-7-3. Permit modification or revocation [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-7-4. Permits issued under previous regulations [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-7-5. Permit application procedures [REVOKED]

[Source: Amended at 8 Ok Reg 3205, eff 7-13-91 (emergency); Amended at 9 Ok Reg 491, eff 12-13-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 9. APPLICATION INFORMATION REQUIREMENTS [REVOKED]

310:360-9-1. Application content [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-2. General information requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-3. Technical information requirements, Type I - V and Type VII facilities [REVOKED]

[Source: Amended at 8 Ok Reg 3205, eff 7-13-91 (emergency); Amended at 9 Ok Reg 491, eff 12-13-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-4. Technical information requirements - Type VI facilities [REVOKED]

[Source: Revoked at 9 Ok Reg 491, eff 12-13-91 (emergency); Revoked at 9 Ok Reg 1835, eff 5-29-92]

310:360-9-5. Technical information requirements for Type VIII facilities [REVOKED]

[Source: Amended at 9 Ok Reg 491, eff 12-13-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-6. Technical information requirements - Type IX and Type X facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-7. Plans and specifications for site development [REVOKED]

[Source: Amended at 8 Ok Reg 3205, eff 7-13-91 (emergency); Amended at 9 Ok Reg 491, eff 12-13-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-8. Information for Type III-B facilities [REVOKED]

[Source: Amended at 9 Ok Reg 491, eff 12-13-91 (emergency); Amended at 9 Ok Reg 1835, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-9. Information for Type VI facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-10. Information for Type VIII facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-11. Information for Type IX and X facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-9-12. Request for variance [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 11. LAND APPLICATION OF TREATMENT PLANT SLUDGES [REVOKED]

310:360-11-1. General [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-11-2. Sludge management plans required [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-11-3. Sludge generators [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-11-4. Recordkeeping [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-11-5. Informing sludge users [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-11-6. Sewage sludge criteria and standards [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 13. WASTE COLLECTION AND TRANSPORTATION [REVOKED]

310:360-13-1. Local ordinances [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-13-2. Requirements for cities and towns [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-13-3. Frequency of collection service [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-13-4. Adequate enclosure [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-13-5. Higher local standards [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-13-6. Disposal agreement [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 15. BIOMEDICAL WASTE [REVOKED]

310:360-15-1. Applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-3. Wastes subject to requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-4. Responsibilities of generators [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-5. Commercial biomedical waste processing facility standards [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-6. Commercial biomedical waste incinerator standards [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-7. Shared services facility incinerator standards [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-8. Standards for shared services processing facilities other than incineration [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-9. Packaging and transportation of segregated biomedical waste for transport to commercial biomedical waste processing facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-10. Pretreatment of biomedical wastes [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-15-11. Permit applications [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 17. WASTE TIRE RECYCLING, CERTIFICATION AND PERMITS [REVOKED]

310:360-17-1. Applicability [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-17-2. Certification requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-17-3. Types of facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-17-4. Facility construction requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-17-5. Facility operation requirements [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-17-6. Waste tire transporters [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 19. FEE REDUCTION REGULATIONS [REVOKED]

310:360-19-1. Integrated waste management system [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-19-2. Yard waste composting [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-19-3. Recycling [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-19-4. Incineration [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-19-5. Other waste management methods/practices [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-19-6. Large waste stream reductions [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-19-7. Application and documentation [REVOKED]

[Source: Revoked at 12 Ok Reg 2381, eff 6-26-95]

SUBCHAPTER 21. CLOSURE, POST-CLOSURE, AND FINANCIAL ASSURANCE [REVOKED]

PART 1. CLOSURE AND POST-CLOSURE REQUIREMENTS [REVOKED]

310:360-21-1. Closure and post-closure in general [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-2. Commencement of closure [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-3. Closure and post-closure performance standard [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-4. Corrective action requirement [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-5. Recordkeeping [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-6. Phased closure and multiple disposal area closure [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-7. Closure and post-closure plans [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-8. Closure plan [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-9. Phased and final closure technical requirements for landfills

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-10. Other technical closure requirements [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-11. Certification of final closure [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-12. Closure contour survey [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-13. County land records recording [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-14. Closure approval [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-15. Release of financial assurance for final closure [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-16. Post-closure care and plan [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-17. Leachate collection, treatment and disposal [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-18. Post-closure land use restrictions [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-19. Post-closure security and access control [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-20. Annual post-closure report [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-21. Certification of post-closure performance [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-22. Extension of post-closure period [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-23. Release of post-closure financial assurance [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

PART 3. COST ESTIMATES OF CLOSURE AND POST-CLOSURE CARE [REVOKED]

310:360-21-35. Applicability [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-36. Final and post-closure cost estimates [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-37. Time basis for post-closure cost estimates [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-38. Post-closure cost estimates for multiple disposal areas [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-39. Itemized estimates [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-40. Cost estimate adjustments [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

PART 5. TYPES OF FINANCIAL ASSURANCES [REVOKED]

310:360-21-50. Financial assurances of closure and post-closure care [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-51. Types of financial assurances [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-52. Amount to be posted [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-53. Effect of change of owner or operator on financial assurance [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ; Revoked at 12 Ok Reg 2381, eff 6-26-95]

**310:360-21-54. Effect of non-renewal of financial assurance
[REVOKED]**

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

310:360-21-55. Substitute financial assurances [REVOKED]

[Source: Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

APPENDIX A. SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE [REVOKED]

[**Source:** Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

APPENDIX B. CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR POSTCLOSURE CARE [REVOKED]

[**Source:** Added at 8 Ok Reg 3205, eff 12-31-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

APPENDIX C. TRUST AGREEMENT [REVOKED]

[**Source:** Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

APPENDIX D. IRREVOCABLE LETTER OF CREDIT [REVOKED]

[**Source:** Added at 8 Ok Reg 3205, eff 12-13-91 (emergency); Added at 9 Ok Reg 1851, eff 5-29-92 ;
Revoked at 12 Ok Reg 2381, eff 6-26-95]

CHAPTER 365. STATE REVOLVING FUND REGULATIONS [REVOKED]

[**Authority:** 82 O.S.Supp.1988, §§ 1085.56 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:365-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-1-2. Introduction [REVOKED]

[**Source:** Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-1-3. Applicability [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-1-4. Authority [REVOKED]

[**Source:** Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

SUBCHAPTER 3. DEFINITIONS [REVOKED]

310:365-3-1. Definitions [REVOKED]

[**Source:** Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

SUBCHAPTER 5. GENERAL PROGRAM REQUIREMENTS [REVOKED]

310:365-5-1. Program requirements [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-2. Eligible project [REVOKED]

[**Source:** Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-3. Revenue program [REVOKED]

[**Source:** Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-4. SRF Project Priority System [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-5. Intended Use Plan [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-6. Joint agreement [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-7. EPA annual report [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-8. Types of assistance [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-9. Pre-application for funding [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-10. Preplanning conference [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-11. Planning documents [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-12. Pre-application conference [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-13. Plans and specifications [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-14. Application for financial assistance [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-15. Binding commitment [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-16. Loan closing [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-17. Refinancing construction loans [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-18. Minimum assistance agreement conditions [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-19. Construction phase [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-20. Project changes [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-21. Building phase submittal [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-22. Progress payments [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-23. Retainage [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-24. Post building phase responsibilities of the recipient [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-5-25. Accounting [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

**SUBCHAPTER 7. MANDATORY FEDERAL
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[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-7-2. Planning documents [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-7-3. Design [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-7-3.1. User charge [REVOKED]

[Source: Added at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-7-4. Construction [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-7-5. Allowable land and right-of-way costs [REVOKED]

[Source: Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-7-6. General [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

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[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-9-2. Environmental information required by the Department [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

310:365-9-3. Environmental review by the Department [REVOKED]

[Source: Amended at 9 Ok Reg 1999, eff 6-11-92 ; Revoked at 12 Ok Reg 2383, eff 6-26-95]

CHAPTER 370. WATER AND SEWAGE WORKS OPERATORS CERTIFICATION [REVOKED]

[Authority: 59 O.S.1981, §§ 1101 et seq.]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:370-1-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

310:370-1-2. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

310:370-3-3. Sewage works superintendent classifications [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

310:370-3-4. Designated laboratory technician classifications [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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310:370-9-1. Qualifications [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

310:370-9-2. Fees [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

310:370-9-3. Examination [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

310:370-9-5. Experience and training [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

310:370-9-8. Training credit [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

310:370-9-9. Examinations [REVOKED]

[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2403, eff 6-26-95]

CHAPTER 375. WATER AND WASTEWATER PERMIT EXEMPTION REGULATIONS [REVOKED]

[**Authority:** 63 O.S.Supp.1981, § 1-904]

[**Source:** Codified 12-31-91]

310:375-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2409, eff 6-26-95]

310:375-1-2. Definitions [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2409, eff 6-26-95]

310:375-1-3. Municipal systems [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2409, eff 6-26-95]

310:375-1-4. Noncommunity public water supply systems [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2409, eff 6-26-95]

310:375-1-5. Small sewage treatment systems [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2409, eff 6-26-95]

310:375-1-6. Rural water systems [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2409, eff 6-26-95]

CHAPTER 380. WATER POLLUTION CONTROL FACILITY STANDARDS [REVOKED]

[**Authority:** 63 O.S.1981, §§ 1-901 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL REQUIREMENTS [REVOKED]

310:380-1-1. Purpose [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-1-2. Definitions [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-1-3. Application for permits; public or private entities; eligibility [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[**Source:** Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[**Source:** Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[**Source:** Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-3-4. Detailed plans [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-3-5. Specifications [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-7-2. Design [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-9-3. Quality of effluent [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-9-4. Design [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-11-3. Pre-aeration and flocculation [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-11-4. Flow equalization [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-13-2. Design considerations [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-13-3. Sludge and scum removal [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-15-4. Anerobic sludge digestion [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-15-7. Municipal sludge disposal [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-17-3. Rotating Biological Contactors [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-19-4. Chlorine Supply [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-19-5. Ozone Generation [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-19-6. Piping and Connections [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-19-7. Housing [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-19-8. Respiratory Protection [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-19-9. Application of Chlorine or Ozone [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-19-10. Evaluation of Effectiveness [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

SUBCHAPTER 21. WASTEWATER TREATMENT PONDS (LAGOONS) [REVOKED]

310:380-21-1. Wastewater Treatment Ponds (Lagoons) [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-21-2. Supplement to Engineer's Report [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-21-3. Location [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-21-4. Basis of Design [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-21-5. Pond Construction Details [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

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[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

SUBCHAPTER 23. SUPPLEMENTAL TREATMENT PROCESSES [REVOKED]

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[REVOKED]**

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-23-2. High rate effluent filtration [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-23-3. Microscreening [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-23-4. Land application [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

**310:380-23-5. Evapotranspiration absorption (ET/A) systems
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-23-6. Subsurface disposal systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-23-7. Seasonal/Intermittent flow systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

**SUBCHAPTER 25. MINIMUM DESIGN STANDARDS
FOR SMALL PUBLIC SEWAGE SYSTEMS [REVOKED]**

**310:380-25-1. Minimum design standards for small public sewage
systems [REVOKED]**

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-25-2. Subsurface disposal systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

310:380-25-3. Small lagoon systems [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

APPENDIX A. USE AND DESIGN AIDS [REVOKED]

[Source: Revoked at 12 Ok Reg 2413, eff 6-26-95]

CHAPTER 385. WATER POLLUTION CONTROL [REVOKED]

[Authority: 63 O.S.1991, §§ 1-901 and 1-904]
[Source: Codified 12-31-91]

310:385-1-1. Purpose [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-2. Scope [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-3. Adoption of U.S. EPA regulations by reference [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-4. Continuation of expiring permits [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-5. Who applies when owner is not operator [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-6. Information regarding other licenses [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-7. Permitting procedure [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-8. Dredge and fill permits [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-9. Secondary treatment definition [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-10. Terms and conditions of permit [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-11. Definitions [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-12. Laboratories and control tests for plant control and stream surveillance [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-13. Operating records and reports [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

310:385-1-14. Lagoon facilities [REVOKED]

[Source: Revoked at 12 Ok Reg 2415, eff 6-26-95]

CHAPTER 390. WATER VENDING MACHINE REGULATIONS

[**Authority:** 63 O.S.1981, §§ 1-1101 et seq.]

[**Source:** Codified 5-1-92]

SUBCHAPTER 1. GENERAL PROVISIONS

310:390-1-1. Purpose

The purpose of this chapter is to set forth requirements and controls for vending machines designed to dispense water intended for human consumption to assure:

- (1) consumers using such machines are given appropriate information as to the nature of the vended water;
- (2) the quality of the water vended meets acceptable standards for potability; and
- (3) the vending equipment is installed, operated, and maintained to protect the health, safety, and welfare of the consuming public.

[**Source:** Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-1-2. Definitions

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

"Approved" means approved in writing by the Department.

"Approved laboratory" means a laboratory approved by the Commissioner of Health or certified by the U.S. Environmental Protection Agency (EPA), or certified (accredited) by a third-party organization acceptable to the Commissioner of Health.

"Approved materials" means materials approved by the Department as being free of substances which may render the water injurious to health or which may adversely affect the flavor, color, odor, or microbiological quality of the water.

"Competent staff" means a person or persons with demonstrated experience or knowledge and training concerning the proper operation of water vending machines.

"Department" means the Oklahoma State Department of Health and its duly designated representatives.

"License" means a license issued under and pursuant to the provisions of these rules and regulations.

"Operator" means any person who operates water vending machines.

"Person" means any individual, public or private corporation, company, association, partnership, municipality, or any other legal entity or its legal representative, agent, or assigns.

"Potable water" means water which shall be from an approved source and shall not exceed any maximum contaminant level ("MCL") established by EPA under the Safe Drinking Water Act if adopted by the FDA or by the State Board of Health.

"Purified water" means water produced by distillation, deionization, reverse osmosis, or other method as defined in the 20th edition of the "United States Pharmacopeia."

"Vended water" means water dispensed by a water vending machine.

"Water vending machine" means any self-service device which, upon insertion of a coin, coins, token, or by other means, dispenses unit servings of water into a container without the necessity of refilling the machine between each operation.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

SUBCHAPTER 3. TECHNICAL REQUIREMENTS

310:390-3-1. Operator requirements

Each water vending machine operator shall:

- (1) Operate and maintain all water vending machines in a sanitary manner assuring that the product being dispensed into the container meets all finished product quality standards applicable to drinking water.
- (2) Maintain frequent and adequate water quality, monitoring to insure adherence to drinking water quality standards.
- (3) Take whatever investigative or corrective action is necessary to assure a potable water is supplied to consumers.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-3-2. Dispensing machine requirements

Machines used to dispense vended water shall:

- (1) Comply with the construction and performance standards of the National Sanitation Foundation or any other group deemed acceptable to the Department or meet equivalent standards demonstrated to the satisfaction of The Department.
- (2) Be designed and constructed to permit easy cleaning and maintenance of all exterior and interior surfaces and component parts.
- (3) Have all parts and surfaces which come into contact with the water constructed of non-toxic, corrosion-resistant, and nonabsorbent material approved by the department or other approved standards and capable of withstanding repeated cleaning and sanitizing treatment.
- (4) Have a recessed or guarded corrosion-resistant dispensing spout.
- (5) Be designed so all treatment of the vended water by distillation, ion-exchange, filtration, ultraviolet light, reverse osmosis, mineral addition, or any other acceptable process is done in a consistent and effective manner.
- (6) Have an effective system of collection and handling of drip, spillage, and overflow of water.

- (7) Have a back-flow prevention device for all connections with the water supply according to the Oklahoma Plumbing License Act and the BOCA Plumbing Code or standards demonstrated to the satisfaction of The Department to be equivalent.
- (8) Disinfect vended water by ultraviolet light or other method approved by the Department prior to delivery into the customer's container.
- (9) Be equipped with monitoring devices designed to shut down operation of the machine when the disinfection unit or any other treatment process which the water vending is designed to perform fails to function.
- (10) Be equipped with a self-closing, tight-fitting door on the vending compartment if the machine is not located in an enclosed building.
- (11) Comply with the American Water Works Association (AWWA) specifications for granular activated carbon if used in the treatment of potable water (AWWA B604-74).
- (12) Be maintained in a clean and sanitary condition, free from dirt and vermin or any outside material which could serve as a harborage for bacterial growth.
- (13) Be located in an area that can be maintained in clean condition and in a manner that avoids insect and rodent harborage.
- (14) display, in a position clearly visible to customers, the following information: the name, license number, and address of the operator; the fact the water is obtained from an approved public or private water supply; a statement describing the treatment process including the chemical names of any preservatives or additives; if no treatment process is utilized a statement to that effect; and a local or toll free telephone number that may be called for further information, service, or complaints.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

SUBCHAPTER 5. SERVICE, SAMPLING, AND RECORDS

310:390-5-1. Service and records

- (a) **Service.** All parts and surfaces of the water vending machine shall be maintained in clean condition by the water vending machine operator. The vending chamber and vending nozzle shall be cleaned and sanitized each time the machine is serviced; whereas, all surfaces in contact with the vended water shall be maintained as a deposit free, visibly clean system.
- (b) **Records.** A record of location, source of water supply, cleaning, sampling and maintenance operations shall be kept by the operator for each water vending machine and be available for inspection upon request.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-5-2. Sampling

The vended water from each water vending machine shall be analyzed at least once every three months for total coliform and, if required by applicable regulations, other physical, chemical, or microbiological parameters. The analysis shall be performed by an approved laboratory and a copy of the analysis shall be available for inspection.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-5-3. Carbon filters

The vended water from each water vending machine utilizing silver-impregnated carbon filters in the treatment process shall be analyzed at least once every three months for silver. The analysis shall be performed by an approved laboratory and a copy of the analysis shall be available for inspection.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-5-4. Frequency of analysis

A more frequent analysis of the parameters may be required by the Department if there is evidence of unfitness of the vended water because of the presence of undesirable elements, compounds, or materials caused by the passage of water through the machines or device.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

SUBCHAPTER 7. LICENSE REQUIRED AND APPLICATION FOR LICENSE

310:390-7-1. License application

(a) Any person operating water vending machine or device shall have a valid license issued to such person by the Oklahoma State Commissioner of Health pursuant to Title 63 O.S.1981, Sections 1-1101 and following. Only a person who is in virtual compliance with the requirements of these rules and regulations shall be entitled to receive or retain such a license. Licenses are not transferable.

(b) Notwithstanding subsection (a), of this section, a water vending machine operator who is also a license holder under Title 63 O.S. Section 1-1118 (retail food license) and who operates water vending machines only within his licensed food establishment(s) shall not be required to obtain a separate license under these regulations, but shall otherwise comply with the applicable requirements of these regulations.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-7-2. Issuance of license

(a) Any person desiring to operate a water vending machine or device in Oklahoma shall make written application for a license on a form provided by the State Department of Health. The application shall contain such information as the Department deems necessary to determine that the operation of the water vending machine or device will not be injurious or hazardous to the health or safety of the public.

(b) A License shall be issued upon receipt of the following:

(1) Satisfactory evidence each model of machine intended to be used meets all requirements of Section 310:390-3-2 of these regulations.

(2) Satisfactory evidence or affidavit the sources of water supply used will be from a public water system certified as safe by the Department or a private system certified as safe and tested by the Department or by an approved laboratory.

(3) Satisfactory evidence the person applying for the license has:

(A) A competent staff for the local supervision of the operation of the machines;

(B) An acceptable maintenance program for the routine servicing of water vending machines to include written servicing instructions for the operator; technical manuals for the machine and water treatment appurtenances involved; and regularly scheduled service visits; and

(C) A signed application along with the appropriate fee.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-7-3. Expiration of license

A license shall expire one year from the date of its issuance unless canceled or revoked prior to its expiration. For purposes of determining the expiration date of a vending license, the date of issuance shall be deemed to be the date that an approved application for licensure is first issued by a duly authorized representative of the Health Department.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-7-4. Expired license

A license not renewed within ninety (90) days after the date of its expiration shall require payment of an amount equivalent to the initial license fee.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-7-5. License revocation or suspension

Procedures for revocation or suspension of a license to sell or vend potable water are stated in the Oklahoma Administrative Procedures Act. Failure to comply with any of the applicable requirements of Article 11 of the Oklahoma Public Health Code or these Regulations shall constitute grounds for revocation or suspension of a license.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

SUBCHAPTER 9. INSPECTION, EMBARGO AND CONDEMNATION

310:390-9-1. Access

Representatives of the Oklahoma State Department of Health, after proper identification, shall be permitted to inspect any water vending machine or operation at any reasonable time for the purpose of determining compliance with this Chapter. The representative shall be permitted to examine the records of the operation to obtain information pertaining to the proper operation of the water vending machine and the quality of the vended water.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-9-2. Inspection

As a condition of receiving a license and annually thereafter, the operator shall receive an inspection which must demonstrate compliance with the operational requirements of these regulations. Said inspection shall be conducted by the Department, by the FDA, or by a third party inspection organization (such as NSF) acceptable to the Department and on a form approved by the Commissioner.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

310:390-9-3. Embargo and condemnation

Vended water and associated equipment may be examined or sampled by the Oklahoma State Department of Health as often as necessary for enforcement of this Chapter. The Oklahoma State Department of Health may place an embargo on a water vending machine or machines in accordance with the provisions of Title 63 O.S. 1981, Section 1-1105.

[Source: Added at 8 Ok Reg 3103, eff 7-18-91 (emergency); Added at 9 Ok Reg 1457, eff 5-1-92]

CHAPTER 395. LICENSED MIDWIVES

[**Authority:** 59 O.S. § 3040.1 et seq.; 63 O.S. § 1-104]

[**Source:** Codified 9-11-21]

SUBCHAPTER 1. GENERAL PROVISIONS

310:395-1-1. Purpose

The rules in this Chapter implement Shepherd's Law, as codified in Title 59 O.S. §§ 3040.1 *et seq.*

[**Source:** Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"**ACOG**" means American College of Obstetricians and Gynecologists.

"**Act**" means 59 O.S. §§ 3040.1 *et seq.*

"**Active first stage**" means the first stage of labor where the cervix is dilated to at least 6 centimeters.

"**AMCB**" means American Midwifery Certification Board, the national certifying body for candidates in nurse-midwifery and midwifery who have received their graduate level education in programs accredited by the Accreditation Commission for Midwifery Education.

"**Apgar**" means an index used to evaluate the condition of a Newborn infant based on a rating of 0, 1, or 2 for each of the five characteristics of color, heart rate, response to stimulation of the sole of the foot, muscle tone, and respiration with 10 being a perfect score.

"**APRN**" means advanced practice registered nurse.

"**Birth center**" means any facility, place or institution, which is maintained or established primarily for the purpose of providing services of a Licensed Midwife, Certified Nurse-Midwife or licensed medical doctor to assist or attend a woman in delivery and birth, and where a woman is scheduled in advance to give birth following a Normal pregnancy.

"**CCHD**" means critical congenital heart disease.

"**Certified Nurse-Midwife**", "**CNM**" or "**Nurse-Midwife**" means the same definition provided in 59 O.S. § 567.3a.

"**Client**" means a recipient of midwife services who is a pregnant woman, a postpartum woman for a minimum of thirty (30) days after giving birth, or her healthy Newborn for the first six weeks of life.

"**Clinician**" means a licensed physician or other licensed healthcare professional having direct contact with and responsibility for patients, including observation, diagnosis, treatment, and care.

"**CM**" means Certified Midwife, an individual certified by the American Midwifery Certification Board who is not a Nurse-Midwife.

"Commissioner" *means the State Commissioner of Health.* [59 O.S. § 3040.2].

"Committee" *means the Advisory Committee on Midwifery .* [59 O.S. § 3040.2].

"CPM" means Certified Professional Midwife, an individual certified by the North American Registry of Midwives (NARM).

"Department" *means the State Department of Health.* [59 O.S. § 3040.2].

"GBS" means group B streptococcus bacteria.

"Licensed midwife" means a person who practices Midwifery and is licensed under 59 O.S. § 3040.1 and this Chapter.

"Medical consultation" means conferring with and seeking assistance from a medically relevant physician or other licensed healthcare professional for assessment and diagnostic conclusions, therapeutic interventions, or other services that will benefit the Client.

"Midwifery" *means the practice of:*

(A) *Providing the necessary supervision, care and advice to a woman during Normal pregnancy, labor and the Postpartum Period;*

(B) *Conducting a Normal delivery of a child;*

(C) *Providing Normal Newborn care; and*

(D) *Providing routine well-woman care and screenings.* [59 O.S. § 3040.2].

"NARM" means the North American Registry of Midwives, the national certification body for Certified Professional Midwives.

"Newborn" *means an infant from birth through the first six weeks of life.* [59 O.S. § 3040.2]

"Normal" *means, as applied to pregnancy, labor, delivery, the Postpartum Period and the Newborn period, and as defined by rules of the State Commissioner of Health, circumstances under which a Licensed Midwife has determined that a Client does not have a condition that requires medical intervention.* [59 O.S. § 3040.2].

"Normal fetal heart tones" means between 110 and 160 beats per minute and reassuring fetal status.

"NRP" means Neonatal Resuscitation Program. An education program in neonatal resuscitation developed and maintained by the American Academy of Pediatrics.

"OAC" means the Oklahoma Administrative Code.

"Postpartum period" *means the first six weeks after a woman has given birth.* [59 O.S. § 3040.2].

"Referral" means the process by which the Client is transferred to a medically relevant physician or Certified Nurse-Midwife for management of a particular problem or aspect of the Client's care, after informing the Client of the risks to the health of the Client or Newborn.

"Rules" means the rules set forth in OAC 310:395.

"Second stage" means the second stage of labor where there is complete cervical dilation to 10 centimeters and ends with the delivery of the Newborn.

"Shepherd's Law" means 59 O.S. §§ 3040.1 *et seq.*

"Student midwife" means a person who is providing Midwifery care under the direct or indirect supervision of a qualified, Licensed Midwife preceptor based on their level of training.

"Unlicensed midwife" means a person who offers Midwifery services or holds himself or herself out to be a midwife who is not licensed under this Act. [59 O.S. § 3040.8].

"VBAC" means vaginal birth after cesarean.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-1-3. Applicability

This chapter does not apply to:

- (1) *A Certified Nurse-Midwife (CNM), a physician or other health care professional licensed by the state and operating within the scope of the person's license;*
- (2) *A Student Midwife who is providing Midwifery care under the direct supervision of a qualified, Licensed Midwife preceptor;*
- (3) *A natural childbirth educator or doula; and*
- (4) *A person other than a Licensed Midwife who assists childbirth in an emergency.* [59 O.S. § 3040.3].

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-1-4. License required to practice

(a) No person who is certified as, or holds himself or herself out to be, a Certified Professional Midwife (CPM) or a Certified Midwife (CM) shall practice Midwifery in this state without first applying for and obtaining a license from the Commissioner.

(b) No person shall use in connection with their name or place of business the words "Licensed Midwife," or any other words, letters, or insignia indicating or implying that he or she is a Licensed Midwife or representing himself or herself as such in any way orally, in writing, in print, or by sign directly or by implication unless he or she has been licensed as such under the provisions of these regulations.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-1-5. [RESERVED]

[Source: Reserved at 38 Ok Reg 2005, eff 9-11-21]

310:395-1-6. Providing care

A Licensed Midwife who has agreed to provide care to a Client is held accountable to act according to the standards of care set out in 59 O.S. §§ 3040.1 *et seq.* and these Rules until such a time as that care is terminated or transferred by the Client or the Licensed Midwife in accordance with these Rules.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-1-7. Registration list

The Department shall maintain a list of all Licensed Midwives in the state, and provide this list to the county clerk with a name of each Licensed Midwife practicing in a county.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-1-8. Advertising

(a) A Licensed or Unlicensed Midwife shall not:

(1) Advertise or represent that the midwife is a physician unless the midwife is licensed to practice medicine by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners;

(2) Advertise or represent that the midwife is a graduate of a medical school unless the midwife can show proof of graduation from a medical school;

(3) *Use advertising or an identification statement that is false, misleading or deceptive; or*

(4) *Except as authorized by rules adopted by the Oklahoma Board of Nursing, use in combination with the term "midwife" the term "nurse" or another title, initial or designation that implies that the midwife is licensed as a Registered Nurse or vocational nurse.*

(b) *An unlicensed midwife shall not use a title in an identification statement or advertisement that would lead a reasonable person to believe that the midwife is certified or licensed.*

(c) *All midwives licensed pursuant to Shepherd's Law shall include in any title, identification statement or advertisement that the midwife is licensed in this state and the credential the midwife possesses.* [59 O.S. § 3040.8].

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-1-9. [RESERVED]

[Source: Reserved at 38 Ok Reg 2005, eff 9-11-21]

310:395-1-10. Maintaining national certification

(a) A Licensed Midwife shall maintain a current certification with NARM or AMCB. If the national certification expires for more than 90 days or is revoked, the license issued by the Department will be subject to revocation and the midwife would have to reapply for licensure.

(b) Upon renewal of the NARM or AMCB certification, the Licensed Midwife shall submit a copy of the new certificate to the Department.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

SUBCHAPTER 3. ADVISORY COMMITTEE ON MIDWIFERY

310:395-3-1. Purpose

The purpose of this subchapter is to ensure the Advisory Committee on Midwifery meets the requirements of Shepherd's Law.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-3-2. [RESERVED]

[Source: Reserved at 38 Ok Reg 2005, eff 9-11-21]

310:395-3-3. Advisory Committee on Midwifery membership

(a) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, sexual orientation, or national origin of the appointee.

(b) For individuals to be considered for the Advisory Committee on Midwifery, a resume providing relevant qualifications shall be sent to the OSDH division that licenses midwives which can be found at <http://chs.health.ok.gov>.

(c) If a vacancy occurs during a member's term, the Commissioner may appoint a replacement after the candidate submits a resume as directed in (b) of this section. The replacement member will serve out the vacated member's remaining term. The replacement member will then be eligible to serve the two (2) term limit as described in 59 O.S. § 3040.5(B).

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-3-4. Officers of the Advisory Committee on Midwifery

Officers in addition to the Chair and the Vice-chair may be elected.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-3-5. Rules of order

(a) The Advisory Committee on Midwifery shall meet a minimum of four (4) times per year, and at other times as deemed necessary by the Committee. Meetings will be held in accordance with the Oklahoma Open Meeting Act, 25 O.S. §§ 301 *et seq.*

(b) Applications, complaints, appeals and other considerations for the Committee shall be submitted to the Department at least two (2) weeks before a scheduled meeting.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-3-6. Review of applicants

(a) The Committee will review all applicants for licensure and make recommendations for licensure to the Commissioner.

(b) The Committee may refuse to consider any application that is not complete in every detail, including submission of every document required by the application form. The Committee may, in its discretion, require a more detailed or complete response to any request for

information set forth in the application form as a condition to consideration of an application.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

SUBCHAPTER 5. MIDWIFE PRACTICE

310:395-5-1. Scope of work

- (a) Licensed Midwives may provide care only to Clients determined by examination to be Normal for pregnancy and childbirth. Such care includes prenatal supervision and counseling; preparation for childbirth; and supervision and care during labor and delivery and care of the mother and the Newborn in the Postpartum Period.
- (b) Licensed Midwives shall refer or consult with a medically relevant physician when a Client's medical condition deviates from Normal. Licensed Midwives shall have written Standard Operating Procedures that detail the process for Referrals and Medical Consultations. This may include contact information for the referring physician or facility that the Licensed Midwife will use.
- (c) Licensed Midwives may provide care in hospitals with appropriate hospital privileges, Birth Centers, clinics, offices and home birth settings.
- (d) Licensed Midwives may obtain diagnostic tests, order testing, and receive reports that are necessary to the practice of Midwifery.
- (e) If possible, the Licensed Midwife may accompany the mother or infant to the hospital if hospitalization is necessary. If possible, the Licensed Midwife may remain with the mother or infant until a care plan is established to provide continuity of care. Licensed Midwives should not be considered as a visitor in the healthcare setting and should be allowed into the hospital consistent with hospital policy even when there may be visitor restrictions, such as those imposed due to COVID-19.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-2. Client welfare

- (a) **Discrimination.** Licensed Midwives shall not, in the rendering of professional services, participate in, condone, or promote discrimination on the basis of race, color, age, gender, religion or national origin.
- (b) **Confidentiality.** Licensed Midwives and any persons engaged by a Licensed Midwife who provide any related or administrative work and have access to Client information, shall maintain the confidentiality of any information received from any person or source about a Client, unless authorized in writing by the Client or otherwise authorized or required by law or court order.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-3. Professional standards

- (a) **Violations of other laws.** It shall be unprofessional conduct for a Licensed Midwife to violate a state or federal statute if the violation

directly relates to the duties and responsibilities of the Licensed Midwife.
(b) **Drug and alcohol use.** Licensed Midwives shall not render professional services while under the influence of alcohol, illicit drugs, or any substance that can cause a person to lose control of his or her faculties or behavior.

(c) **Updating.** Licensed Midwives shall notify the Department of any change in contact information within thirty (30) days of such change.

(d) **Candor to the Department.** A Licensed or Unlicensed Midwife or a Licensed Midwife candidate, in connection with a license application or an investigation conducted by the Department pursuant to OAC 310:395-19-3, shall not:

- (1) Knowingly make a false statement of material fact;
- (2) Fail to disclose a fact necessary to correct a misapprehension known by the Licensed or Unlicensed Midwife or Licensed Midwife candidate to have arisen in the application or the matter under investigation; or
- (3) Fail to respond to a request for information made by the Department or any designated representative thereof within fifteen (15) days of the request.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-4. Disclosure forms

(a) A Licensed or Unlicensed Midwife shall disclose verbally and in written form to a prospective Client at the outset of the professional relationship items 1 through 14 of this section. This discussion must be documented by use of a disclosure form. It must be signed and dated by the Client at the same time the Licensed or Unlicensed Midwife and Client enter into an agreement for services. This form must be filed in the Client's medical record. The disclosure shall include:

- (1) The Midwife's name, and the license number and expiration date if applicable;
- (2) The Client's name, contact information, and the name of the Client's primary care provider if the Client has one;
- (3) A statement that the Midwife is not an advanced practice registered nurse-midwife;
- (4) Credentials of the Midwife;
- (5) Documentation of compliance with continuing education requirements if the Midwife is licensed;
- (6) Disclosure of years of service as a Midwife;
- (7) A description of the plan or protocol for transfer to a hospital;
- (8) The limitations of the skills and practices of the Midwife;
- (9) Whether the Midwife carries malpractice insurance;
- (10) Emergency Plan - As part of the disclosure form, an individual emergency plan must be established by the Licensed Midwife and Client. The plan must include:
 - (A) The Client's name, address, and phone number;
 - (B) The arrangements for transport from the delivery site to a nearby hospital;

- (C) The name, address and phone number of the hospital with obstetric services that will be used for emergency transfer;
 - (D) The name, address, and phone number of the hospital with obstetric services that will be used for non-emergency transfer; and
 - (E) The name and phone number of any Clinician providing backup care or co-care to the Client;
 - (11) Direction on where to find scope of practice standards of a Licensed Midwife, as provided by rules of the Commissioner;
 - (12) Notification that state law requires a Newborn to be tested for certain heritable disorders, hearing screening and hypothyroidism, in the absence of a signed parental waiver;
 - (13) Procedures for reporting a complaint to the Department; and
 - (14) Any additional information or requirement that the Department deems necessary to protect the health, safety, or welfare of the Client.
- (b) The Department will provide a template Disclosure Statement providing this information on its website.
- (c) Before the onset of labor, the midwife's agreement can be terminated at any time that the midwife deems it necessary for maintenance of the Client's mental and physical safety or for compliance with these rules. When termination occurs, the reasons for termination will be given in writing and an alternative source of care recommended; and
- (d) The Client may terminate the agreement at any time.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-5. Informed consent

- (a) The Licensed Midwife shall provide the Client with an informed consent process which shall include all of the following:
- (1) Explanation of possible risks and benefits associated with out-of-hospital birth;
 - (2) Provide information on other childbirth options available;
 - (3) A specific written consent for out-of-hospital birth with the Licensed Midwife must be obtained prior to the onset of labor;
 - (4) Explanation of the available treatments and procedures;
 - (5) Explanation of both the risks and expected benefits of the available treatments and procedures;
 - (6) Discussion of alternative procedures, including delaying or declining of testing or treatment, and the risks and benefits associated with each choice; and
 - (7) Documentation of any initial refusal by the patient of any action, procedure, test, or screening that is recommended by the Licensed Midwife.
- (b) A Licensed Midwife shall obtain the Client's signature acknowledging that the patient has been informed, verbally and in writing, of the disclosures.
- (c) A Licensed Midwife shall provide an abbreviated informed consent appropriate to the emergency situation with documentation to follow

once the situation has stabilized.

(d) If the Licensed Midwife is to perform an External Cephalic Version (ECV) an informed consent statement shall be provided explaining the risks and benefits. The Department will provide a template informed consent for ECV on its website.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-6. Conditions precluding Midwifery care

(a) The following conditions preclude Midwifery care and the Client must be transferred to a physician, CNM, or Clinician upon diagnosis:

- (1) Severe asthma;
- (2) Cyanotic heart disease or presence of a prosthetic valve;
- (3) New York Heart Association class two heart failure;
- (4) History of cardiac surgery with an abnormal echocardiogram;
- (5) Pulmonary Hypertension;
- (6) Hemoglobinopathies; sickle cell disease, thalassemia;
- (7) Chronic hypertension on medication or with renal or heart disease;
- (8) Severe obstructive pulmonary disease;
- (9) Chronic renal disease with a creatinine of greater than 1.5;
- (10) Lupus;
- (11) Marfan syndrome;
- (12) History of intracranial injury (stroke, AV malformation, or aneurisms);
- (13) Prolonged anti-coagulation;
- (14) Type 1 diabetes;
- (15) Severe Polyhydramnios less than 34 weeks;
- (16) Triplets or greater;
- (17) Monoamniotic twins;
- (18) Conjoined twins;
- (19) Placenta accrete;
- (20) Documented placenta previa in the third trimester; the placenta shall not be previa. To determine this, in the case of documented placenta previa or marginal placenta previa in the second trimester, a third trimester ultrasound must show resolution by 36 weeks or the Client must be referred. The Client must obtain an official ultrasound report with images performed by a Registered Diagnostic Medical Sonographer (RDMS) to determine that the location of the placenta is not previa or marginal placenta previa no later 34 weeks.
- (21) Uncontrolled seizure disorder;
- (22) Evidence of placenta abruption;
- (23) Evidence of preeclampsia/eclampsia;
- (24) Active tuberculosis or other serious pulmonary pathology;
- (25) Inadequately treated syphilis;
- (26) Hepatic disorders (cholestasis);
- (27) Uncontrolled endocrine disorders;
- (28) Significant hematological disorders;
- (29) Active cancer;

- (30) Active alcoholism or abuse;
 - (31) Active drug addiction or abuse; and
 - (32) Positive for HIV antibody.
- (b) The following conditions preclude Midwifery care and the Client must be transferred to a physician, CNM, or Clinician upon diagnosis unless the Client obtains a signed consult note from a medically relevant physician and all recommended treatments can be completed in an out of hospital setting.
- (1) History of seizure disorder;
 - (2) History of preterm labor or cervical insufficiency;
 - (3) Evidence of shortened cervix;
 - (4) Positive for Hepatitis B;
 - (5) History of chronic hypertension;
 - (6) Isoimmunization;
 - (7) History of post-partum hemorrhage with concurrent anemia;
 - (8) History of unexplained, recurrent stillbirths or neonatal death;
 - (9) Severe psychiatric illness within the last six (6) months as defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM);
 - (10) Pregnancy that extends beyond 42 weeks 0/7 days gestational age;
 - (11) Two or more previous cesarean deliveries unless the Client has also had a successful vaginal delivery since the last cesarean delivery;
 - (12) BMI over 50 at onset of pregnancy;
 - (13) Type 2 diabetes; and
 - (14) History of cardiac surgery with a normal echocardiogram within the last 12 months.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-6.1. Provisions for VBAC, multiple, and breech births

- (a) A Licensed Midwife shall not provide prenatal care and/or birth attendance for a woman who is having a VBAC, vaginal multiple birth, or vaginal breech birth unless the following requirements are met:
- (1) Informed Consent specific to VBAC, vaginal multiple birth, or vaginal breech birth is provided to and signed by the client as required by OAC 310:395-5-5 of this Chapter;
 - (2) In event of transport, the Licensed Midwife implements and acts in accordance with the hospital transportation plan established pursuant to these rules; and
 - (3) The Licensed Midwife performs fetal auscultation at least every fifteen (15) minutes during Active first stage of labor and at least every five (5) minutes during Second Stage of labor.
- (b) For vaginal birth after cesarean deliveries, the following additional requirements must be met:
- (1) There must be at least eighteen (18) months from the Client's previous cesarean to the due date of the current pregnancy;
 - (2) There must not be a previous classical uterine/vertical incision or any other uterine scars through the myometrium;

(3) The Licensed Midwife must obtain, retain, and analyze prior physician and hospital cesarean records, in writing, prior to acceptance of the Client. Records showing that requirements of this section cannot be met shall require immediate referral of care of the Client. If the Licensed Midwife is unable to obtain the written records, the Licensed Midwife shall not retain the Client; and

(4) The placenta shall not be previa or marginal placenta previa in accordance with OAC 310:395-5-6(a)(20).

(5) The Licensed Midwife is required to disclose the following item verbally and written, which is listed on the VBAC informed consent form: The place of birth is/is not within twenty (20) minutes of transport to the nearest hospital with twenty-four (24) hour obstetrical and anesthesia services available. If transport is over 20 minutes, increased distance to surgical interventions, NICU, and pediatric services may increase risk of infant and maternal death.

(c) For planned breech deliveries, the baby shall be in a frank or complete breech position. If baby is in an incomplete or footling breech position, the Licensed Midwife shall transfer care of the Client to a physician when it is possible to do so without endangering the health of the mother or baby.

(d) The requirement to refer listed in subsection (c) of this section is exempted in the event of an imminent breech delivery.

(e) For planned multiple deliveries, the following additional requirements must be met:

(1) Multiples shall be no more than two fetuses;

(2) Determination of chorionicity by the late first trimester or early second trimester by ultrasound with images performed by a Registered Diagnostic Medical Sonographer (RDMS). If the chorionicity is not di/di, the Licensed Midwife should transfer care to a physician upon diagnosis;

(3) A Maternal Fetal Medicine (MFM) consultation is required when twin pregnancy is identified. If the consultation is not obtained, the Licensed Midwife shall refer the Client to a physician;

(4) Discordance of greater than 20% of fetal difference should be referred to a physician at time of recognition;

(5) The presenting twin (baby A) must be head down at term; and

(6) At least three Licensed Midwives should attend the birth.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-7. Assessments and care antepartum and intrapartum

(a) **Antepartum.** The responsibilities of the Licensed Midwife shall include, but are not limited to:

(1) Initial Prenatal Visit:

(A) A Licensed Midwife shall perform a history, physical exam, and laboratory studies for risk evaluation including:

- (i) Complete history (medical, surgical, family, psychosocial, obstetrical, gynecological);
- (ii) Evaluation of medications: including prescriptions, over the counter, including homeopathic treatments or supplements, and illegal drugs;
- (iii) Evaluation of allergies including medications, foods, or environmental factors; and
- (iv) A physical exam:
 - (I) Height;
 - (II) Weight;
 - (III) Blood pressure;
 - (IV) Pulse;
 - (V) Temperature;
 - (VI) Breasts, including teaching on self-exam;
 - (VII) Abdomen, including fundal height, fetal heart tones;
 - (VIII) Estimation of gestational age by physical findings; and
 - (IX) Assessment of varicosities, edema, and reflexes;
- (v) Laboratory tests and screenings: The following laboratory tests/screens shall be required:
 - (I) Blood group type, Rhesus (Rh) type, Antibody Screen;
 - (II) Complete Blood Count (CBC);
 - (III) Rubella Titer;
 - (IV) Hepatitis B Surface Antigen;
 - (V) Syphilis serology;
 - (VI) Human Immunodeficiency Screening; and
 - (VII) Urinalysis (culture if indicated);
- (vi) Recommended laboratory tests and screenings: The following laboratory tests/screens shall be recommended:
 - (I) Genetic Screening;
 - (II) Chlamydia Trachomatis;
 - (III) Neisseria gonorrhoeae;
 - (IV) Trichomonas; and
 - (V) Drug screen with testing if indicated.

(B) A Client has the option to refuse any test or screening offered by the Licensed Midwife. Any refusal should be documented by the Licensed Midwife and placed in the Client's file. Client refusal of any test or screening that is necessary to determine any condition precluding midwifery care shall require transfer of care.

(2) Ongoing Prenatal Care:

- (A) Maternal assessments to be completed at each visit shall include:
 - (i) General well-being;

- (ii) Psychosocial health status;
- (iii) Maternal vital signs;
- (iv) Nutrition and Hydration status;
- (v) Weight gain or loss;
- (vi) Presence of edema;
- (vii) Fundal height measurement;
- (viii) Fetal assessment of position and presentation;
and
- (ix) Fetal assessment of heart tones.

(B) Prenatal visits may include, but are not limited to:

- (i) Discussions and offers of tests and screenings at appropriate times, including but not limited to: Ultrasound, Gestational Diabetes Screening, Genetic Screening, HIV, HBsAg, GBS culture, Anemia Screening, STI Screening, Pap Smear, need for Rhogam prophylaxis;
- (ii) Signatures for any test or screening the Client consents to or refuses;
- (iii) Assessments of the pelvic cavity for cervical dilation, effacement, fetal station, or evaluation for abnormality; and
- (iv) Review of plans for medical Referral and transfer of mother or infant, prior to onset of labor.

(C) Laboratory tests and screenings: The following laboratory tests/screens shall be required:

- (i) Gestational diabetes screening at 24-28 weeks;
and
- (ii) Group B strep screening at 35-37 weeks of pregnancy.

(D) A physical or virtual home visit to assess the home environment is mandatory, if the birth is to occur at the Client's house.

(3) Recommended prenatal schedule:

- (A) Monthly until 28 weeks;
- (B) Every two weeks from 28 - 36 weeks;
- (C) Weekly from 36 weeks until delivery; and
- (D) Major deviations from this schedule should be documented in the Client's file.

(b) **Intrapartum.** During active labor, the Licensed Midwife shall monitor and support the natural process of labor and birth, assessing mother and baby throughout the birthing process. Responsibilities of the Licensed Midwife shall include, but are not limited to:

(1) Assessments:

- (A) The Licensed Midwife shall make an initial exam during labor, which consists of an assessment of maternal blood pressure, pulse, temperature, edema, fetal position and presentation, noting membranes status, presence or absence of meconium, and fetal heart tones (FHT); and strongly recommend an internal vaginal examination to determine cervical dilation, effacement and station;

(B) The Licensed Midwife shall monitor fetal heart tones upon arrival. Intermittent monitoring may include assessing FHT every:

(i) At least every 15- 30 minutes in Active First Stage; and

(ii) 5-15 minutes in Second Stage.

(C) When present with the mother, the Licensed Midwife will check FHT immediately after the following: Rupture of membranes, sudden pain, excessive bleeding, sudden or marked change in labor pattern, mother reports concern in fetal movement;

(D) The Licensed Midwife shall perform an internal vaginal examination to determine cervical dilation, effacement and station immediately after the following: Abnormal FHT, suspected malpresentation, sudden pain, excessive bleeding, sudden or marked change in labor pattern, mother reports concern in fetal movement;

(E) The Licensed Midwife shall remain with the Client at all times once contractions are well-established at a regular frequency of four to five (4-5) minutes with dilation of six (6) centimeters, or the Client requests need for the Licensed Midwife to be present; and

(F) The Licensed Midwife shall monitor maternal vital signs every 4 hours after onset of active labor.

(G) Placenta Exam.

(i) The Licensed Midwife shall examine the placenta and membranes for completeness, unusual coloration, or odor; and

(ii) The Licensed Midwife shall examine the umbilical cord for the appropriate number of vessels.

(2) A Licensed Midwife shall not use forceps, a vacuum extractor or any prescription drug to advance or retard labor or delivery [59 O.S. § 3040.7].

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-8. Required medical consultation or referral, antepartum and intrapartum periods

(a) The Licensed Midwife shall make an immediate Referral for any woman who during the antepartum period:

(1) Develops edema of the face and hands, severe, persistent headaches, epigastric pain, or visual disturbances concerning for preeclampsia;

(2) Develops eclampsia;

(3) Develops a systolic blood pressure of 140 or greater or diastolic blood pressure of 90 or greater on two separate occasions 4 hours apart, or develops a systolic blood pressure over 150 or greater or a diastolic blood pressure of 100 or greater on a single reading;

- (4) Has persistent, frank vaginal bleeding before onset of labor;
- (5) Has rupture of membranes prior to 37 weeks gestation;
- (6) Has marked decrease in or cessation of fetal movement;
- (7) Has polyhydramnios or oligohydramnios;
- (8) Develops gestational diabetes by history or testing, unresponsive to dietary and exercise changes per American Diabetes Association (ADA) guidelines within two (2) weeks of implementing dietary and lifestyle changes;
- (9) Has sexually transmitted infection including but not limited to, HIV, Syphilis, and HSV-1 or HSV-2 with an active infection or prodromal symptoms in the last trimester or at time of delivery;
- or
- (10) Identifies twins other than di/di.

(b) The Licensed Midwife shall obtain Medical Consultation for a woman who during the antepartum period:

- (1) Develops marked glucosuria or proteinuria on two consecutive separate visits;
- (2) Has abnormal vaginal discharge with no signs of improvement with medication;
- (3) Has symptoms of urinary tract infection that does not improve with treatment;
- (4) Has inappropriate gestational size, through physical evaluation or diagnostic examination;
- (5) Has demonstrated anemia by blood test (hematocrit less than 30 percent, hemoglobin under 10) that does not improve with treatment;
- (6) Has demonstrated Thrombocytopenia by blood test (platelets under 150) that does not improve with treatment;
- (7) Has an unexplained fever of equal or greater than 101⁰ F or 38⁰ C;
- (8) Has hyperemesis;
- (9) Has severe, protruding varicose veins of extremities or vulva with no signs of improvement after treatment;
- (10) Has known structural abnormalities of the reproductive tract which are incompatible with vaginal birth;
- (11) Has an abnormal Pap smear;
- (12) Has sexually transmitted infection including but not limited to, Chlamydia, Gonorrhea, Trichomoniasis, Bacterial Vaginosis, HSV-1, HSV-2, HPV, Condylomata Acuminata;
- (13) Reaches a gestation of 41 weeks, 3 days by dates and examination;
- (14) Hepatitis C; and
- (15) Any other infection requiring treatment or monitoring.

(c) The Licensed Midwife shall make an immediate Referral for any woman who during the intrapartum period:

- (1) Goes into labor prior to 37 weeks 0/7 days gestation;
- (2) Develops a systolic blood pressure of 140 or greater or diastolic blood pressure of 90 or greater on two separate occasions 4 hours apart, or develops a systolic blood pressure over 150 or greater or a diastolic blood pressure of 100 or greater

- on a single reading;
- (3) Develops severe headache, epigastric pain, or visual disturbance concerning for eclampsia;
 - (4) Develops a fever over 100.4 °F or 38 °C;
 - (5) Develops respiratory distress;
 - (6) Has persistent baseline or recurrent fetal heart tones below 110 or above 160 beats per minute, or a fetal heart rate that is abnormal and does not improve with attempts to correct;
 - (7) Has ruptured membranes and birth has not reached active labor after 18 hours;
 - (8) Has unresolving, frank bleeding prior to delivery (other than bloody show);
 - (9) Has thick meconium or blood-stained amniotic fluid with non-reassuring fetal heart tones;
 - (10) Has a malpresentation incompatible with vaginal delivery;
 - (11) Does not progress in effacement, dilation, or station after 4 hours of adequate uterine activity in active labor;
 - (12) Does not show continued progress to deliver in second stage labor after adequate pushing effort for 4 hours;
 - (13) Does not deliver the placenta within one hour if there is no bleeding and the fundus is firm;
 - (14) Has a partially separated placenta during the third stage of labor with bleeding;
 - (15) Exhibits signs or symptoms of hypovolemia (low blood volume) and has a blood pressure below 100 systolic if the sustained pulse rate exceeds 100 beats per minute or who is symptomatic;
 - (16) Estimated blood loss greater than 500 ml with or after the delivery of the placenta and the mother is symptomatic;
 - (17) Has placental fragment or membranes (pieces of the placenta or amniotic sac) retained in the uterus; or
 - (18) Desires transfer.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-9. Required Newborn care

(a) The Licensed Midwife shall be responsible for Newborn care immediately following the delivery and care of the healthy Newborn for the first six (6) weeks unless care is transferred to a physician or APRN specializing in the care of infants and children before that. The midwife should provide a recommendation to a physician or APRN specializing in the care of infants and children and encourage the Client to schedule a Newborn appointment within fourteen (14) days. This does not preclude the Licensed Midwife from providing counseling regarding routine Newborn care and breastfeeding.

(b) The following services may be provided by the Licensed Midwife as part of immediate Newborn care:

- (1) Prevent heat loss by the Newborn;
- (2) Assess presence of meconium;
- (3) Assess Newborn's status at birth as vigorous or non-vigorous;

- (4) Immediately after delivering the entire body, suction mouth, then nose, if needed;
- (5) Clamp and cut the cord;
- (6) Determine Apgar scores at one (1) and five (5) minutes after delivery;
- (7) The Licensed Midwife shall ensure that Vitamin K is available at the time of delivery. If refused, the Licensed Midwife shall document the refusal;
- (8) The Licensed Midwife shall ensure that erythromycin is available at the time of delivery. If refused, the Licensed Midwife shall document the refusal;
- (9) The Licensed Midwife shall observe and record:
 - (A) Skin color and tone;
 - (B) Heart rate;
 - (C) Respiration rate and character;
 - (D) Estimated gestational age; indicate average, small, or large for gestational age;
 - (E) Axillary temperature; and
 - (F) Weight, length, and head circumference.
- (10) Obtain cord blood for Rh and antibody screen if mother is Rh negative; and
- (11) Administer a pediatric Hepatitis B vaccine within 12 hours of birth unless refused in accordance with OAC 310:395-5-14 of this Chapter.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-10. Required medical consultation or referral during newborn care

(a) The Licensed Midwife will make an immediate Referral to a physician of an infant with:

- (1) Apgar score of less than seven (7) at five (5) minutes or less than seven (7) at ten (10) minutes;
- (2) Abnormal cry;
- (3) Medically significant anomaly;
- (4) Respiratory distress;
- (5) Cardiac irregularities;
- (6) Cardio Pulmonary Resuscitation efforts initiated;
- (7) Signs of hypoglycemia such as but not limited to tremors, apnea, lethargy, poor feeding, poor muscle tone, weak or high-pitched cry, hypothermia, cyanosis, seizures;
- (8) Persistent Newborn temperature below 97 or above 100.4 degrees;
- (9) Heart rate > 160 bpm or <100 bpm;
- (10) Birth weight less than 2500 grams and with any of the following:
 - (A) Lethargy;
 - (B) Low temperature;
 - (C) Poor suck; or
 - (D) Jitteriness.

- (11) SpO2 (pulse oxygenation) outside of NRP (Neonatal Resuscitation Program) guidelines or failed CCHD (critical congenital heart disease) pulse oximetry screening; or
- (12) Cyanosis, pallor or abnormal color that does not resolve within the expected time frame.

(b) The Licensed Midwife will initiate a Medical Consultation for treatment of infants exhibiting signs and/or symptoms of any of the following:

- (1) Jaundice within twenty-four (24) hours of birth or jaundice above physiological jaundice in the Postpartum Period;
- (2) Birth weight greater than nine (9) pounds with a maternal history of diabetes;
- (3) Prematurity, dysmaturity, or post maturity as determined by the Newborn exam;
- (4) Failure to urinate within twenty-four (24) hours or pass meconium within forty-eight (48) hours;
- (5) Poor feeding, poor or no suck reflex, lethargy;
- (6) Inability to maintain Normal body temperature;
- (7) Suspected or confirmed injuries or abnormalities; or
- (8) Otherwise healthy infant with a birth weight below 2500 grams.

(c) If possible, the Licensed Midwife may accompany the mother or infant to the hospital if hospitalization is necessary. If possible, the Licensed Midwife may remain with the mother or infant until a care plan is established to provide continuity of care. Licensed Midwives should not be considered as a visitor in the healthcare setting and should be allowed into the hospital consistent with hospital policy even when there may be visitor restrictions, such as those imposed due to COVID-19.

(d) The Licensed Midwife shall inform parents of recommended guidelines for Newborn eye prophylaxis and Vitamin K prophylaxis.

(e) The Licensed Midwife shall inform parents of recommended guidelines for GBS prophylaxis. If the prophylaxis is not administered, the Licensed Midwife shall recommend physician evaluation within 24 hours of birth.

(f) Licensed Midwives are required to arrange administration of Hep B immunoglobulin to infants born to mothers with Hep B within 12 hours of birth.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-11. Postpartum care

(a) Licensed Midwife responsibilities shall include, but are not limited to:

- (1) The Licensed Midwife shall remain with the mother and infant for a minimum of two (2) hours postpartum, or until the mother's fundus is firm, lochia normal, mother has voided, mother and infant vitals are within Normal range and the Newborn has fed, whichever is longest;
- (2) The Licensed Midwife shall conduct a thorough genital exam for laceration and make necessary repairs unless it is outside his or her training or skill level;

- (3) In case of an unsensitized Rh negative mother, the Licensed Midwife shall obtain a sample of cord blood from the placenta and arrange for testing within twenty-four (24) hours of the birth and recommend the mother receive Rh immunoglobulin (Rhlg) as indicated within seventy-two (72) hours of delivery; and
- (4) Recommended post-partum schedule:
 - (A) At least one (1) postpartum visit within twenty-four (24) to forty-eight (48) hours after the birth;
 - (B) A second visit at day five (5) or six (6) from birth;
 - (C) Provide a subsequent visit by two (2) and six (6) weeks postpartum to evaluate the condition of the mother and Newborn; and
 - (D) Major deviations from this schedule should be documented in the Client's file.
- (b) The Licensed Midwife shall make an immediate Referral for any woman who during the Postpartum Period:
 - (1) Has signs and symptoms of postpartum Endometritis;
 - (2) Has signs and symptoms of postpartum pre-eclampsia;
 - (3) Has 3rd or 4th degree lacerations requiring medical attention;or
 - (4) Uterine atony or bleeding more than normal lochia flow;
- (c) The Licensed Midwife shall obtain Medical Consultation for a woman who during the Postpartum Period:
 - (1) Has signs and symptoms of postpartum infection, which include but are not limited to:
 - (A) Mastitis; or
 - (B) Urinary tract infection.
 - (2) Has signs and symptoms of sub-involution;
 - (3) Has signs and symptoms of persistent postpartum depression by evaluation with a validated instrument to diagnose postpartum depression conducted as necessary and no later than the six (6) week visit;
 - (4) Abnormal vital signs;
 - (5) Foul-smelling lochia;
 - (6) No voiding within four (4) to six (6) hours of birth;
 - (7) Excessive pain or discomfort;
 - (8) Continuing urinary incontinence;
 - (9) Continuing fecal incontinence;
 - (10) Symptoms of hypovolemia; or
 - (11) The Client desires consultation.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-12. Emergency measures

- (a) When an emergency transfer is required, the Licensed Midwife shall:
 - (1) Alert Emergency Medical Service (EMS) to arrange for immediate transport or arrange transport by private vehicle as the situation indicates;
 - (2) Make a reasonable effort to contact the health care professional or institution to whom the Client will be transferred;

and

(3) Continue to provide emergency care, as indicated by the situation, before and during transport to the appropriate facility.

(b) If, during labor, delivery, or six (6) hours immediately following placental delivery, the Licensed Midwife determines that transfer is necessary and the Client refuses transfer, the Licensed Midwife shall call 911 and provide further care as indicated by the situation until emergency services arrive. The Licensed Midwife shall not be required to provide any further care after the arrival of EMS personnel but may do so if requested by EMS personnel.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-13. Formulary

(a) A Licensed Midwife shall not administer a prescription drug to a Client other than as provided in this section or as ordered by a licensed prescriber for the benefit of the mother or Newborn:

- (1) Oxygen for fetal or maternal distress and infant resuscitation;
- (2) Local anesthetic (topical, intramuscular, or subcutaneous) for the purpose of postpartum repair of tears, lacerations, or episiotomy (no controlled substances);
- (3) Rh immunoglobulin;
- (4) Antibiotics for GBS prophylaxis per CDC guidelines;
- (5) Vitamin K, for control of bleeding in the Newborn;
- (6) Ophthalmic preparations for Newborn eye care;
- (7) Epipen (0.3 mg) or generic equivalent for allergic reactions;
- (8) Antihemorrhagic medications only permitted for postpartum control of maternal hemorrhage limited to oxytocin, hemabate, misoprostol, and methergine;
- (9) Resuscitation supplies and equipment (this does not include the use of intubation equipment);
- (10) Any supplies or equipment necessary to administer the above;
- (11) Pediatric dose of the Hepatitis B vaccine; and
- (12) IV fluids for medication administration, dehydration, or treatment of hypovolemia while awaiting EMS.

(b) As specified in 59 O.S § 3040.4, a Licensed Midwife may lawfully obtain, transport, administer, and have possession of adequate quantities of the above-named medications and the equipment normally required for administration. Each use of medication, lot number, and expiration date shall be recorded by the Licensed Midwife in the Client's chart.

(c) Medication listed in this section shall be stored as directed by the manufacturer and shall not be administered to any person after the expiration date listed.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-14. Universal birth dose hepatitis B vaccination

(a) Licensed Midwives shall implement a procedure to ensure that the hepatitis B vaccination is administered to all live infants within twelve

(12) hours of birth and recorded in the Oklahoma State Immunization Information System. A parent or legal guardian may refuse hepatitis B vaccination of their Newborn on the grounds of medical reasons or that such vaccination conflicts with their religious tenets or personal beliefs. A refusal based on the parent's or legal guardian's religious tenets or personal beliefs shall be documented in the Newborn's medical record and provided to the parent or legal guardian.

(b) Prior to the administration of the hepatitis B vaccine, the Licensed Midwife shall provide a copy to keep of the current Vaccine Information Statement (VIS) produced by the CDC to the parent or legal guardian of the Newborn as required under the National Childhood Vaccine Injury Act (42 U.S.C. § 300aa-26).

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-15. Record keeping

(a) All Licensed Midwives shall keep accurate and complete physical or electronic records of all care provided and data gathered for each Client.

(b) The Licensed Midwife shall maintain an individual Client chart for each woman under his or her care. The chart shall include results of laboratory tests, observations from each prenatal visit, records of consultations with physicians or other health care providers, and a postpartum report concerning labor, delivery, and condition of the Newborn child. The chart shall be made available to the Client upon request, and with the Client's consent, to any physician or health care provider who is called in as a consultant or to assist in the Client's care. Inactive records shall be maintained no less than twenty-five (25) years (age of majority + 7). All records are subject to review by the Department and shall be provided to the Department upon request.

(c) Licensed Midwives shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any medical record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.

(d) Licensed Midwives shall provide the Client with a copy of the Client's record in accordance with state law. In situations involving multiple Clients, access to records is limited to those parts of records that do not include confidential information related to another Client.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-16. Reporting to the Department

(a) Licensed Midwives shall follow the reporting provisions set forth in Title 63 O.S. § 1-311 Birth Certificates-filing-contents, 63 O.S. § 1-317 Death Certificate-Filing-Contents, 63 O.S. § 1-318 Fetal Death Certificate-Filing-contents, 63 O.S. § 324.1 Birth, Death or Stillbirth Certificates-Unlawful Acts-Penalties, and the rules and regulations set forth in OAC 310:105.

(b) Licensed Midwives shall file a certificate of birth with the State Registrar for each live birth they have facilitated in the State of

Oklahoma within seven (7) days after the birth. When a birth occurs outside an institution, the certificate shall be prepared and filed by the Licensed Midwife via the electronic system used by the Department.

(c) Licensed Midwives shall report to the Department any criminal convictions that happen while holding an active license. The Department will provide this information to the Advisory Committee on Midwifery.

(d) Licensed Midwives shall file a report of any maternal or fetal death within seven (7) days to the OSDH division that licenses midwives which can be found at <http://chs.health.ok.gov>.

(e) Licensed Midwives shall file a report of any severe maternal or neonatal morbidity events per CDC guidelines within 30 days to the OSDH division that licenses midwives from their initial license until their first renewal. After their first renewal these items may be reported on the yearly report referenced in section (f).

(f) Licensed Midwives shall file a report with the Department by the last day of January for the previous calendar year that states:

- (1) The number of women for whom care was provided;
- (2) The number deliveries performed;
- (3) The number of prenatal transfers;
- (4) The number of transfers during labor, delivery and immediately following birth;
- (5) The number of perinatal deaths, including cause of death, and description of circumstance;
- (6) The number and outcome of VBAC, multiple, and breech births; and
- (7) The number of fetal loss after 20 weeks gestation.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-17. [RESERVED]

[Source: Reserved at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-18. Newborn screening

(a) The Licensed Midwife shall ensure screening and testing of Newborns in accordance with 63 O.S. §§ 1-543 to 1-545; OAC 310:550; and these Rules.

(1) Blood Spot Screening:

(A) For all Newborns who are not born in a hospital, the Licensed Midwife shall collect and submit a satisfactory Newborn screening blood specimen as early as possible after twenty-four (24) hours of age;

(B) If the initial specimen is collected at or less than twenty-four (24) hours of age, the Licensed Midwife is responsible for ensuring a repeat screen is collected as soon as possible after twenty-four (24) hours of age. If a sample is not collected, the Licensed Midwife shall immediately notify the infant's physician, if available, parents, and the Newborn Screening Program at the Department;

(C) Specimens shall be obtained with a Newborn Screening Form Kit and be collected in accordance with the standard for Blood Collection on Filter Paper for Newborn Screening Programs, NBS01-A6, Sixth Edition, as adopted and published by the Clinical and Laboratory Standards Institute on July 31, 2013. Failure to follow these methods of blood collection may cause inaccurate results, or unsatisfactory specimen results, that require repeat collection;

(D) The Licensed Midwife shall implement a procedure to ensure that the Newborn screening blood specimen has been collected on every Newborn and transported to the Oklahoma State Department of Health Newborn Screening Laboratory within twenty-four (24) to forty-eight (48) hours of collection. Specimens should be transported in the manner designated by the Department and Newborn Screening Laboratory;

(E) The Licensed Midwife is responsible for ensuring that employees who collect, and/or handle Newborn screening blood specimens are informed of their responsibilities with respect to screening procedures; and

(F) Unless the Licensed Midwife has indicated another health care provider is providing follow up care for the Newborn on the Newborn Screening Form Kit, upon written notification by the Newborn Screening Program of follow up requirements for a Newborn screen result of abnormal, unsatisfactory, or for specimens collected from a Newborn at or less than twenty-four (24) hours of age, the Licensed Midwife or designee will ensure that required repeat screening, confirmatory testing, or diagnostic studies are performed in the timeframe specified so that therapy, when indicated, can be initiated expediently.

(2) Pulse Oximetry Screening for CCHD:

(A) All Newborns who are not born in a hospital should have a pulse oximetry screening performed between twenty-four (24) hours and forty-eight (48) hours of life utilizing an established protocol. A recommended protocol is provided by the Department;

(B) If the Newborn is screened between twelve (12) and twenty-four (24) hours of life, the Licensed Midwife shall notify the infant's physician, if available, of early screening. The pulse oximetry should not be done before twelve (12) hours of age;

(C) If pulse oximetry screening is not performed, the Licensed Midwife will notify the infant's physician, if available;

(D) A qualified and properly trained individual shall perform the pulse oximetry screening and the results shall be provided to the physician, if available, or other health care provider;

(E) The pulse oximetry screening result shall be recorded on the Newborn Screening Form Kit, along with the infant's name, date of birth, submitting facility or provider, mother's name, and the infant's physician, if available;

(F) If the Newborn is not screened for CCHD prior to the Newborn Screening Form Kit being forwarded to the Newborn Screening Laboratory for testing, the pulse oximetry screen result shall be communicated to the Newborn Screening Program Coordinator utilizing the Pulse Oximetry Screening Result Form provided by the Department;

(G) The Licensed Midwife is responsible for ensuring that employees who perform pulse oximetry screening are informed of their responsibilities with respect to screen procedures; and

(H) For abnormal pulse oximetry screen results, it is the responsibility of the Licensed Midwife or authorized health care provider who conducted the pulse oximetry screening to either contact a pediatric cardiologist for clinical recommendations including identification of a Referral facility or, if the Newborn is symptomatic, immediately refer infant to the closest emergency room for evaluation. CCHD Referral protocol is provided by the Department.

(3) Newborn Hearing Screening:

(A) All Newborns who are not born in a hospital should have a physiologic hearing screening utilizing either Automated Auditory Brainstem Response Testing (AABR), Otoacoustic Emissions Testing (OAE) within the first month of life or any new or improved techniques deemed appropriate for use in hearing screening procedures by the Commissioner;

(B) If a physiologic hearing screening is not performed, the Licensed Midwife is responsible for completing the risk factor screening portion on the Newborn Screening Form Kit and notifying the Newborn's physician, if available, that a physiologic hearing screening was not completed;

(C) A qualified and properly trained individual will perform the Newborn hearing screening and ensure that hearing screening results are made available to the physician, if available, or other health care provider;

(D) The Licensed Midwife or designee involved in the hearing screening procedure of a Newborn will forward results to the Department via the Newborn Screening Form Kit, fax, or secure email within one (1) week of performing the hearing screen;

(E) The Newborn hearing screening results shall be recorded on the Newborn Screening Form Kit, along with the infant's name, date of birth, submitting facility/provider, mother's name, and the infant's physician, if available, or provider;

(F) If the Newborn does not receive a Newborn hearing screening prior to the Newborn Screening Form Kit being forwarded to the Newborn Screening Laboratory for testing, hearing screening results shall be communicated to the Newborn Hearing Screening Program utilizing the Newborn Hearing Screening Reporting Form provided by the Department;

(G) The Licensed Midwife is responsible for ensuring that employees who perform Newborn hearing screening are informed of their responsibilities with respect to screening procedures; and

(H) The Licensed Midwife or designee involved in the screening of a Newborn will provide the parents with appropriate resource information to allow the Newborn to receive the medical, audiologic, and other follow-up services for the following reasons:

- (i) Did not receive a physiologic hearing screening;
- (ii) Referred on physiologic hearing screening; or
- (iii) Considered as "at risk" for hearing loss.

(b) Refusal of screening: A parent or legal guardian may refuse the Newborn blood spot screening, hearing screening, and/or pulse oximetry screening of their Newborn on the grounds that such examination conflicts with their religious tenets and/or practices as described in OAC 310:550-3-1. Refusal of screening shall be indicated in writing utilizing the Newborn Screening Program Refusal Form provided by the Department. This signed refusal form shall be placed in the Newborn's medical record with a copy sent to the Newborn Screening Program.

(c) Maintaining records:

(1) Any Licensed Midwife who collects, handles, or forwards Newborn screening blood specimens shall keep a log containing the name and date of birth of the infant, name of the infant's provider, medical record number, serial number of the Newborn Screening Form Kit, date of specimen collection, date specimen was sent to the certified laboratory, date that the test results were received and the test results;

(2) If Newborn blood spot screening test results are not received by the Licensed Midwife within fifteen (15) days after the date of collection, the Licensed Midwife shall contact the Newborn Screening Laboratory to verify that a specimen was received. If a specimen was not received, the Licensed Midwife shall notify the infant's physician, if available;

(3) The chart copy of each Newborn screening kit, pulse oximetry screening results, and hearing screening should be placed in the Newborn's medical record and reported to the parent or legal guardian; and

(4) The Licensed Midwife should document in the Newborn's medical record if a sample is not collected.

(d) Parent, Legal Guardian and Employee Education:

(1) The Licensed Midwife or designee is responsible for ensuring that a parent or legal guardian of each Newborn is educated and provided written materials about Newborn blood spot screening,

pulse oximetry screening, and Newborn hearing screening, and provide information about the disorders and how to obtain screen results from the planned health care provider or Newborn Screening Program; and

(2) The Licensed Midwife shall provide or arrange ongoing training for their employees involved with Newborn blood spot screening, pulse oximetry screening and Newborn hearing screening. Training should include methods of collecting a satisfactory Newborn screening blood spot specimen, information on the proper pulse oximetry screening method, and information on the proper Newborn hearing screening method.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-5-19. Completion and filing of forms and records

(a) All certificates and records filed with the Department under the Act and this Chapter shall be submitted electronically or in legible non-fading black ink.

(b) All blanks and forms shall be prepared in accordance with instructions of the Commissioner. No form or blank shall be considered complete and correct or acceptable for filing that:

- (1) Does not supply all of the items of information called for thereon, or satisfactorily account for their omission;
- (2) Contains alterations or erasures;
- (3) Does not contain genuine signatures;
- (4) Is marked "copy" or "duplicate";
- (5) Is a carbon copy;
- (6) Is prepared on an improper form; or
- (7) Contains any data relative to the putative father of a child born out of wedlock without his written consent, or unless determined by a court of competent jurisdiction.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

SUBCHAPTER 7. APPLICATION FOR LICENSURE, FEES, AND CONTINUING EDUCATION

310:395-7-1. Purpose

(a) This Subchapter ensures that all applicants meet the requirements specified in the Act.

(b) Unless otherwise indicated, an applicant shall submit all required information and documentation of credentials on official Department forms and in the manner prescribed by the Department.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-2. Qualifications of licensure

To be eligible for licensure as a Licensed Midwife, an applicant shall:

- (1) Be at least 18 years of age and have graduated from high school or possess a graduate education diploma (GED);
- (2) Be a citizen or lawfully authorized to reside and be employed in the United States;
- (3) Be currently certified in cardiopulmonary resuscitation (CPR) for health care providers by the American Heart Association or equivalent;
- (4) Be currently certified in neonatal resuscitation by the American Academy of Pediatrics or equivalent;
- (5) Be currently certified from the North American Registry of Midwives, American Midwife Certification Board, or successor organization approved by the Commissioner;
- (6) Be currently certified in blood borne pathogen training from the American Red Cross or equivalent;
- (7) Have a successful completion of a background check; and
- (8) Provide proof of completion of coursework or a training certificate within the last three (3) years in administration of medicine that includes injections and IV administration.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-3. Application materials and forms

- (a) Each application shall include the following documents:
 - (1) Application form;
 - (2) Official documentation showing the applicant meets the requirements listed in OAC 310:395-7-2; and
 - (3) Fee(s).
- (b) The application form requires the following:
 - (1) Identifying information;
 - (2) Resume with relevant work history;
 - (3) Possession of other credentials;
 - (4) Previous misconduct or disciplinary actions;
 - (5) Declaration of previous court judgements against the applicant related to midwifery care; and
 - (6) Other information that may be required by the Department.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-4. Issuance of license

- (a) If the qualifications and requirements are complete, and they have been reviewed and approved by the Committee, the Department will notify the applicant and issue a license to engage in the practice of Midwifery.
- (b) The Commissioner will issue a license certificate, which contains the licensee's name, license number, and expiration date.
- (c) All licenses issued by the Commissioner shall remain the property of the Department and be surrendered on demand.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-5. Denial of license

If the Commissioner denies any application or request for licensure, the applicant or requestor shall be notified of the Commissioner's decision within thirty (30) days.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-6. Responsibility

Each Licensed Midwife is responsible for renewing the license before the expiration date.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-7. Licensing period

The initial license and any renewal will expire three (3) years from the date of issuance unless renewed.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-8. Requirements for renewal

Requirements for renewal include the following:

- (1) Compliance with the Act and this Chapter;
- (2) Documentation of current certifications listed in OAC 310:395-7-2 of this Chapter with the exceptions of (1) and (7); and
- (3) Payment of the renewal fee(s).

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-9. Renewal notification

The Department shall provide a notice of expiration to the licensee at least forty-five (45) days prior to the expiration date of the Licensed Midwife's license.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-10. Failure to renew

(a) If the licensee fails to renew the license by the expiration date, the Department shall send a notification that shall include the following:

- (1) Suspension of the license and forfeiture of rights and any privilege granted pursuant to the license; and
- (2) The Licensed Midwife has the right to reinstate the license by payment of the renewal fee and the late renewal fee and fulfillment of all other renewal requirements for up to one (1) year following the suspension of the license.

(b) Performance of Licensed Midwife duties with an expired license is a violation of Shepard's law and this Chapter, and may be subject to

administrative penalties and review of eligibility for licensure.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-11. Return of license

(a) Licenses not renewed within the one (1) year re-instatement period must reapply as an initial applicant.

(b) A licensee may voluntarily surrender his or her license to the Department. Once voluntarily surrendered, a midwife must reapply as an initial applicant.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-12. Misrepresentation

A Licensed Midwife whose license has been inactivated, suspended, or revoked and continues to represent themselves as a Licensed Midwife, is in violation of the Act and shall be reported for prosecution.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-13. Schedule of fees

(a) **Application and renewal fee.** One thousand dollars (\$1000.00) shall be submitted with the application form for the initial license or upon renewal of a license. Renewal payments shall be submitted before the license expires.

(b) **Late renewal fee.** An additional one hundred dollars (\$100.00) shall be submitted to the Department if the license is 30 days past the expiration date. If the license is expired by ninety (90) days or more, the late fee will increase to two hundred and fifty dollars (\$250.00).

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-14. Method of payment

All fees shall be paid to the Department. Payment of fees may be made by credit card or other electronic means, if acceptable by the Department. Any check returned to the Department for non-payment and any credit card payment that is cancelled or retracted will void the license.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-7-15. Continuing education requirement

A Licensed Midwife shall complete the required continuing education to maintain continuous certification as a midwife by the North American Registry of Midwives, the American Midwifery Certification Board or a successor organization approved by the Commissioner.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

SUBCHAPTER 9. ENFORCEMENT

310:395-9-1. Purpose

This Subchapter specifies the administration of complaints and the filing of disciplinary actions against Licensed Midwives or against persons who practice Midwifery without a license or exemption.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-9-2. Complaints

(a) Any person may file a complaint against a midwife. A person wishing to report a complaint or alleged violation against a licensee or person practicing Midwifery may notify the Department. The Department will bring all complaints to the Committee for review.

(b) The complaint and the identity of the complainant shall be confidential and shall not be available for public inspection.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-9-3. Investigation

If the Department has reason to believe that a possible violation of the Act or this Chapter has occurred, the Department may commence an investigation.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-9-4. Filing of an action

(a) The Department, in consultation with the Advisory Committee on Midwifery, may begin a disciplinary action against a Licensed Midwife or a person practicing Midwifery who is not exempt from licensure by following the procedures in OAC 310:2 and 75 O.S. §§ 250 *et seq.* The Department shall specifically state the violation(s) and shall state the remedy sought by the Department. Remedies include revocation of a license, suspension of a license, probation of a licensee and/or administrative penalty.

(b) If, in the course of an investigation, the Department determines that a licensee or candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the Licensed Midwife's license or authorization to conduct Midwifery.

(c) Examples of items that would qualify for disciplinary action include but are not limited to:

- (1) Practicing outside the scope of practice and protocols listed in these rules;
- (2) Make on a birth certificate a false or misleading statement;
- (3) Failure to submit records in connection with an investigation;
- (4) Revocation of certification by NARM or AMCB;

- (5) Incompetence as determined by standards of care for Midwifery providers;
- (6) Obtaining any fee by fraud or misrepresentation;
- (7) Practicing while knowingly suffering from a contagious or infectious disease that may be transmitted through the practice of Midwifery;
- (8) Practicing Midwifery under the influence of alcohol, an illegal drug, or any substance that can cause a person to lose control of his or her faculties or behavior;
- (9) Conviction of a felony;
- (10) Failure to comply with an order from the Department;
- (11) Failure to file a birth certificate, death certificate, stillbirth certificate, or any other necessary permit as required by law in a timely manner;
- (12) Leaving a Client after active first stage of labor begins without arranging an adequate backup health care provider;
- (13) Manipulating or affecting a Client by withholding or misrepresenting information in violation of the Client's right to make informed choices in health care;
- (14) Consistently failing to accurately document a Client's condition, responses, progress, or other information obtained during care;
- (15) Inability to practice Midwifery with reasonable skill and safety because of illness, disability, or psychological impairment;
- (16) Disciplinary action taken by another licensing or credentialing body due to negligence, willful disregard for patient safety, or other inability to provide safe patient care;
- (17) Failure to obtain required signed informed consent form;
- (18) Providing services to a Client who is required by this Chapter to be transferred to a physician.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-9-5. Hearing

Hearings shall be conducted by the Commissioner or the Commissioner's designee as specified in OAC 310:2. The Advisory Committee on Midwifery shall be consulted on all hearings and make recommendations. The Department shall recommend the most appropriate penalty at the conclusion of the evidence.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-9-6. Final order

The Department, either by order of the Commissioner or his designee, shall issue a final order on all disciplinary matters. Final orders are appealable under the Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*, to the district courts.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-9-7. Unauthorized practice

Any person claiming to be a CPM or CM found to be practicing Midwifery without being either properly licensed or exempt shall be ordered to cease practicing and may be subject to an administrative penalty. The Department may seek the assistance of the courts if the unauthorized practice of Midwifery continues.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

310:395-9-8. Administrative penalties

(a) The Department may assess an administrative penalty against an individual if the order includes a finding that the individual violated any of the following:

- (1) Any provision of the Act, including practicing Midwifery without licensure or exemption;
- (2) Any rule within this Chapter; or
- (3) Any order issued pursuant to this Chapter.

(b) The total amount of the administrative penalty assessed shall not exceed five thousand dollars (\$5,000.00) for each violation.

(c) Administrative penalties issued shall be in accordance with Appendix A of this Chapter.

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

APPENDIX A. ADMINISTRATIVE PENALTY SCHEDULE

Figure 1

Violation	Administrative Penalty
CPM or CM practicing Midwifery with an invalid or expired license, without a license, or without an exemption after July 1, 2021 (OAC 310:395-1-4, 1-5, 7-2, 7-6, 7-10, 7-12, and 7-13)	\$5,000
Refusal to provide care without termination of services by Licensed Midwife or Client (OAC 310:395-1-6 and 9-4)	\$1,000
Improper Advertising by a License or Unlicensed Midwife (OAC 310:395-1-8)	\$500
Licensed Midwife's practice exceeding scope of work (OAC 310:395-5-1, 5-6, 5-6.1, 5-8, 5-10, 5-11, 5-12, and 9-4)	\$1,000
Licensed midwife not referring to or consulting physicians, CNM, and Clinicians as prescribed by rules (OAC 310:395-5-1, 5-6, 5-8, 5-10, 5-11, and 5-12)	\$1,000
Discrimination as described in OAC 310:395-5-2	\$500
Not maintaining confidential records (OAC 310:395-5-2 and 5-15)	\$500
Violation of other laws (OAC 310:395-5-3 and 9-4)	\$500
Use of Alcohol, illicit drugs, or any substance that can cause a person to lose control of his or her faculties or behavior while rendering services (OAC 310:395-5-3 and 9-4)	\$5,000
Not reporting to the Department when required (OAC 310:395-5-3, 5-15, 5-16, 5-17, and 9-4)	\$500
Not cooperating with, or making a false statement in regards to an investigation or order by the Department (OAC 310:395-5-3, 9-3, and 9-4)	\$5,000
Failure to provide disclosure form to the Client (OAC 310:395-5-4 and 9-4)	\$1,000
Missing or incorrect items on a disclosure form (OAC 310:395-5-4)	\$500
Failure to obtain written Informed Consent before services (OAC 310:395-5-5, 5-6.1, and 9-4)	\$1,000
Not providing care as prescribed by these rules (OAC 310:395-5-7, 5-9, 5-11, and 5-12)	\$1,000
Possession, transport, or administration of prescription drug(s) not listed in the formulary or ordered by a physician (OAC 310:395-5-13)	\$1,000
Improper or missing documentation of records (OAC 310:395-5-1, 5-4, 5-5, 5-7, 5-9, 5-12, 5-14, 5-15, 5-18, 5-19, and 9-4)	\$500

Figure 2

Failure to provide records/information to Clients, physicians, or other entities as provided for in these rules (OAC 310:395-5-15 and 5-18)	\$500
Failure to provide or refer Newborn screening without a refusal (OAC 310:395-5-18)	\$500
Lack of employee training (OAC 310:395-5-18)	\$500
Licensed Midwife practicing with a revoked or expired NARM or AMCB certificate (OAC 310:395-1-10, 7-2,7-8, and 9-4)	\$1,000
Incompetence as determined by standards of care of midwifery providers (OAC 310:395-9-4)	\$5,000
Fraud or misrepresentation (OAC 310:395-9-4)	\$5,000
Practicing while knowingly infected with a contagious disease that may be transmitted through Midwifery care (OAC 310:395-9-4)	\$1000
Disciplinary action taken by another licensing or credentialing agency due to negligence, willful disregard for patient safety, or other inability to provide safe patient care (OAC 310:395-9-4)	\$5,000

[Source: Added at 38 Ok Reg 2005, eff 9-11-21]

CHAPTER 400. LICENSED MARITAL AND FAMILY THERAPISTS [TRANSFERRED]

Editor's Note: *Effective 11-1-13, as set forth in House Bill 1467 (2013), "[a]ll powers, duties, responsibilities . . . of the State Board of Health, the State Department of Health, and the State Commissioner of Health relating exclusively to the regulation of Licensed Marital and Family Therapists. . . are hereby transferred and shall be placed under the authority of the State Board of Behavioral Health Licensure" [HB 1467 (2013), § 3(A)]. The following provisions in HB 1467 address the disposition of related rules: • Section 3 (not to be codified in the Oklahoma Statutes) provides that "[u]pon the effective date of this act, all administrative rules promulgated by the State Board of Health relating to the Marital and Family Therapist Licensure Act. . . shall be transferred to and become a part of the administrative rules of the State Board of Behavioral Health Licensure" [HB 1467 (2013), § 3(F)]. HB 1467 also directed the Office of Administrative Rules to place the transferred rules under the Administrative Code section of the State Board of Behavioral Health Licensure [see Editor's Notice published at 32 Ok Reg 108]. Therefore, on 11-1-13, the rules in this Chapter 400 of the Department of Health's Title 310 [OAC 310:400] were transferred to a new Chapter 16 of the State Board of Behavioral Health Licensure's Title 86 [OAC 86:16]. For rules related to Marital and Family Therapist Licensure that were editorially transferred from this Chapter 400 on 11-1-13 pursuant to HB 1467 (2013), § 3, see Chapter 16 of OAC Title 86. • Section 19 (amending 59 O.S., § 1925.5) directs the State Board of Behavioral Health Licensure to "[p]rescribe, adopt and promulgate rules to implement and enforce the provisions of the Marital and Family Therapist Licensure Act, including the adoption of the State Department of Health rules by reference; [a]dopt and establish rules of professional conduct; and [s]et license and examination fees as required by the Licensed Professional Counselors Act" [HB 1467 (2013), § 6(A)]. Although the State Board of Behavioral Health Licensure did not "adopt the State Department of Health rules by reference," the Board did adopt rules in a new Chapter 15 of Title 86, first by emergency action effective 4-23-14 and later by permanent action effective 9-11-15. For emergency rules related to Marital and Family Therapist that were promulgated by the State Board of Behavioral Licensure pursuant to HB 1467 (2013), § 19, and were effective from 4-23-15 through 9-10-15, see 32 Ok Reg 159. For permanent rules related to Marital and Family Therapist that were promulgated by the State Board of Behavioral Licensure to supersede the emergency rules, effective 9-11-15, see Chapter 15 of OAC Title 86.*

[**Authority:** 59 O.S., §§ 1925.1 through 1925.18; 63 O.S., § 1-106.1]

[**Source:** Codified 5-1-92]

SUBCHAPTER 1. GENERAL PROVISIONS [TRANSFERRED]

310:400-1-1. Purpose [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 24 Ok Reg 1957, eff 6-25-07 ; Transferred to 86:16-1-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-1-2. Consumer information [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-1-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-1-3. Definitions [TRANSFERRED]

[**Source:** Added at 24 Ok Reg 1957, eff 6-25-07 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Amended at 30 Ok Reg 1953, eff 7-25-13 ; Transferred to 86:16-1-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-1-4. Applicability [TRANSFERRED]

[**Source:** Added at 24 Ok Reg 1957, eff 6-25-07 ; Transferred to 86:16-1-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 3. ADVISORY BOARD OPERATIONS [TRANSFERRED]

310:400-3-1. Statutory requirements [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-3-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-3-2. Officers [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-3-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-3-3. Administrator [REVOKED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-3-4. Transactions of official business [REVOKED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-3-5. Agendas [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-3-6. Minutes [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-3-7. Rules of order [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-3-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-3-8. Official records [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-3-9. Sub-committees [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-3-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-3-10. Impartiality [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-3-11. Discrimination policy [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-3-12. Policy on handicapped applicants [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-3-13. Seal [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT [TRANSFERRED]

310:400-5-1. Responsibility to clients [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Transferred to 86:16-5-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-5-2. Confidentiality [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 24 Ok Reg 1957, eff 6-25-07 ; Transferred to 86:16-5-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-5-3. Professional competence and integrity [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 20 Ok Reg 518, eff 1-6-03 (emergency); Amended at 20 Ok Reg 2362, eff 7-11-03 ; Amended at 21 Ok Reg 2745, eff 7-12-04 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 25 Ok Reg 2412, eff 7-11-08 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Amended at 30 Ok Reg 1953, eff 7-25-13 ; Transferred to 86:16-5-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-5-4. Responsibility to students, employees, and supervisees [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-5-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-5-5. Responsibility to research participants [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-5-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-5-6. Responsibility to colleagues [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-5-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-5-7. Financial arrangements [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-5-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-5-8. Advertising [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-5-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-5-8.1. Candidate for LMFT licensure [TRANSFERRED]

[Source: Added at 24 Ok Reg 1957, eff 6-25-07 ; Transferred to 86:16-5-9 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-5-9. Failure to comply [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-5-10 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 7. APPLICATION FOR LICENSURE [TRANSFERRED]

310:400-7-1. Fitness of applicants [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-7-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-7-2. Application procedures [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Amended at 27 Ok Reg 2515, eff 7-25-10 ; Transferred to 86:16-7-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-7-2.1. Reapplication procedures [TRANSFERRED]

[Source: Added at 21 Ok Reg 1038, eff 5-13-04 ; Added at 21 Ok Reg 2745, eff 7-12-04 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 25 Ok Reg 2412, eff 7-11-08 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Transferred to 86:16-7-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-7-2.2. Hearing upon denial of licensure application [TRANSFERRED]

[Source: Added at 24 Ok Reg 1957, eff 6-25-07 ; Transferred to 86:16-7-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-7-3. Academic and experience requirements on or before September 1, 1991 [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 10 Ok Reg 1993, eff 6-1-93]

310:400-7-4. Academic and experience requirements [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 10 Ok Reg 1993, eff 6-1-93 ; Amended at 11 Ok Reg 1529, eff 4-12-94 (emergency); Amended at 11 Ok Reg 3165, eff 6-27-94 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 25 Ok Reg 2412, eff 7-11-08 ; Transferred to 86:16-7-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-7-5. Additional forms [TRANSFERRED]

[Source: Added at 25 Ok Reg 2412, eff 7-11-08 ; Transferred to 86:16-7-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 9. LICENSURE EXAMINATIONS [TRANSFERRED]

310:400-9-1. Eligibility [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 24 Ok Reg 1957, eff 6-25-07 ; Transferred to 86:16-9-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-9-2. Format [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 30 Ok Reg 1953, eff 7-25-13 ; Transferred to 86:16-9-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-9-3. Frequency [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-9-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-9-4. Application [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 24 Ok Reg 1957, eff 6-25-07 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Amended at 30 Ok Reg 1953, eff 7-25-13 ; Transferred to 86:16-9-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-9-5. Notice of results [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-9-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-9-6. Failure to appear [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-9-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-9-7. Failure to apply [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 21 Ok Reg 1038, eff 5-13-04 ; Revoked at 26 Ok Reg 2015, eff 6-25-09]

SUBCHAPTER 11. SUPERVISED EXPERIENCE REQUIREMENTS [TRANSFERRED]

310:400-11-1. Supervisor and supervisee responsibilities [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Transferred to 86:16-11-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-11-2. Acceptable supervised experience [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 10 Ok Reg 1993, eff 6-1-93 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 24 Ok Reg 1957, eff 6-25-07 ; Amended at 25 Ok Reg 2412, eff 7-11-08 ; Transferred to 86:16-11-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-11-3. Supervisor qualifications [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 25 Ok Reg 2412, eff 7-11-08 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Transferred to 86:16-11-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-11-4. Duration of supervised experience [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 10 Ok Reg 1993, eff 6-1-93 ; Amended at 11 Ok Reg 1529, eff 4-12-94 (emergency); Amended at 11 Ok Reg 3165, eff 6-27-94 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Transferred to 86:16-11-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-11-5. Documentation of supervised experience [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 24 Ok Reg 1957, eff 6-25-07 ; Amended at 25 Ok Reg 2412, eff 7-11-08 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Transferred to 86:16-11-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 13. FEES [TRANSFERRED]

310:400-13-1. Fees established [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-13-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-13-2. Schedule of fees [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 24 Ok Reg 1957, eff 6-25-07 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Transferred to 86:16-13-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-13-3. Fees non-refundable [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Transferred to 86:16-13-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-13-4. Method of payment [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 27 Ok Reg 2515, eff 7-25-10 ; Transferred to 86:16-13-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-13-5. Review of fees [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-13-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 15. ISSUANCE AND MAINTENANCE OF LICENSE [TRANSFERRED]

310:400-15-1. Issuance of license [TRANSFERRED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ;

Transferred to 86:16-15-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-15-2. Replacement of certificate [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Transferred to 86:16-15-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-15-3. License renewal [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 10 Ok Reg 1993, eff 6-1-93 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Amended at 30 Ok Reg 1953, eff 7-25-13 ; Transferred to 86:16-15-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-15-4. Continuing education [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 11 Ok Reg 1529, eff 4-12-94 (emergency); Amended at 11 Ok Reg 3165, eff 6-27-94 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Amended at 24 Ok Reg 1957, eff 6-25-07 ; Amended at 25 Ok Reg 2412, eff 7-11-08 ; Amended at 26 Ok Reg 2015, eff 6-25-09 ; Amended at 30 Ok Reg 1953, eff 7-25-13 ; Transferred to 86:16-15-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-15-5. Inactive status [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Transferred to 86:16-15-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-15-6. Late license renewal; reapplication [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Transferred to 86:16-15-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-15-7. Misrepresentation [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-15-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-15-8. Licensure by endorsement [TRANSFERRED]

[**Source:** Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 24 Ok Reg 1957, eff 6-25-07 ; Amended at 25 Ok Reg 2412, eff 7-11-08 ; Amended at 30 Ok Reg 1953, eff 7-25-13 ; Transferred to 86:16-15-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-15-9. Temporary license [REVOKED]

[Source: Amended at 11 Ok Reg 1529, eff 4-12-94 (emergency); Amended at 11 Ok Reg 3165, eff 6-27-94 ; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 23 Ok Reg 2367, eff 6-25-06 ; Revoked at 30 Ok Reg 1953, eff 7-25-13]

SUBCHAPTER 17. ENFORCEMENT [TRANSFERRED]

310:400-17-1. Reporting a complaint [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-17-1.1. Purpose [TRANSFERRED]

[Source: Added at 17 Ok Reg 3436, eff 8-29-00 (emergency); Added at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-17-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-17-2. Complaint form [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-17-2.1. Complaints [TRANSFERRED]

[Source: Added at 17 Ok Reg 3436, eff 8-29-00 (emergency); Added at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 20 Ok Reg 518, eff 1-6-03 (emergency); Amended at 20 Ok Reg 2362, eff 7-11-03 ; Transferred to 86:16-17-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-17-3. Committee action [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-17-3.1. Investigation [TRANSFERRED]

[Source: Added at 17 Ok Reg 3436, eff 8-29-00 (emergency); Added at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-17-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-17-4. Investigation and committee action [REVOKED]

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92 ; Revoked at 17 Ok Reg 3436, eff 8-29-00 (emergency); Revoked at 18 Ok Reg 1688, eff 5-25-01]

310:400-17-4.1. Filing of an action [TRANSFERRED]

[Source: Added at 17 Ok Reg 3436, eff 8-29-00 (emergency); Added at 18 Ok Reg 1688, eff 5-25-01 ; Amended at 21 Ok Reg 2745, eff 7-12-04 ; Transferred to 86:16-17-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-17-5. Hearing [TRANSFERRED]

[**Source:** Added at 17 Ok Reg 3436, eff 8-29-00 (emergency); Added at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-17-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-17-6. Final order [TRANSFERRED]

[**Source:** Added at 17 Ok Reg 3436, eff 8-29-00 (emergency); Added at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-17-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-17-7. Unauthorized practice [TRANSFERRED]

[**Source:** Added at 17 Ok Reg 3436, eff 8-29-00 (emergency); Added at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-17-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:400-17-8. Administrative penalties [TRANSFERRED]

[**Source:** Added at 17 Ok Reg 3436, eff 8-29-00 (emergency); Added at 18 Ok Reg 1688, eff 5-25-01 ; Transferred to 86:16-17-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

CHAPTER 403. LICENSED BEHAVIORAL PRACTITIONERS [TRANSFERRED]

Editor's Note: *Effective 11-1-13, as set forth in House Bill 1467 (2013), "[a]ll powers, duties, responsibilities . . . of the State Board of Health, the State Department of Health, and the State Commissioner of Health relating exclusively to the regulation of Licensed Behavioral Practitioners . . . are hereby transferred and shall be placed under the authority of the State Board of Behavioral Health Licensure" [HB 1467 (2013), § 3(A)]. The following provisions in HB 1467 address the disposition of related rules: • Section 3 (not to be codified in the Oklahoma Statutes) provides that "[u]pon the effective date of this act, all administrative rules promulgated by the State Board of Health relating to the Licensed Behavioral Practitioners Act . . . shall be transferred to and become a part of the administrative rules of the State Board of Behavioral Health Licensure" [HB 1467 (2013), § 3(F)]. HB 1467 also directed the Office of Administrative Rules to place the transferred rules under the Administrative Code section of the State Board of Behavioral Health Licensure [see Editor's Notice published at 32 Ok Reg 108]. Therefore, on 11-1-13, the rules in this Chapter 403 of the Department of Health's Title 310 [OAC 310:403] were transferred to a new Chapter 21 of the State Board of Behavioral Health Licensure's Title 86 [OAC 86:21]. For text of rules that were effective prior to the transfer of these rules to OAC 86:21 on 11-1-13, see Chapter 403 of the Department of Health's Title 310 [OAC 310:403], as published in the 2011 Edition of the OAC and updated in the 2013 OAC Supplement. • Section 28 (amending 59 O.S., § 1934) directs the State Board of Behavioral Health Licensure to "[p]rescribe, adopt and promulgate rules to implement and enforce the provisions of the Licensed Behavioral Practitioner Act, including the adoption of the State Department of Health rules by reference; [a]dopt and establish rules of professional conduct; and [s]et license and examination fees as required by the Licensed Behavioral Practitioner Act" [HB 1467 (2013), § 28(A)]. Although the State Board of Behavioral Health Licensure did not "adopt the State Department of Health rules by reference," the Board did adopt rules in a new Chapter 20 of Title 86, first by emergency action effective 4-23-14 and later by permanent action effective 9-11-15. For emergency rules related to Licensed Behavioral Practitioners that were promulgated by the State Board of Behavioral Licensure pursuant to HB 1467 (2013), § 28, and were effective from 4-23-15 through 9-10-15, see 32 Ok Reg 175. For permanent rules related to Licensed Behavioral Practitioners that were promulgated by the State Board of Behavioral Licensure to supersede the emergency rules, effective 9-11-15, see Chapter 20 of OAC Title 86.*

[**Authority:** 59 O.S., §§ 1930 et seq.]

[**Source:** Codified 5-25-01]

SUBCHAPTER 1. GENERAL PROVISIONS [TRANSFERRED]

310:403-1-1. Purpose [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-1-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-1-2. Definitions [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 24 Ok Reg 1961, eff 6-25-07 ; Amended at 26 Ok Reg 2023, eff 6-25-09 ; Transferred to 86:21-1-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-1-3. Prohibition [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-1-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-1-4. Applicability [TRANSFERRED]

[Source: Added at 24 Ok Reg 1961, eff 6-25-07 ; Transferred to 86:21-1-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 3. ADVISORY BOARD OPERATIONS [TRANSFERRED]

310:403-3-1. Statutory requirements [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-3-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-3-2. Officers [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-3-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-3-3. Rules of Order [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-3-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-3-4. Subcommittees [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-3-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 5. FORMS [TRANSFERRED]

310:403-5-1. Forms [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-5-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-5-2. Description of forms [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Amended at 25 Ok Reg 2418, eff 7-11-08 ; Amended at 27 Ok Reg 2516, eff 7-25-10 ; Transferred to 86:21-5-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT [TRANSFERRED]

310:403-7-1. Responsibility [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-7-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-7-2. Competence [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 20 Ok Reg 519, eff 1-6-03 (emergency); Amended at 20 Ok Reg 2363, eff 7-11-03 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Amended at 24 Ok Reg 1961, eff 6-25-07 ; Amended at 26 Ok Reg 2023, eff 6-25-09 ; Transferred to 86:21-7-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-7-3. Client welfare [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Amended at 24 Ok Reg 1961, eff 6-25-07 ; Amended at 26 Ok Reg 2023, eff 6-25-09 ; Transferred to 86:21-7-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-7-4. Non-professional relations with clients [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 24 Ok Reg 1961, eff 6-25-07 ; Transferred to 86:21-7-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-7-4.1. Responsibility to supervisees [TRANSFERRED]

[Source: Added at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-7-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-7-5. Client fees and bartering [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-7-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

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310:403-7-6. Professional standards [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 21 Ok Reg 2747, eff 7-12-04 ; Amended at 24 Ok Reg 1961, eff 6-25-07 ; Transferred to 86:21-7-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-7-7. Relations with the public and other professions [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 24 Ok Reg 1961, eff 6-25-07 ; Transferred to 86:21-7-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-7-8. Failure to comply [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-7-9 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 9. FITNESS OF APPLICANTS [TRANSFERRED]

310:403-9-1. Purpose [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-9-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-9-2. Fitness for licensure [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-9-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-9-3. Materials considered to determine fitness [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-9-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 11. APPLICATION PROCEDURES [TRANSFERRED]

310:403-11-1. General [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-11-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-2. Application materials [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-11-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-3. Submission of documents [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-11-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-4. Negative references [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-11-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-5. Materials required of LBP applicants until January 1, 2002 [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-11-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-6. Materials required of LBP applicants [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-11-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-7. Re-application for expired license [TRANSFERRED]

[Source: Added at 21 Ok Reg 2747, eff 7-12-04 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-11-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-8. Re-application for revoked license [TRANSFERRED]

[Source: Added at 21 Ok Reg 2747, eff 7-12-04 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Amended at 25 Ok Reg 2418, eff 7-11-08 ; Transferred to 86:21-11-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-9. Re-application for voided application for failure to take scheduled examinations [TRANSFERRED]

[Source: Added at 21 Ok Reg 2747, eff 7-12-04 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-11-9 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-10. Re-application for voided application for failure to complete supervised experience [TRANSFERRED]

[Source: Added at 21 Ok Reg 2747, eff 7-12-04 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-11-10 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-11. Re-application for denied application [TRANSFERRED]

[Source: Added at 21 Ok Reg 2747, eff 7-12-04 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Amended at 25 Ok Reg 2418, eff 7-11-08 ; Transferred to 86:21-11-11 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-11-12. Hearing upon denial of licensure application [TRANSFERRED]

[Source: Added at 24 Ok Reg 1961, eff 6-25-07 ; Transferred to 86:21-11-12 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 13. ACADEMIC REQUIREMENTS [TRANSFERRED]

310:403-13-1. Graduate degree requirements [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 22 Ok Reg 2406, eff 7-11-05 ; Amended at 24 Ok Reg 1961, eff 6-25-07 ; Transferred to 86:21-13-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-13-2. Required knowledge areas [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 21 Ok Reg 2747, eff 7-12-04 ; Amended at 22 Ok Reg 2406, eff 7-11-05 ; Transferred to 86:21-13-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-13-3. Required knowledge areas on or after January 1, 2008 [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 22 Ok Reg 2406, eff 7-11-05 ; Transferred to 86:21-13-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 15. SUPERVISED EXPERIENCE REQUIREMENT [TRANSFERRED]

310:403-15-1. Supervised experience [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 20 Ok Reg 519, eff 1-6-03 (emergency); Amended at 20 Ok Reg 2363, eff 7-11-03 ; Transferred to 86:21-15-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-15-2. Duration of supervision [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-15-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-15-3. Documents required for the accrual of supervised hours [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-15-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-15-4. Responsibility of supervisors and supervisees [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Amended at 25 Ok Reg 2418, eff 7-11-08 ; Transferred to 86:21-15-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-15-5. Acceptability of supervised experience [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 22 Ok Reg 2406, eff 7-11-05 ; Amended at 25 Ok Reg 2418, eff 7-11-08 ; Transferred to 86:21-15-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-15-6. Supervisor qualifications [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-15-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-15-7. Documentation of supervised experience [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Amended at 26 Ok Reg 2023, eff 6-25-09 ; Transferred to 86:21-15-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 17. FEES [TRANSFERRED]

310:403-17-1. Schedule of fees [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-17-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-17-2. Method of payment [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 27 Ok Reg 2516, eff 7-25-10 ; Transferred to 86:21-17-2 by Laws 2013, c. 229, § 3(F), eff 11-

1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 19. LICENSURE EXAMINATION [TRANSFERRED]

310:403-19-1. Examination required [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-19-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-19-1.1. Eligibility [TRANSFERRED]

[Source: Added at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-19-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-19-2. Frequency [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-19-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-19-3. Registration [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-19-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-19-4. Grading [TRANSFERRED]

[Source: Added at 18 Ok Reg 2308, eff 5-9-01 (emergency); Reserved at 18 Ok Reg 1699, eff 5-25-01 ; Added at 18 Ok Reg 2478, eff 6-25-01 ; Transferred to 86:21-19-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-19-5. Notice of results [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-19-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-19-6. Failure to appear [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-19-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-19-6.1. Failure to apply [TRANSFERRED]

[Source: Added at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-19-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-19-7. Licensure prior to January 1, 2002 [TRANSFERRED]

[Source: Added at 18 Ok Reg 2308, eff 5-9-01 (emergency); Added at 18 Ok Reg 2478, eff 6-25-01 ; Transferred to 86:21-19-9 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 21. CONTINUING EDUCATION REQUIREMENTS [TRANSFERRED]

310:403-21-1. Purpose [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-21-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-21-1.1. Documentation of attendance [TRANSFERRED]

[Source: Added at 26 Ok Reg 2023, eff 6-25-09 ; Transferred to 86:21-21-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-21-2. Submission of continuing education roster [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 25 Ok Reg 2418, eff 7-11-08 ; Transferred to 86:21-21-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-21-3. Acceptable continuing education [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 26 Ok Reg 2023, eff 6-25-09 ; Transferred to 86:21-21-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-21-3.1. Continuing education accrual from teaching [TRANSFERRED]

[Source: Added at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-21-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-21-4. Audit of continuing education submissions [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-21-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-21-5. Penalty for failure to submit continuing education [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-21-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

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310:403-21-6. Submission of fraudulent continuing education [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-21-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-21-7. Responsibility [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-21-9 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-21-8. Failure to complete continuing education [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-21-10 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 23. ISSUANCE OF LICENSE [TRANSFERRED]

310:403-23-1. License [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-23-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-23-2. Statement of Professional Disclosure [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-23-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-23-3. Property of department [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-23-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-23-4. Replacement [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-23-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 25. LICENSE AND SPECIALTY RENEWAL [TRANSFERRED]

310:403-25-1. Responsibility [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-2. Requirements for renewal [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-3. Renewal notification [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-4. Initial licensing period [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-5. Interim renewal [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-6. Annual renewal [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-7. Specialty renewal [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-8. Display of verification card [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 26 Ok Reg 2023, eff 6-25-09 ; Transferred to 86:21-25-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-9. Inactive status [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-9 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-10. Failure to renew [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-10 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-11. Return of license [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 23 Ok Reg 2374, eff 6-25-06 ; Transferred to 86:21-25-11 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-25-12. Misrepresentation [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-25-12 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 27. LICENSURE BY ENDORSEMENT [TRANSFERRED]

310:403-27-1. Requirements for licensure by endorsement [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 26 Ok Reg 2023, eff 6-25-09 ; Transferred to 86:21-27-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-27-2. Submission of verification of license [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-27-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-27-3. Licensing procedures [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-27-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 29. CONSUMER INFORMATION [TRANSFERRED]

310:403-29-1. Directory [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-29-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-29-2. Brochure [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-29-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-29-3. Statement of professional disclosure [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-29-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 31. ENFORCEMENT [TRANSFERRED]

310:403-31-1. Purpose [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-31-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-31-2. Complaints [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-31-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-31-3. Investigation [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-31-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-31-4. Filing an action [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Amended at 21 Ok Reg 2747, eff 7-12-04 ; Transferred to 86:21-31-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-31-5. Hearing [TRANSFERRED]

[Source: Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-31-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-31-6. Final order [TRANSFERRED]

[**Source:** Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-31-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-31-7. Unauthorized practice [TRANSFERRED]

[**Source:** Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-31-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:403-31-8. Administrative penalties [TRANSFERRED]

[**Source:** Added at 18 Ok Reg 651, eff 1-10-01 (emergency); Added at 18 Ok Reg 1699, eff 5-25-01 ; Transferred to 86:21-31-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

CHAPTER 405. LICENSED PROFESSIONAL COUNSELORS [TRANSFERRED]

Editor's Note: *Effective 11-1-13, as set forth in House Bill 1467 (2013), "[a]ll powers, duties, responsibilities . . . of the State Board of Health, the State Department of Health, and the State Commissioner of Health relating exclusively to the regulation of Licensed Professional Counselors. . . are hereby transferred and shall be placed under the authority of the State Board of Behavioral Health Licensure" [HB 1467 (2013), § 3(A)]. The following provisions in HB 1467 address the disposition of related rules: • Section 3 (not to be codified in the Oklahoma Statutes) provides that "[u]pon the effective date of this act, all administrative rules promulgated by the State Board of Health relating to the Licensed Professional Counselors Act . . . shall be transferred to and become a part of the administrative rules of the State Board of Behavioral Health Licensure" [HB 1467 (2013), § 3(F)]. HB 1467 also directed the Office of Administrative Rules to place the transferred rules under the Administrative Code section of the State Board of Behavioral Health Licensure [see Editor's Notice published at 32 Ok Reg 109]. Therefore, on 11-1-13, the rules in this Chapter 405 of the Department of Health's Title 310 [OAC 310:405] were transferred to a new Chapter 11 of the State Board of Behavioral Health Licensure's Title 86 [OAC 86:11]. For rules related to Licensed Professional Counselors that were editorially transferred from this Chapter 405 on 11-1-13 pursuant to HB 1467 (2013), § 3, see Chapter 11 of OAC Title 86. • Section 6 (amending 59 O.S., § 1905) directs the State Board of Behavioral Health Licensure to "[p]rescribe, adopt and promulgate rules to implement and enforce the provisions of the Licensed Professional Counselors Act, including the adoption of the State Department of Health rules by reference; [a]dopt and establish rules of professional conduct; and [s]et license and examination fees as required by the Licensed Professional Counselors Act" [HB 1467 (2013), § 6(A)]. Although the State Board of Behavioral Health Licensure did not "adopt the State Department of Health rules by reference," the Board did adopt rules in a new Chapter 10 of Title 86, first by emergency action effective 4-23-14 and later by permanent action effective 9-11-15. For emergency rules related to Licensed Professional Counselors that were promulgated by the State Board of Behavioral Licensure pursuant to HB 1467 (2013), § 6, and were effective from 4-23-15 through 9-10-15, see 32 Ok Reg 139. For permanent rules related to Licensed Professional Counselors that were promulgated by the State Board of Behavioral Licensure to supersede the emergency rules, effective 9-11-15, see Chapter 10 of OAC Title 86.*

[**Authority:** 59 O.S., §§ 1901 et seq. and 1905(A); 63 O.S., § 1-106.1]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [TRANSFERRED]

310:405-1-1. Purpose [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-1-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-1-2. Description [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-2.1. Definitions [TRANSFERRED]

[Source: Added at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Amended at 30 Ok Reg 1959, eff 7-25-13 ; Transferred to 86:11-1-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-1-2.2. Applicability [TRANSFERRED]

[Source: Added at 24 Ok Reg 1965, eff 6-25-07 ; Transferred to 86:11-1-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-1-3. Officers [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-3.1. Prohibition [REVOKED]

[Source: Added at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 17 Ok Reg 2935, eff 7-13-00]

310:405-1-4. Administrator [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-5. Transactions of official business [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-6. Agendas [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-7. Minutes [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-8. Rules of order [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-9. Official records [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-10. Sub-committees [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-11. Impartiality [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-12. Discrimination policy [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-13. Policy on handicapped applicants [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-1-14. Seal [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT [TRANSFERRED]

310:405-3-1. Responsibility [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-3-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-3-2. Competence [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 20 Ok Reg 521, eff 1-6-03 (emergency); Amended at 20 Ok Reg 2365, eff 7-11-03 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Amended at 30 Ok Reg 1959, eff 7-25-13 ; Transferred to 86:11-3-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-3-3. Client welfare [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Transferred to 86:11-3-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-3-3.1. Fees and bartering [TRANSFERRED]

[Source: Added at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Transferred to 86:11-3-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-3-4. Professional standards [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 21 Ok Reg 2750, eff 7-12-04 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Transferred to 86:11-3-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-3-4.1. Clinical responsibility to supervisees [TRANSFERRED]

[Source: Added at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-3-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-3-5. Relations with the public and other professions [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Transferred to 86:11-3-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-3-6. Failure to comply [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Transferred to 86:11-3-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 5. FITNESS OF APPLICANTS [TRANSFERRED]

310:405-5-1. Purpose [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-5-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-5-2. Fitness for licensure [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-5-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-5-3. Materials considered to determine fitness [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-5-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 7. APPLICATION PROCEDURES [TRANSFERRED]

310:405-7-1. General [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-7-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-2. Application materials and forms [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Amended at 27 Ok Reg 2518, eff 7-25-10 ; Transferred to 86:11-7-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-2.1. Submission of documents [TRANSFERRED]

[Source: Added at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-7-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-3. Negative references [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-7-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-4. Re-application for permanently expired license [TRANSFERRED]

[Source: Added at 21 Ok Reg 1039, eff 5-13-04 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-7-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-5. Re-application for revoked license [TRANSFERRED]

[Source: Added at 21 Ok Reg 1039, eff 5-13-04 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Transferred to 86:11-7-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-6. Re-application for voided application for failure to take scheduled examinations [TRANSFERRED]

[Source: Added at 21 Ok Reg 1039, eff 5-13-04 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-7-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-7. Re-application for voided application for failure to complete supervised experience [TRANSFERRED]

[Source: Added at 21 Ok Reg 1039, eff 5-13-04 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-7-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-8. Re-application for denied application [TRANSFERRED]

[Source: Added at 21 Ok Reg 2750, eff 7-12-04 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Transferred to 86:11-7-9 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-8.1. Re-application for revoked approved supervisor status [TRANSFERRED]

[Source: Added at 26 Ok Reg 2027, eff 6-25-09 ; Transferred to 86:11-7-10 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-7-9. Denial of licensure application [TRANSFERRED]

[Source: Added at 24 Ok Reg 1965, eff 6-25-07 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Transferred to 86:11-7-11 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 9. ACADEMIC REQUIREMENTS [TRANSFERRED]

310:405-9-1. Graduate hours and degrees required [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 22 Ok Reg 2407, eff 7-11-05 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Transferred to 86:11-9-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-9-2. Knowledge area required [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 22 Ok Reg 2407, eff 7-11-05 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Amended at 30 Ok Reg 1959, eff 7-25-13 ; Transferred to 86:11-9-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 11. SUPERVISED EXPERIENCE REQUIREMENT [TRANSFERRED]

310:405-11-1. Documents required prior to accrual of supervision hours [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-11-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-11-2. Responsibility of supervisors and supervisees [TRANSFERRED]

[**Source:** Amended at 10 Ok Reg 627, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Transferred to 86:11-11-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-11-3. Acceptability of supervised experience [TRANSFERRED]

[**Source:** Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Transferred to 86:11-11-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-11-4. Supervisor qualifications [TRANSFERRED]

[**Source:** Amended at 10 Ok Reg 627, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 22 Ok Reg 2407, eff 7-11-05 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Transferred to 86:11-11-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-11-5. Duration of supervision [TRANSFERRED]

[**Source:** Amended at 10 Ok Reg 627, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Transferred to 86:11-11-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-11-6. Documentation of supervised experience [TRANSFERRED]

[**Source:** Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-11-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-11-7. Supervision agreement [TRANSFERRED]

[**Source:** Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-11-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 13. FEES [TRANSFERRED]

310:405-13-1. Fees established [TRANSFERRED]

[**Source:** Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-13-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-13-2. Schedule of fees [TRANSFERRED]

[**Source:** Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Transferred to 86:11-13-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-13-3. Fees non-refundable [TRANSFERRED]

[Source: Transferred to 86:11-13-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-13-4. Method of payment [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 27 Ok Reg 2518, eff 7-25-10 ; Transferred to 86:11-13-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-13-5. Review of fees [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-13-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 15. LICENSURE EXAMINATIONS [TRANSFERRED]

310:405-15-1. Eligibility [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-15-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-15-2. Examinations required [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Transferred to 86:11-15-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-15-3. Frequency [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-15-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-15-4. Application [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-15-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-15-5. Grading [TRANSFERRED]

[Source: Amended at 11 Ok Reg 1533, eff 4-12-94 (emergency); Amended at 11 Ok Reg 3169, eff 6-27-94 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-15-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-15-6. Notice of results [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-15-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-15-7. Failure to appear [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-15-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-15-8. Failure to apply [TRANSFERRED]

[Source: Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-15-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 17. CONTINUING EDUCATION REQUIREMENTS [TRANSFERRED]

310:405-17-1. Purpose [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-17-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-2. Number of hours required [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 22 Ok Reg 2407, eff 7-11-05 ; Amended at 24 Ok Reg 1965, eff 6-25-07 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Amended at 30 Ok Reg 1959, eff 7-25-13 ; Transferred to 86:11-17-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-3. Acceptable continuing education [TRANSFERRED]

[Source: Amended at 10 Ok Reg 627, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Amended at 30 Ok Reg 1959, eff 7-25-13 ; Transferred to 86:11-17-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-4. Continuing education accrual from teaching [TRANSFERRED]

[Source: Amended at 10 Ok Reg 627, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-17-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter); Transferred to 86:11-17-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-4.1. Continuing education accrual from home-study or technology-assisted distance learning courses [TRANSFERRED]

[Source: Added at 24 Ok Reg 1965, eff 6-25-07 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Amended at 30 Ok Reg 1959, eff 7-25-13 ; Transferred to 86:11-17-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-5. Professional audience [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-17-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-6. Documentation of attendance [TRANSFERRED]

[Source: Amended at 10 Ok Reg 627, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-17-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-6.1. Submission of continuing education roster [TRANSFERRED]

[Source: Added at 10 Ok Reg 627, eff 1-1-93 (emergency); Added at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 25 Ok Reg 2421, eff 7-11-08 ; Transferred to 86:11-17-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-6.2. Audit of continuing education submissions [TRANSFERRED]

[Source: Added at 10 Ok Reg 627, eff 1-1-93 (emergency); Added at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-17-9 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-6.3. Penalty for failure to submit continuing education [TRANSFERRED]

[Source: Added at 10 Ok Reg 627, eff 1-1-93 (emergency); Added at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-17-10 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-6.4. Submission of fraudulent continuing education [TRANSFERRED]

[Source: Added at 10 Ok Reg 627, eff 1-1-93 (emergency); Added at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-17-11 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-7. Responsibility [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-17-12 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-17-8. Failure to complete [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-17-13 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 19. ISSUANCE OF LICENSE [TRANSFERRED]

310:405-19-1. License [TRANSFERRED]

[**Source:** Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-19-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-19-1.1. Statement of Professional Disclosure [TRANSFERRED]

[**Source:** Added at 24 Ok Reg 1965, eff 6-25-07 ; Transferred to 86:11-19-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-19-2. Signature [TRANSFERRED]

[**Source:** Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-19-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-19-3. Property of department [TRANSFERRED]

[**Source:** Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-19-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-19-4. Notification [TRANSFERRED]

[**Source:** Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-19-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-19-5. Replacement [TRANSFERRED]

[**Source:** Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-19-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 21. LICENSE AND SPECIALITY RENEWAL [TRANSFERRED]

310:405-21-1. Responsibility [TRANSFERRED]

[**Source:** Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-21-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-21-2. Initial licensing period [TRANSFERRED]

[**Source:** Transferred to 86:11-21-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-21-3. Initial renewal [TRANSFERRED]

[**Source:** Amended at 10 Ok Reg 627, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-21-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-21-3.1. Interim renewal [TRANSFERRED]

[Source: Added at 10 Ok Reg 627, eff 1-1-93 (emergency); Added at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-21-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-21-3.2. Annual renewal [TRANSFERRED]

[Source: Added at 10 Ok Reg 627, eff 1-1-93 (emergency); Added at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-21-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-21-4. Specialty renewal [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-21-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-21-5. Requirements for renewal [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 30 Ok Reg 1959, eff 7-25-13 ; Transferred to 86:11-21-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-21-7. Inactive status [TRANSFERRED]

[Source: Amended at 11 Ok Reg 1533, eff 4-12-94 (emergency); Amended at 11 Ok Reg 3169, eff 6-27-94 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-21-9 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-21-8. Compassionate exception [REVOKED]

[Source: Amended at 11 Ok Reg 1533, eff 4-12-94 (emergency); Amended at 11 Ok Reg 3169, eff 6-27-94 ; Revoked at 13 Ok Reg 2495, eff 6-27-96]

SUBCHAPTER 23. LICENSE AND SPECIALTY LATE RENEWAL [TRANSFERRED]

310:405-23-1. Renewal notification [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-23-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-23-2. Failure to renew [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-23-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-23-3. Return of license [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Added at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 23 Ok Reg 2380, eff 6-25-06 ; Transferred to 86:11-23-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-23-4. Misrepresentation [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-23-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-23-5. Reapplication [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

SUBCHAPTER 25. COMPLAINT PROCEDURES [REVOKED]

310:405-25-1. Reporting a complaint [REVOKED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Revoked at 16 Ok Reg 2499, eff 6-25-99]

310:405-25-2. Complaint form [REVOKED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Revoked at 16 Ok Reg 2499, eff 6-25-99]

310:405-25-3. Advisory Board action [REVOKED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Revoked at 16 Ok Reg 2499, eff 6-25-99]

310:405-25-4. Hearing committee action [REVOKED]

[Source: Revoked at 13 Ok Reg 2495, eff 6-27-96]

310:405-25-5. Investigation [REVOKED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Revoked at 16 Ok Reg 2499, eff 6-25-99]

SUBCHAPTER 27. LICENSURE BY ENDORSEMENT [TRANSFERRED]

310:405-27-1. Submission of verification of license [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-25-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-27-2. Licensing procedures [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-25-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-27-3. License by endorsement [TRANSFERRED]

[Source: Added at 17 Ok Reg 2935, eff 7-13-00 ; Amended at 26 Ok Reg 2027, eff 6-25-09 ; Amended at 30 Ok Reg 1959, eff 7-25-13 ; Transferred to 86:11-25-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 29. CONSUMER INFORMATION [TRANSFERRED]

310:405-29-1. Directory [TRANSFERRED]

[Source: Amended at 10 Ok Reg 627, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-27-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-29-2. Brochure [TRANSFERRED]

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-27-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-29-3. Statement of professional disclosure [TRANSFERRED]

[Source: Amended at 10 Ok Reg 627, eff 1-1-93 (emergency); Added at 10 Ok Reg 1711, eff 6-1-93 ; Amended at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-27-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-29-4. Informed consent [TRANSFERRED]

[Source: Added at 25 Ok Reg 2421, eff 7-11-08 ; Transferred to 86:11-27-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

SUBCHAPTER 31. ENFORCEMENT [TRANSFERRED]

310:405-31-1. Purpose [TRANSFERRED]

[Source: Added at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-29-1 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-31-2. Complaints [TRANSFERRED]

[**Source:** Added at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 17 Ok Reg 2935, eff 7-13-00 ; Transferred to 86:11-29-2 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-31-3. Investigation [TRANSFERRED]

[**Source:** Added at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-29-3 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-31-4. Filing of an action [TRANSFERRED]

[**Source:** Added at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Amended at 21 Ok Reg 2750, eff 7-12-04 ; Transferred to 86:11-29-4 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-31-5. Hearing [TRANSFERRED]

[**Source:** Added at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-29-5 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-31-6. Final order [TRANSFERRED]

[**Source:** Added at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-29-6 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-31-7. Unauthorized practice [TRANSFERRED]

[**Source:** Added at 13 Ok Reg 2495, eff 6-27-96 ; Transferred to 86:11-29-7 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

310:405-31-8. Administrative penalties [TRANSFERRED]

[**Source:** Added at 13 Ok Reg 2495, eff 6-27-96 ; Amended at 16 Ok Reg 2499, eff 6-25-99 ; Transferred to 86:11-29-8 by Laws 2013, c. 229, § 3(F), eff 11-1-13 (see Editor's Note at beginning of this Chapter)]

CHAPTER 406. LICENSED GENETIC COUNSELORS

[**Authority:** 2006 O.S.L. 174; 63 O.S., § 1-561]
[**Source:** Codified 6-25-07]

SUBCHAPTER 1. GENERAL PROVISIONS

310:406-1-1. Purpose

The rules in this Chapter implement the Oklahoma Genetic Counseling Licensure Act, (2006 O.S.L 174.)

[**Source:** Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-1-2. Definitions

When used in this Chapter, the following words or terms have the following meaning unless the context of the sentence requires another meaning:

"**ABGC**" means the American Board of Genetic Counseling [63:1-562(1)].

"**ABMG**" means the American Board of Medical Genetics [63:1-562(2)].

"**Act**" means Title 63, Sections 1-561 et seq., of the Oklahoma Statutes.

"**Active candidate status**" means an individual who has been approved by the American Board of Genetic Counseling (ABGC) to sit for the certification exam in genetic counseling.

"**Board**" means the State Board of Health.

"**Patient**" means a person receiving genetic counseling from a genetic counselor.

"**Commissioner**" means the State Commissioner of Health.

"**Department**" means the State Department of Health.

"**Dual relationships**" means a familial, social, financial, business, professional, close personal, sexual or other non-counseling relationship with a patient, or engaging in any activity with another person that interferes or conflicts with the LGC's professional obligation to a patient.

"**Licensed genetic counselor**" or "**LGC**" means any person who is licensed pursuant to the provisions of the Genetic Counseling Licensure Act or offers to or engages in genetic counseling. The term does not include those professions exempted by Section 1-566 of the Act.

[**Source:** Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 32 Ok Reg 1788, eff 9-11-15 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

SUBCHAPTER 3. ADVISORY COMMITTEE OPERATIONS [REVOKED]

310:406-3-1. Purpose [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 32 Ok Reg 1788, eff 9-11-15]

310:406-3-2. Advisory committee membership [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 32 Ok Reg 1788, eff 9-11-15]

310:406-3-3. Officers [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 32 Ok Reg 1788, eff 9-11-15]

310:406-3-4. Rules of Order [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 32 Ok Reg 1788, eff 9-11-15]

310:406-3-5. Subcommittees [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 32 Ok Reg 1788, eff 9-11-15]

SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT

310:406-5-1. Responsibility

(a) LGCs shall accept responsibility for the consequences of their work and ensure that their services are used appropriately.

(b) LGCs shall not:

- (1) participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation; or
- (2) use their relationships with patients for personal advantage, profit, satisfaction, or interest.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-5-2. Competence

(a) **Genetic counseling.** LGCs shall practice only within the boundaries of their competence and within professional standards, based on their education, training, and appropriate professional experience.

(b) **Impairment.** LGCs shall not offer or render professional services when such services may be impaired by a personal physical, mental or emotional condition(s). LGCs shall seek assistance for any such personal problem(s) with their physical, mental or emotional condition, and, if necessary, limit, suspend, or terminate their professional activities. If an LGC possesses a bias, disposition, attitude, moral persuasion or other similar condition that limits his or her ability to recommend a course of treatment or decision-making that is indicated, and under such

circumstances where all other treatment and decision options are contraindicated, then in that event the LGC shall not undertake to provide genetic counseling and shall terminate the genetic counseling relationship in accordance with these rules.

(c) **Opinion Testimony.** LGCs shall not offer or accept an offer to engage in rendering opinion testimony relating to work performed for their patient and shall limit their role to fact witness in any matter involving that patient, unless otherwise required by law or court order.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-5-3. Patient welfare

(a) **Discrimination.** LGCs shall not, in the rendering of professional services, participate in, condone, or promote discrimination on the basis of race, color, age, gender, religion or national origin.

(b) **Confidentiality.** LGCs shall maintain the confidentiality of any information received from any person or source about a patient, unless authorized in writing by the patient or otherwise authorized or required by law or court order.

(c) **Confidentiality of records.** LGCs are responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any genetic counseling record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.

(d) **Requirement of records.** LGCs shall maintain verifiable records necessary for rendering professional services to their patients for at least 3 (three) years beyond discontinuation of services. LGCs employed at an institution or facility that has a published records retention policy that is equal to the retention required by this subsection is considered to be in compliance with this subsection.

(e) **Patient access to records.** LGCs shall provide the patient with a copy of the patient's record in accordance with state law. In situations involving multiple patients, access to records is limited to those parts of records that do not include confidential information related to another patient.

(f) **Dual relationships.** LGCs shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the LGC reasonably suspects that he or she has inadvertently entered into a dual relationship the LGC shall record that fact in the records of the affected patient(s) and take reasonable steps to eliminate the source or agent creating or causing the dual relationship. If the dual relationship cannot be prevented or eliminated and the LGC cannot readily refer the patient to another genetic counselor or other professional, the LGC shall complete one or more of the following measures as necessary to prevent the exploitation of the patient and/or the impairment of the LGC's professional judgment:

- (1) Fully disclose the circumstances of the dual relationship to the patient and secure the patient's written consent to continue providing genetic counseling; or

- (2) Consult with other professional(s) to understand the potential impairment to the LGC's professional judgment and the risk of harm to the patient of continuing the dual relationship;
- (g) **Invasion of privacy.** LGCs are not to make inquiry into persons or situations not directly associated with the patient's situation.
- (h) **Referral.**
 - (1) LGCs shall not abandon or neglect current patients without making reasonable arrangements for the continuation of necessary counseling services by another professional; and
 - (2) When an LGC becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LGC's competence or duty of responsibility to current patients, including a suspension of the LGC's license or any other situation or condition described in this Subchapter, the LGC shall promptly notify the patient in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the genetic counseling relationship.
- (i) **Providing counseling to persons of prior association.** LGCs cannot provide genetic counseling to any person with whom the LGC has had any prior sexual contact or close personal relationship within the previous five (5) years.
- (j) **Interaction with former patients.** LGCs shall not:
 - (1) knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former patient for two (2) years after the termination of the genetic counseling relationship;
 - (2) engage in any activity that is or may be sexual in nature with a former patient for at least five (5) years after the termination of the genetic counseling relationship; and
 - (3) exploit or obtain an advantage over a former patient by the use of information or trust gained during the genetic counseling relationship.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-5-4. Professional standards

- (a) **Violations of other laws.** It is unprofessional conduct for an LGC to violate a state or federal statute if the violation directly relates to the duties and responsibilities of the genetic counselor or if the violation involves moral turpitude.
- (b) **Drug and alcohol use.** LGCs shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.
- (c) **Updating.** LGCs shall notify the Department of any change in address, telephone number or employment within thirty (30) days of such change.
- (d) **Candor to the Department.** An LGC or an LGC candidate, in connection with a license application or an investigation conducted by the Department pursuant to OAC 310:406-23-3, shall not:
 - (1) knowingly make a false statement of material fact;

- (2) fail to disclose a fact necessary to correct a misapprehension known by the LGC or LGC candidate to have arisen in the application or the matter under investigation; or,
- (3) fail to respond to a demand for information made by the Department or any designated representative thereof within twenty (20) days of the demand, unless a request for a protective order has been first made pursuant to Chapter 2 of this Title, in which case the LGC or LGC candidate may await the decision concerning the issuance or denial of a protective order before making any response.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

SUBCHAPTER 7. APPLICATION FOR LICENSURE

310:406-7-1. General

- (a) This Subchapter ensures that all applicants meet those requirements specified in the Act.
- (b) Unless otherwise indicated, an applicant shall submit all required information and documentation of credentials on official Department forms.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-7-2. Application materials and forms

- (a) Each application shall include the following documents:
 - (1) Application form;
 - (2) Official transcript, mailed from a genetic counseling training program accredited by the ABGC or ABMG;
 - (3) Verification of certification by the ABGC or ABMG, or verification of active candidate status conferred by the ABGC, ABMG, or an equivalent acceptable entity; and
 - (4) Fees.
- (b) The application form requires the following:
 - (1) Identifying information;
 - (2) Possession of other credentials;
 - (3) Previous misconduct (if applicable);
 - (4) Education;
 - (5) References; and
 - (6) Proposed professional practice.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 27 Ok Reg 2520, eff 7-25-10 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-7-3. Denial of license

If the Department denies any application or request for licensure the applicant or requestor shall be notified of the Department's decision within thirty (30) days thereof and the applicant has fifteen (15) days to

request a hearing to review the Department's decision. The notice shall advise the applicant or requestor of his or her right to a hearing and the time within which a request to review the Department's decision must be submitted.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

SUBCHAPTER 9. ACADEMIC REQUIREMENTS

310:406-9-1. Degrees required

- (a) Each applicant shall possess at least a master's degree from a genetic counseling training program that is accredited by the ABGC or an equivalent entity as determined by the ABGC, or
- (b) An applicant may possess a doctoral degree from a medical genetics training program accredited by the ABMG or an equivalent as determined by the ABMG.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

SUBCHAPTER 11. LICENSURE EXAMINATIONS

310:406-11-1. Examination required

All applicants shall take and pass the ABGC Genetics Counseling Certification Examination or have passed the ABMG General Genetics and Genetic Counseling Specialty examinations.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

SUBCHAPTER 13. SUPERVISION REQUIREMENTS [REVOKED]

310:406-13-1. Purpose [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

310:406-13-2. General supervision [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

310:406-13-3. Frequency of supervision contact [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

310:406-13-4. Supervisor qualification [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

310:406-13-5. Documentation of supervision [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

SUBCHAPTER 15. FEES

310:406-15-1. Schedule of fees

(a) **Application fee.** The application fee of three hundred dollars (\$300) is due with the submission of the application form.

(b) **License renewal fee.** The renewal fee is two hundred dollars (\$200). It is due no later than every 2 years from the last day of the month the original license was issued.

(c) **Late renewal fee.** A twenty-five dollar (\$25) late fee is added to the renewal fee if it is not submitted within the time frame provided in (b) of this section.

(d) **Reactivation fee.** When an inactive license is reactivated, the biennial renewal fee must be paid in accordance with OAC 310:406-21-6 and shall be submitted at the time of reactivation.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-15-2. Method of payment [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 27 Ok Reg 2520, eff 7-25-10 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

310:406-15-3. Fees non-refundable

Fees paid by applicants are not refundable.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-15-4. Review of fees

The Department will periodically review the fee schedule and recommend any adjustments necessary to provide funds to meet its expenses without creating an unnecessary surplus.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

SUBCHAPTER 17. CONTINUING EDUCATION REQUIREMENTS

310:406-17-1. Purpose

This Subchapter establishes the continuing education requirements necessary for license renewal.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-17-2. Number of hours required

LGCs shall complete and furnish documentation to the Department of thirty (30) clock hours of continuing education in each preceding two-year licensing cycle.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-17-3. Acceptable continuing education

Continuing education must be appropriate for maintenance of certification for at least 10 of the 30 clock hours. The remaining twenty hours may consist of professional continuing education.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 27 Ok Reg 2520, eff 7-25-10]

310:406-17-4. Submission of continuing education roster

LGCs shall submit a continuing education roster with the license renewal fee. Rosters must include the identity and license number of the LGC receiving continuing education, the date name, and location of the conference, the number of hours awarded, and the entity or organization sponsoring the conference. Only continuing education accrued in the preceding license renewal period may be used to satisfy the continuing education requirement for renewal.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 27 Ok Reg 2520, eff 7-25-10 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-17-5. Penalty for failure to submit continuing education

Failure to fulfill the continuing education requirements by the renewal date may result in the license being suspended and all rights granted by the license may be null and void, unless the LGC can show that he or she was subjected to circumstances which prevent the LGC from meeting the continuing education requirements.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-17-6. Submission of fraudulent continuing education

The submission of fraudulent continuing education hours will result in disciplinary action against any person who knowingly participates in

the submission.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

SUBCHAPTER 19. ISSUANCE OF LICENSE

310:406-19-1. License

A license certificate issued by the Commissioner contains the following information: the licensee's name, license number, highest accredited genetic counseling academic degree, and date of issue.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-19-2. Property of the Department

All licenses issued by the Commissioner are the property of the Department and shall be surrendered on demand.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-19-3. Notification

After the applicant fulfills all requirements for licensure the Department shall notify the licensee of qualification.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-19-4. Replacement [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

310:406-19-5. Temporary license [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

310:406-19-6. Temporary licensure [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

SUBCHAPTER 21. LICENSE RENEWAL AND EXPIRATION

310:406-21-1. Responsibility

Each LGC is responsible for renewing the license before the expiration date.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-21-2. Initial licensing period [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

310:406-21-3. Renewal of license

The initial license expires two (2) years from the date of issuance unless renewed. License renewals expire every two years. Prior to submitting a request for license renewal the licensee must complete at least thirty (30) hours of continuing education.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-21-4. Requirements for renewal

Requirements for renewal include the following:

- (1) Compliance with the Act and this Chapter;
- (2) Documentation of the required continuing education; and,
- (3) Payment of the renewal fee(s).

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-21-5. Display of verification card

A current license verification card shall be displayed on the original or replaced license.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-21-6. Inactive status [REVOKED]

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Revoked at 38 Ok Reg 2024, eff 9-11-21]

310:406-21-7. Renewal notification

The Department shall notify licensee, at least forty-five (45) days prior to the expiration date of the LGC's license, a notice of expiration.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-21-8. Failure to renew

If the licensee fails to renew the license by the expiration date, the Department shall mail to the licensee's last known address a notification that includes the following:

- (1) Suspension of the license and forfeiture of rights and any privilege granted pursuant to the license; and
- (2) The LGC has the right to reinstate the license by payment of the renewal fee and the late renewal fee and fulfillment of all other renewal requirements for up to one (1) year following the suspension of the license.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-21-9. Return of license

Licenses not renewed within the one (1) year re-instatement period cannot be reinstated and the license shall be returned to the Department.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-21-10. Misrepresentation

A LGC whose license has been inactivated, suspended, or revoked and continues to represent himself as an LGC, is in violation of the Act and shall be reported to the appropriate District Attorney for prosecution.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

SUBCHAPTER 23. ENFORCEMENT

310:406-23-1. Purpose

This Subchapter specifies the administration of complaints and the filing of disciplinary actions against LGCs or against persons who practice genetic counseling without a license or exemption.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-23-2. Complaints

(a) Any person may file a complaint against a LGC or a person practicing genetic counseling who is not otherwise exempt from the LGC Act. A person wishing to report a complaint or alleged violation against a licensee or person practicing genetic counseling may notify the Department. The Department shall determine whether the complaint alleges a possible violation of the Act or this Chapter.

(b) The complaint and the identity of the complainant is confidential and cannot be available for public inspection.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 32 Ok Reg 1788, eff 9-11-15 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-23-3. Investigation

If the Department has reason to believe that a possible violation of the Act or this Chapter has occurred, the Department may commence an investigation of the complaint.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-23-4. Filing of an action

(a) The Department may begin a disciplinary action against an LGC or a person practicing genetic counseling who is not exempt from licensure by following the procedures in Chapter 2 of this Title. The Department shall specifically state each violation and remedy sought by the Department. A remedy may include any or all of the following: revocation of a license, suspension of a license, probation of a licensee or administrative penalty.

(b) If in the course of an investigation the Department determines that a licensee or candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the genetic counselor's license or authorization to conduct genetic counseling. A presumption of imminent harm to the public shall exist if the Department determines that probable cause exists that a licensee or candidate has violated 310:406-5-3(f) or 310:406-5-4(a, b, c or e).

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-23-5. Hearing

Hearings shall be conducted by the Commissioner or the Commissioner's designee as specified in Chapter 2 of this Title. At the conclusion of the evidence, the Department recommends the most appropriate penalty.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 32 Ok Reg 1788, eff 9-11-15 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-23-6. Final order

The Department, either by order of the Commissioner or his designee, shall issue a final order on all disciplinary matters. Final orders are appealable under the Administrative Procedures Act to the district courts.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07]

310:406-23-7. Unauthorized practice

Any person found to be practicing genetic counseling without being either properly licensed or exempt will be ordered to cease practicing and may be subject to an administrative penalty. The Department may seek the assistance of the courts if the unauthorized practice of genetic counseling continues.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

310:406-23-8. Administrative penalties

(a) The Department may assess an administrative penalty against an individual if the order includes a finding that the individual violated any of the following:

- (1) Any provision of the Act, including practicing counseling without licensure or exemption; or
- (2) Any rule within this Chapter; or
- (3) Any order issued pursuant to this Chapter.

(b) The total amount of the administrative penalty assessed cannot exceed ten thousand dollars (\$10,000.00) for any related series of violations.

[Source: Added at 24 Ok Reg 197, eff 11-1-06 (emergency); Added at 24 Ok Reg 1971, eff 6-25-07 ; Amended at 38 Ok Reg 2024, eff 9-11-21]

CHAPTER 410. WIC

[**Authority:** 62 O.S., § 34.76; 63 O.S., § 1-104]

[**Source:** Codified 6-1-93]

SUBCHAPTER 1. GENERAL PROVISIONS

310:410-1-1. Purpose

This Chapter establishes rules for the Special Supplemental Food Program for Women, Infants and Children (WIC). These rules are authorized in the Oklahoma State Finance Act at 62 O.S. 34.76, which authorize the Department to enter into contracts with third party administrators to establish a system for processing claims, to promulgate rules and develop procedures necessary for implementation and administration of the system; and to develop procedures for payment of vouchers.

[**Source:** Added at 10 Ok Reg 635, eff 1-1-93 (emergency); Added at 10 Ok Reg 1715, eff 6-1-93 ; Amended at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 36 Ok Reg 1676, eff 9-13-19]

310:410-1-2. Third party administration of WIC

(a) The Oklahoma State Department of Health is authorized to enter into contracts with third party administrators to establish a system for processing claims for payment pursuant to the United States Department of Agriculture's Supplemental Food Program for Women, Infants, and Children (WIC).

(b) The Oklahoma State Department of Health reserves the right to reject any or all contract proposals, to award in whole or in part, and to waive minor defects. An individual proposal may be rejected if it fails to meet any requirement. The Oklahoma State Department of Health may seek clarification from a bidder at any time, and failure to respond is cause for rejection. Any alternate proposal that meets the Oklahoma State Department of Health's needs may also be considered. Contract negotiations may be necessary after award in order to formalize understanding.

(c) Submission of a contract proposal confers no rights on the bidder to an award or to a subsequent contract. All decisions on compliance, evaluation, terms, and conditions shall be solely at the discretion of the Oklahoma State Department of Health, and made to favor the Oklahoma State Department of Health.

(d) The Oklahoma State Department of Health reserves the right to modify requirements during the course of this contract by changing the scope of work, deliverables, and timeframes, as well as addition or deletion of tasks to be performed or equipment to be provided and/or any other modification deemed necessary. Any changes in pricing proposed by the contractor resulting from the proposed changes will be subject to the acceptance by the Oklahoma State Department of Health. In the event prices are not acceptable to the Oklahoma State Department of Health, the contract may be subject to reprocurement based upon the new specification(s).

[Source: Added at 10 Ok Reg 635, eff 1-1-93 (emergency); Added at 10 Ok Reg 1715, eff 6-1-93]

SUBCHAPTER 3. VENDOR MANAGEMENT

PART 1. GENERAL PROVISIONS

310:410-3-1. Purpose

The purpose of this Subchapter is to provide for the qualifications, approval process, education and compliance review of vendors who participate in the Oklahoma WIC Program. This Subchapter further provides for the sanctions of vendors who violate this Subchapter and to enable the department to carry out its responsibilities for fiscal management and accountability for the food delivery system under its jurisdiction.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94]

310:410-3-2. Definitions

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

"Above 50% WIC Vendor" means a WIC retail vendor who expects to derive more than 50% of their annual food sales revenue from the redemption of WIC food benefits from all of the WIC Programs for which they are authorized.

"Administrative warning" means a written notice which describes the nature of a violation to the WIC Program and a request for correction of the violation.

"APL" means the Approved Products List.

"Applicant" means the individual, partnership, limited partnership, unincorporated association, or corporation applying to be a WIC retail vendor, includes both Above 50% and Regular WIC Vendors.

"Application" means the application forms and other required materials submitted by a business entity to notify the department that the business entity desires to become a WIC retail vendor.

"Authorization" means the approval of an applicant who has met the WIC vendor criteria and has accepted a WIC vendor agreement as a WIC retail vendor.

"Business entity" means the retail business which an applicant or authorized WIC vendor operates at a particular vendor site.

"Commissioner" means the Commissioner of the Oklahoma State Department of Health or his designee.

"Corporate officer" means the identity of the officer of a corporation as set forth in its articles of incorporation as filed with the secretary of state wherein such entity is incorporated.

"Department" means the Oklahoma State Department of Health.

"Department representative" or "Representative of the Department" means an employee or authorized agent of the department.

"Food Benefits" means an electronic benefits transfer card (EBT) that document the specified supplemental WIC approved foods and the quantities of these foods for a specified period of time that have been prescribed for a WIC participant and is used to obtain supplemental WIC approved foods.

"Grocery store" means a fixed and permanent retail store whose primary business is the sale of food.

"Local agency" means a public or private, non-profit health or human services agency which provides health services, either directly or through an agreement, in accordance with the USDA WIC Regulations, or this Subchapter.

"MAR" means the Maximum Allowable Reimbursement amount for WIC approved foods.

"OAPA" means the Oklahoma Administrative Procedure Act.

"Oklahoma WIC retail food delivery system" means the system in which participants obtain WIC approved foods by processing a food benefit at a WIC retail vendor.

"Participant" means authorized pregnant women, breast-feeding women, postpartum women, infants or children who are receiving

supplemental WIC approved foods or food benefits under the WIC Program.

"Participant requested delivery" means a participant requested delivery of WIC approved foods from a vendor to an address specified by the WIC participant or proxy.

"Participant/vendor ratio" means the total number of WIC participants in a given region divided by the total number of WIC retail vendors in the same region.

"Peer Group" means the classification of WIC retail vendors with regards to competitive pricing.

"Pharmacy" means any store, shop, department, or other place at a fixed and permanent location, where drugs, medicines, or liquid foods prescribed by a physician licensed to practice medicine in all its branches, for an individual are dispensed, or sold or offered for sale at retail value.

"Proxy" means a person who is authorized by the local agency and the WIC participant to accept and/or redeem food benefits on a participant's behalf.

"Regular WIC Vendor" means any WIC retail vendor who has not been determined to be an Above 50% WIC Vendor.

"Retail vendor price survey" means the current prices, reported to the department, by a vendor or a department representative as charges for WIC Approved Foods.

"Store type" means the classification of WIC retail vendors by their gross retail sales per year. Up to 1.5 million dollars in sales is a type 1 vendor site; 1.5 million to 5 million dollars in sales is a type 2 vendor site; over 5 million dollars in sales is a type 3 vendor site. A commissary is a type 4 vendor site and a pharmacy is a type 5 vendor site. An Above 50% vendor is a type 6 vendor site.

"SNAP" means the Supplemental Nutrition Assistance Program, formerly "Food Stamp."

"USDA" means the United States Department of Agriculture.

"USDA WIC regulations" means the regulations of the United States Department of Agriculture, Food and Nutrition Service, Special Supplemental Food Program for Women, Infants, and Children. 7 CFR 246 (1990).

"Vendor" or **"WIC retail vendor"** means the individual, partnership, limited partnership, unincorporated association, or corporation authorized by the department to accept food benefits and to provide supplemental food to WIC participants or proxies of WIC participants, includes both Above 50% and Regular Vendors.

"Vendor number" means the number assigned to a vendor by the department for tracking food benefit redemptions.

"Vendor site" means a fixed and permanent location, operating as a business entity, listed in the WIC vendor application, which has been authorized by the department for purposes of delivery of WIC approved foods to WIC participants or the proxy of a WIC participant.

"WIC food list" means the published list of State of Oklahoma authorized WIC approved foods.

"WIC approved foods" means those competitively priced foods which have been placed on the WIC food list, which have been

determined by the department to be nutritionally qualified for the WIC Program in the state of Oklahoma.

"WIC service director" means the person responsible for the implementation and administration of the WIC Program.

"WIC vendor agreement" means an agreement signed by the WIC retail vendor and the department for the provision of WIC approved foods to participants.

"Women, Infants and Children Nutrition Program" or **"WIC"** means the federal special supplemental food program for women, infants and children authorized by Section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786).

[Source: Added at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 17 Ok Reg 1600, eff 5-25-00 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 25 Ok Reg 870, eff 5-11-08 ; Amended at 36 Ok Reg 1676, eff 9-13-19 ; Amended at 40 Ok Reg 1559, eff 9-11-23]

310:410-3-3. Application of vendor management

The procedures in this Subchapter apply to all Applicants for participation as vendors in the WIC Program and all vendors under agreement with the department. Any authorization issued prior to the effective date of the Act or this Subchapter, shall remain valid and subject to the Act and this Subchapter.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 25 Ok Reg 870, eff 5-11-08]

PART 3. WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

310:410-3-10. Participant distribution and number of vendors

(a) Upon receipt of the application, the department shall utilize participant/vendor ratios and shall consider participant needs within geographical locations to determine if the applicant meets the county participant/vendor ratio to be eligible for selection.

(b) The participant/vendor ratio shall be calculated for the counties within the state of Oklahoma to determine the need for WIC retail vendors within such counties.

(1) The counties will be divided into two classifications:

(A) Urban Counties - Counties that have towns/cities located within their boundaries with a population of 20,000 or greater (per current Census Population).

(B) Rural Counties - Counties that have towns/cities located within their boundaries with a population of less than 20,000 or consist of sparsely populated areas.

(2) Participant/vendor ratios for the counties within Oklahoma shall be:

(A) Urban Counties - Greater than 200:1

(B) Rural Counties - Greater than 150:1

(3) If an applicant applies for WIC authorization in a county which exceeds the maximum participant/vendor ratio, the application

shall be denied. An exception shall be granted when the applicant's charges to the department or shelf price, whichever is lower, for WIC approved foods are at least five percent (5%) below the department's statewide average cost, and the applicant agrees to maintain these charges to the department at such level during the period of authorization or until the distance is such participant's access is restricted or the county becomes unsaturated.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Added at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 25 Ok Reg 870, eff 5-11-08 ; Amended at 36 Ok Reg 1676, eff 9-13-19 ; Amended at 40 Ok Reg 1559, eff 9-11-23]

310:410-3-11. Application procedures

The department shall provide an application for applying to become a WIC retail vendor. Submission of a completed application shall not constitute authorization to an applicant to accept or receive payment for food benefits. Any application submitted improperly or incompletely shall be returned to the applicant. Any application not completed and returned to the department within sixty (60) calendar days from receipt by the applicant shall not be processed. An applicant can apply for authorization to become a WIC retail vendor by submitting the following to the department:

- (1) An application for WIC vendor authorization as a sole proprietorship shall include the following:
 - (A) identity and addresses of owner;
 - (B) owner's Social Security number;
 - (C) the Federal Employer Identification Number (FEIN) of the business entity;
 - (D) identification of any ownership interest of thirty percent (30%) or more in any other entity applying for WIC vendor authorization or WIC vendor, if requested by the department;
 - (E) identification of the business entity, the store type, location of the vendor site and an employee contact for WIC purposes;
 - (F) proof of the owner's Social Security number, if requested by the department;
 - (G) proof of the business entity's FEIN, if requested; and
 - (H) proof of USDA Supplemental Nutrition Assistance Program (SNAP) authorization, if requested by the department.
- (2) An application for WIC vendor authorization as a corporation shall include the following:
 - (A) identity and location of the corporation's principle place of business;
 - (B) identity and address of the corporation's registered agent;
 - (C) FEIN of the corporation;
 - (D) identification of an ownership interest of thirty percent (30%) or more by the stockholders and such an ownership

interest by these stockholders in any other entity applying for WIC vendor authorization or WIC vendor, if requested by the department;

(E) identity of the business entity, store type and location of the proposed vendor site and an employee contact for WIC purposes;

(F) Certification of Incorporation from the state in which the applicant is incorporated, if requested by the state; and

(G) proof of USDA SNAP authorization, if requested by the department.

(3) An application for WIC vendor authorization as a partnership or limited partnership shall include the following:

(A) identity and address of each limited and general partner and the registered agent;

(B) ownership percentages of each limited and general partner;

(C) Social Security number of each limited and general partner;

(D) FEIN of the partnership or limited partnership;

(E) information concerning any ownership interest of thirty percent (30%) or more by any limited or general partner;

(F) information concerning the business entity, store type and the location of proposed vendor site and an employee contact for WIC purposes;

(G) proof of Social Security numbers of each limited and general partner;

(H) proof of the partnership or limited partnership FEIN; and

(I) proof of USDA SNAP authorization, if requested.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 36 Ok Reg 1676, eff 9-13-19]

310:410-3-12. Authorization criteria and procedures

(a) Only WIC retail vendors authorized by the department shall be eligible to accept food benefits or otherwise provide supplemental foods to WIC participants. Any applicant seeking authorization to become a WIC retail vendor has an obligation to meet the following criteria before authorization. In addition, any approved vendor has a continuing obligation to meet the below listed criteria during the period of authorization:

(1) The vendor site shall be located within the boundary lines of the state of Oklahoma.

(2) The vendor site shall have a fixed and permanent location. This site shall be the address indicated on the WIC vendor application and shall be the location where a WIC participant or proxy shall select WIC foods during business hours.

(A) This site shall not be at an address or within any building where food benefits are distributed to WIC

participants without written agreement from the State, i.e., extenuating circumstances, outreach, participant access, and/or rural areas. Provided, however, the Department retains the right to place a service location within the same building where food benefits are redeemed.

(B) The price charged to the WIC Program for WIC foods provided through participant requested delivery shall not exceed those prices charged to cash paying customers nor the prices posted at the vendor site. The vendor shall not charge for delivery of WIC foods.

(3) Each vendor site listed in the application shall have seventy percent (70%) or more gross receipts from the sale of products other than beer, hot foods and motor fuel.

(4) Authorization to participate in the USDA SNAP or any other federal food program is not a prerequisite for authorization as a WIC retail vendor. If, however, an applicant or vendor has been authorized to participate in the USDA SNAP or other federal food program, he shall not have been denied, suspended, disqualified, terminated, or assessed a civil money penalty during the two (2) years preceding application for authorization as a WIC retail vendor.

(5) Neither the applicant, vendor, nor any officers or officials shall have been involved in bribery as prohibited under Oklahoma Purchasing Act.

(6) Neither the applicant, vendor, its officers, directors, individual partners, nor their spouses or minor children who own more than seven and one-half percent (7 1/2%) ownership or beneficial interest in the business entity seeking authorization to participate in the WIC Program shall be employed by the state or county health departments directly or indirectly involved in the delivery or administration of WIC services.

(7) Neither the applicant, nor the vendor shall have been convicted of a misdemeanor involving fraud, misuse or theft of state or federal funds or of any felony. A certified copy of conviction may be offered and admitted into evidence as proof of such conviction.

(8) Neither the applicant, vendor, nor any owner of thirty percent (30%) or more ownership shall have been terminated from the WIC Program in the previous two (2) years.

(9) The applicant or vendor shall adhere to the provisions of the USDA WIC Regulations and this part.

(b) Applicants shall be authorized as WIC retail vendors based upon the following:

(1) An application and all supporting documents shall be properly completed and verified by the department. No application shall be deemed complete unless it includes all necessary supporting documents required by this part.

(2) The applicant's proposed vendor site may be initially inspected by the department.

(A) The department may conduct an initial inspection of the proposed vendor site after receipt of a completed application. Such inspection shall determine whether the applicant has the minimum quantities, sizes, and types of WIC foods and shall verify any business or financial information submitted by the applicant.

(B) If the inspection discloses that the applicant's proposed vendor site does not have the minimum quantities, sizes, or types of WIC foods necessary, or that business or financial information supplied by the applicant is erroneous, inaccurate, or insufficient, the department shall advise the applicant of the deficiencies and conduct another inspection of the vendor site.

(C) If the second inspection by the department discloses that the applicant's proposed vendor site does not meet the minimum quantities, sizes, and types of WIC foods or if business or financial information supplied by the applicant remains erroneous, inaccurate or insufficient, the application shall be denied.

(3) The minimum quantities, sizes, and types of WIC foods necessary at a vendor site are those specified in the WIC Vendor Agreement. A copy of this list shall be provided to each applicant and approved vendor.

(4) The department shall complete a retail vendor price survey of WIC foods during the initial inspection by collecting the lowest posted shelf prices for WIC foods. If the regular vendor applicant's prices are ten percent (10%) above the average prices in the same peer group for WIC foods, the application shall be denied. If the above 50% WIC vendor applicant's prices are above the statewide average prices for WIC foods, the application shall be denied.

(5) The applicant shall be notified by the department within sixty (60) calendar days, whether or not the inspection or the proposed vendor site, the business, the financial, or other information provided by the applicant meet the criteria set forth in this part. If the applicant meets such criteria, he shall be notified of approval to attend the initial retail vendor training course.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 25 Ok Reg 870, eff 5-11-08 ; Amended at 36 Ok Reg 1676, eff 9-13-19 ; Amended at 40 Ok Reg 1559, eff 9-11-23]

310:410-3-13. WIC food list and quantities

Foods which qualify for delivery to WIC participants shall be determined by the department and placed upon a list which shall be made public. Changes made to the WIC food list by the department, including addition and deletion of eligible foods, shall be distributed to all local agencies, eligible participants and WIC vendors prior to implementation. If a vendor intends to utilize a WIC food list which differs in form from the WIC food list distributed by the department, such use shall require prior approval of the department. To obtain such

approval, the vendor shall submit a request for such use in writing to the department and shall include a copy of the food list it intends to use. The department shall review the food list submitted and inform the vendor whether it shall approve or disapprove of the use of such list based upon the current department list. Disapproval of such a request shall not give rise to any right of administrative appeal.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 25 Ok Reg 870, eff 5-11-08]

310:410-3-14. Criteria for denial of initial authorization

A determination by the Commissioner of Health or designee to deny initial authorization shall be based upon a finding that one (1) or more of the following criteria are met:

- (1) The applicant has not met the requirements of the USDA WIC Regulations or this part.
- (2) The applicant has submitted false, erroneous, or inaccurate information on the application, or in the business or financial information provided to the department or during the course of the initial on-site inspection of the proposed vendor site.
- (3) The applicant has refused to allow the department access to inspect the proposed vendor site during the applicant's normal business hours.
- (4) The applicant has submitted a FEIN or Social Security number for the business entity to be operated at the proposed vendor site which is not the same FEIN or Social Security number filed for the same business entity with the USDA SNAP and/or with the Oklahoma Tax Commission.
- (5) The applicant does not have the necessary local, municipal, or village license to operate as a business entity at the proposed vendor site.
- (6) The applicant has previously been authorized as a WIC vendor and the applicant's charges as a vendor for WIC approved foods, for a minimum of three (3) months during the agreement period, were at least ten percent (10%) or greater than the average charges submitted by other vendors of the same peer group.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 25 Ok Reg 870, eff 5-11-08 ; Amended at 36 Ok Reg 1676, eff 9-13-19]

310:410-3-15. Denial of authorization

- (a) Application for authorization as a WIC retail vendor shall be denied when the Commissioner of Health or designee finds that an applicant does not meet any of the criteria set forth.
- (b) When the Commissioner of Health or designee determines that the application for authorization as a WIC retail vendor is to be denied, the department shall notify the applicant. The notice to the applicant shall be in writing and shall include:
 - (1) a clear and concise statement of the basis for denial. The statement shall include a citation to the USDA WIC Regulations or

the provisions of this Subchapter for which the application is being denied.

(2) a description of the right of the applicant to appeal the denial of the application within fifteen (15) calendar days of receipt of the letter and the right to a hearing.

(c) Hearings under this section shall be conducted in accord with OAC 310:002 and the Administrative Procedures Act.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 12 Ok Reg 3049, eff 7-27-95]

PART 5. WIC VENDOR EDUCATION

310:410-3-20. Initial WIC retail training by the Department

(a) An initial WIC retail training course shall be provided to vendor applicants who have met the criteria in Part 3 of this Subchapter. All vendor sites shall send a representative listed on the application to such training course except as provided for by the department.

(b) The initial WIC retail training course shall include, but shall not be limited to the following:

- (1) the purpose of the WIC Program,
- (2) certification of WIC participants,
- (3) responsibilities of the WIC retail vendor,
- (4) minimum quantities,
- (5) sizes and types of authorized WIC approved foods,
- (6) food benefit processing and transactions,
- (7) USDA WIC Regulations and the provisions of this part,
- (8) monitoring and compliance visits,
- (9) WIC fraud and abuse provisions,
- (10) potential sanctions to vendors,
- (11) collection of overcharges,
- (12) the vendor's responsibility for maintenance of purchasing records,
- (13) procedures for WIC participant,
- (14) vendor or public complaints,
- (15) the WIC vendor agreement, and
- (16) completion of the retail vendor price survey.

(c) All applicants or their representatives at the initial retail training course shall sign a roster indicating their attendance.

(d) At the end of the initial retail training course, each applicant or the applicant's representative shall sign a certification of understanding of the WIC Program.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 36 Ok Reg 1676, eff 9-13-19]

310:410-3-21. Initial WIC retail training by a vendor

(a) A vendor who meets the following criteria shall have the option of providing the initial WIC retail training to each vendor site only with

written prior approval of the department. The vendor shall meet the following criteria:

- (1) the vendor shall submit a written request to provide the training course and all materials which shall be used in the course which shall include the subjects specified in this Code;
 - (2) all WIC retail vendor outlets shall operate under one FEIN;
 - (3) department representatives shall be allowed to observe the training; and
 - (4) a certification of understanding of the WIC Program shall be completed and signed by the vendor or his representative
- (b) If the criteria in Subsection (a) of this Section are met, the department shall send a written notification permitting the vendor to provide the initial WIC retail vendor training. This permission shall be valid for the period covered by the WIC vendor authorization.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94]

310:410-3-22. Annual WIC retail training program

- (a) Unless a vendor has attended an initial WIC retail vendor training meeting during the agreement period, a representative from each vendor site shall be notified and shall participate in an annual department sponsored training program. This person shall not represent more than one (1) WIC retail vendor site at any annual training course.
- (b) Each training program shall include, but not be limited to the following topics:
- (1) any changes to the USDA WIC Regulations or the provisions of this part,
 - (2) and issues relating to the WIC vendor agreement.
- (c) A representative from each vendor site shall sign a certificate of participation in the training program.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05]

310:410-3-23. Compliance training workshop

- (a) Any WIC retail vendor who has been found to have committed a Class A or Class B violation shall be required to attend a compliance training workshop. Any vendor required to attend shall not represent more than one (1) WIC retail vendor site at any compliance workshop. Attendance at the compliance training workshop shall not be required if the vendor is terminated from authorization.
- (b) The vendor shall be notified in writing of the workshop date by the department.
- (c) Workshop topics shall include, but not be limited to the following:
- (1) the WIC vendor agreement,
 - (2) the USDA WIC Regulations and
 - (3) the provisions of this part.
- (d) All vendors or representative of the vendor at a compliance workshop shall sign a roster indicating their attendance.
- (e) At the end of the compliance workshop, each vendor or representative of the vendor shall sign a certification of understanding of the topics

addressed during the compliance workshop.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05]

PART 7. WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

310:410-3-30. Authorization

Upon successful completion of the process for application or re-authorization, each applicant or WIC vendor who meets the criteria set forth in this Subchapter shall be notified that they are approved for authorization pending completion of a WIC vendor agreement.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05]

310:410-3-31. WIC vendor agreement requirement

All authorizations to act as WIC retail vendors require a properly executed, written WIC vendor agreement between the department and the vendor. In the retail purchase system, a standard WIC vendor agreement shall be used statewide and requires ratification annually. Exceptions to this requirement shall be made with the approval of the Commissioner of Health or designee, consistent with USDA WIC Regulations (7 CFR 246.12 (f) (1)).

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05]

310:410-3-32. Expiration of WIC vendor authorization and agreement

The department is under no obligation to re-authorize a WIC vendor at the time of expiration of the WIC vendor agreement.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05]

310:410-3-33. Food instrument processing [REVOKED]

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 17 Ok Reg 1600, eff 5-25-00 ; Amended at 25 Ok Reg 870, eff 5-11-08 ; Revoked at 36 Ok Reg 1676, eff 9-13-19]

310:410-3-34. Specifications for rejection of food instruments [REVOKED]

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 25 Ok Reg 870, eff 5-11-08 ; Revoked at 36 Ok Reg 1676, eff 9-13-19]

310:410-3-35. WIC retail vendor responsibilities

- (a) The vendor shall monitor the WIC approved foods approved by the USDA and shall furnish only the prescribed quantities, types and brands of food specified on the food benefit. Pharmacies or drug stores shall be exempt from the minimum stock requirement. However, these establishments must have the ability to supply special formula in the necessary quantities upon request within twenty-four (24) hours.
- (b) The vendor shall display the price of WIC approved foods charged to the general public in clear view of customers, identifying the price of the specific WIC food item.
- (c) The vendor shall provide WIC approved foods to participants or proxies at the same price or less than the price charged to non-WIC customers.
- (d) The vendor shall accept food benefits only from WIC participants, proxies or representatives of the department.
- (e) The vendor shall not issue a WIC participant or proxy any document (e.g., rain check) purporting to give the WIC participant or proxy the right to buy a WIC food item or non-WIC food item after the food benefit is processed by the participant or proxy. The vendor shall not exchange any WIC food item unless authorized by a department representative.
- (f) The vendor shall charge the department sale prices. The value of coupons and discounts shall be deducted from the price charged to the department. The participant shall not be given cash for the difference.
- (g) The vendor shall participate in an annual WIC training program.
- (h) The vendor shall be responsible for all food benefits accepted and processed for payment by current and former employees at the vendor site. The vendor shall also be responsible for the accuracy of any information submitted to the department by such employees. The vendor shall be responsible for reviewing food benefits which have been accepted to make certain that the total cost does not exceed the posted shelf prices or the prices charged to non-WIC customer.
- (i) The vendor shall abide by the USDA WIC Regulations and this part.
- (j) The vendor and his business entity shall be subject to audit by the department or USDA for the time period covering any present or previous authorization. The vendor shall maintain all records of purchases, gross sales receipts, and invoices of all WIC and non-WIC approved foods for a period not less than three (3) years. The original of such records shall be made available to the department or USDA upon reasonable request.
- (k) The vendor shall respond truthfully and accurately to department initiated requests for retail vendor price surveys, verification of ownership of the business entity or vendor site, proof of WIC and non-WIC purchases and sales, and proof of the volume of alcoholic beverage sales. Such responses shall be in writing and be provided within fifteen (15) calendar days of receipt of the department's request.
- (l) The vendor shall maintain all refrigerated areas at a temperature of forty degrees Fahrenheit (40°F) or below, and no WIC approved foods shall exceed the expiration date printed on the food item.
- (m) The vendor shall not exchange food benefits for any form of currency, or other items of value, nor provide the participant with any amount of

currency or coin as change from a partial WIC food transaction.

(n) The vendor shall not seek restitution from WIC participants for food benefits not paid by the department or fines levied by the department, a financial institution or the department's fiscal processor. The vendor shall not seek or receive restitution from the department for monetary penalties for rejected food benefits.

(o) The vendor shall not charge sales taxes for WIC approved foods, as the department is exempt from such tax.

(p) The vendor shall reimburse the department for any food benefits redeemed in violation of the USDA WIC Regulations, this part, or the WIC vendor agreement.

(q) Neither authorization as a WIC vendor nor the WIC vendor agreement constitutes employment between the vendor and the department as a state employee or provides eligibility for any employee benefits provided by the state of Oklahoma.

(r) The vendor shall offer the same courtesies to WIC participants as offered to other customers.

(s) When material information included in the vendor's application changes, the vendor, by certified mail, shall notify the department in writing within thirty (30) calendar days.

(t) The vendor shall not deny a participant any WIC approved foods indicated on the food benefit which the vendor has in stock.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 36 Ok Reg 1676, eff 9-13-19]

310:410-3-36. Payment obligation

Obligations of the department shall cease immediately without penalty of further payment if the Oklahoma State Legislature or any federal funding source fails to appropriate or make available sufficient funds for this process.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94]

310:410-3-37. Conflict of interest

The department shall ensure that no conflict of interest exists between any local agency and the vendors within the local agency's jurisdiction.

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Added at 17 Ok Reg 1600, eff 5-25-00]

310:410-3-38. Unlawful discrimination [RESERVED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94]

310:410-3-39. Amendments resulting from a change in statute or regulation

The department shall amend the WIC vendor agreement, in writing, to include or incorporate additional provisions which shall be

required as a result of a change in federal or state statute or regulation, or which shall be required by the department for the administration, operation, or evaluation of the WIC Program. The vendor shall receive thirty (30) calendar days notice of the effective date of such amendments.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05]

310:410-3-40. Assignment or transfer

The vendor shall not sell, assign, or transfer in any manner the authorization, the WIC vendor agreement, or the WIC vendor number. Any actual or attempted sale, assignment or transfer of the above shall be considered a breach of the WIC vendor agreement. The death of a vendor (if an individual) or the voluntary or involuntary dissolution of a vendor corporation, partnership, limited partnership, unincorporated association, or firm shall cause the vendor's authorization and the WIC vendor agreement to expire. The vendor has an affirmative duty to notify the department, in writing, at the place listed in the WIC vendor agreement, fifteen (15) calendar days in advance of any scheduled sale, lease, bankruptcy, or cessation of the vendor's business entity, or the sale of any majority interest of any corporation or partnership.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 36 Ok Reg 1676, eff 9-13-19]

310:410-3-41. Civil law suits

The vendor shall hold the department harmless for any liability for any compensation, award, or damages in connection with the vendor's performance as a WIC retail vendor for any injury which might occur to any of the vendor's employees, WIC participants, or others as the result of any act, omission, or negligence of the WIC vendor.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94]

310:410-3-42. Voluntary withdrawal from the WIC vendor agreement

A vendor may voluntarily withdraw from participation in the WIC retail vendor program with approval of the department. A request for such withdrawal shall be made in writing by the vendor and sent to the department at least fifteen (15) calendar days in advance of the desired date of withdrawal. If at the time of the requested withdrawal, the vendor owes a fine assessment or any other monies resulting from a violation of this part, such penalty and other monies due shall be paid in full prior to withdrawal from the WIC retail vendor program. The State agency shall not accept voluntary withdrawal of the vendor from the Program as an alternative to disqualification for the violations listed in 7 CFR §246.12 (k) (1) (i) through (k) (1) (iv), but shall enter the disqualification on the record.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 17 Ok Reg 1600, eff 5-25-00 ; Amended at 22 Ok Reg 741, eff 5-12-05]

310:410-3-43. Notices

The vendor shall send all notices to the department by certified mail at the address listed in the WIC vendor agreement.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05]

PART 9. WIC VENDOR COMPLIANCE AND SANCTIONS

310:410-3-50. Compliance monitoring inspections

The department shall develop a system for monitoring the operations of all WIC retail food vendors to ensure compliance with federal and state laws and rules governing the WIC Program. The department shall investigate all alleged violations of the federal and state laws and rules promulgated thereunder.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94]

310:410-3-51. Violations

(a) Violations shall be classified as either Class A violations, Class B violations, or Class C violations. Each class of violation is listed below.

(b) Mandatory Vendor Sanctions

(1) Class A violations:

- (A) A vendor convicted of trafficking in food benefits or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of Controlled Substances Act (21 U.S.C. 802) in exchange for food benefits;
- (B) Permanent disqualification, disqualification or suspension from participation in the USDA SNAP, or imposition of a civil money penalty by the SNAP;
- (C) One incidence of buying or selling food benefits for cash (trafficking);
- (D) One incidence of selling firearms, ammunition, explosives, or controlled substances in exchange for food benefits;
- (E) One incidence of sale of alcohol or alcoholic beverages or tobacco products in exchange for food benefits;
- (F) A pattern of claiming reimbursement for sale of an amount of a specific WIC food item which exceeds the store's documented inventory of that WIC food item for a specific period of time;
- (G) A pattern of charging WIC participants, proxies, or department representatives more for WIC food than non-WIC customers, or charging more than the current shelf or agreement price;
- (H) A pattern of receiving, transacting and/or redeeming food benefits outside of authorized channels, including the

use of an unauthorized vendor and/or an unauthorized person;

(I) A pattern of charging for WIC food not received by the participant, proxy, or department representatives;

(J) A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food benefits;

(K) A pattern of providing unauthorized food items in exchange for food benefits, including charging for WIC food provided in excess of those listed on the food benefit;

(c) State Vendor Violations

(1) Class B violations:

(A) Requiring a participant to select a different type or brand of WIC approved foods when not specified on the food instrument;

(B) Failure to post current shelf prices for WIC approved foods;

(C) Seeking restitution from WIC participants for food benefits not paid by the department or fines levied by the department, a financial institution, or the department's fiscal processor;

(D) Failure to attend an annual retail vendor training program;

(E) Refusing to allow participants, proxies or department representatives to take any food items listed on the food benefit;

(2) Class C violations:

(A) Failure to submit retail vendor price surveys requested by the department;

(B) Failure to submit information requested by the department within the time period specified by the department.

(C) Failure to maintain the minimum stock requirements as specified in the WIC vendor agreement, and/or having any expired WIC approved foods on the shelf.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 17 Ok Reg 1600, eff 5-25-00 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 36 Ok Reg 1676, eff 9-13-19]

310:410-3-52. WIC vendor sanctions

Any Class A or B violation shall subject the vendor to reimburse the department for any overcharges, charges for items not received by WIC participants, and monies paid for products not authorized as WIC approved foods.

(1) Any Class A violation shall constitute grounds for disqualification of authorization to the WIC Program. If the department determines that disqualification of the vendor would result in inadequate participant access, the department shall impose a civil money penalty in lieu of disqualification. The length

of each disqualification is listed below.

(A) Permanent disqualification: A vendor convicted of trafficking in food benefits or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of Controlled Substances Act (21 U.S.C. 802) in exchange for food benefits.

(B) Six-year disqualification:

(i) One incidence of buying or selling food benefits for cash (trafficking); or

(ii) One incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food benefits.

(C) Three-year disqualification:

(i) One incidence of sale of alcohol or alcoholic beverages or tobacco products in exchange for food benefits; or

(ii) A pattern of claiming reimbursement for sale of an amount of a specific WIC food item which exceeds the store's documented inventory of that WIC food item for a specific period of time; or

(iii) A pattern of charging participants more for WIC food than non-WIC customers or charging participants more than the current shelf or agreement price; or

(iv) A pattern of receiving, transacting and/or redeeming food benefits outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person; or

(v) A pattern of charging for WIC food not received by the participant, proxy, or department representatives; or

(vi) A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food benefits.

(D) One-year disqualification: A pattern of providing unauthorized food items in exchange for food benefits, including charging for supplemental foods provided in excess of those listed on the food benefit.

(E) Disqualification period equal to SNAP disqualification:

(i) Permanent disqualification, disqualification or suspension from participation in the USDA SNAP, or imposition of a civil money penalty by SNAP;

(ii) Such sanction shall not be subject to administrative or judicial review under the WIC program.

(F) Voluntary withdrawal or non-renewal of agreement:

(i) The department shall not accept voluntary withdrawal of the vendor from the Program as an alternative to disqualification for violations listed in

this section, but shall enter the disqualification on the record; or

(ii) The department shall not use non-renewal of the vendor agreement as an alternative to disqualification.

(G) Civil Money Penalty (For each violation subject to a mandatory sanction): The department shall impose a Civil Money Penalty in lieu of WIC Program disqualification if such disqualification of the vendor would result in inadequate WIC participant access. The Civil Money Penalty is set forth in 7 CFR 246.12(l)(x)(C) and 7 CFR 3.91(b)(3)(v).

(2) Any Class B violation shall constitute grounds for the following sanctions:

(A) For the first Class B violation, the WIC retail vendor shall be given written notice of the violation and shall be given an administrative warning.

(B) For the second Class B violation committed within one (1) year of the first Class B violation, the vendor shall be subject to a fine assessment of five hundred dollars (\$500). The vendor shall also be required to attend a compliance training workshop.

(C) The third Class B violation committed within two (2) years of the first Class B violation shall subject the vendor to a fine assessment of one thousand dollars (\$1,000).

(D) The fourth Class B violation committed within two (2) years of the first Class B violation shall be grounds for termination of the vendor authorization, and a fine assessment of two thousand, five hundred dollars (\$2,500).

(3) Any Class C violation shall constitute issuance of an administrative warning. Five (5) Class C violations within a one (1) year period shall be grounds for termination of the vendor authorization for a period of one (1) year.

(4) Second mandatory sanction, a vendor, who previously has been assessed a sanction for any of the violations listed in this part, receives another sanction for any of these violations, the department shall double the sanction.

(5) Third or subsequent mandatory sanction, a vendor, who previously has been assessed two or more sanctions for any of the violations in this part, receives another sanction for any of these violations, the department shall double the third sanction and all subsequent sanctions. The department shall not impose civil money penalties in lieu of disqualification for third or subsequent sanctions for violations listed in this part.

(6) The time period shall commence from the time the notice of violation, termination, or fine assessment is issued by the department.

(7) All fine assessments shall be paid by cashier certified check or money order in United States currency.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 17 Ok Reg 1600, eff 5-25-00 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 25 Ok Reg 870, eff 5-11-08 ; Amended at 36 Ok Reg 1676, eff 9-13-19 ; Amended at 40 Ok Reg 1559, eff 9-11-23]

310:410-3-53. Criteria for termination of authorization and fine assessment

(a) A determination by the Commissioner of Health or designee to terminate authorization and impose a fine assessment shall be based upon a finding that one (1) or more of the following criteria are met:

- (1) the vendor has not met one (1) or more requirements of the USDA WIC Regulations or the provisions of this part;
- (2) the vendor has submitted false, erroneous, or inaccurate information on the application, in the business or financial information provided to the department, on the retail vendor price survey, or during the course of inspections of the vendor site;
- (3) the vendor has refused to allow the department access to inspect the vendor site during normal business hours;
- (4) the vendor has been found by the department to have violated provisions of this Chapter;
- (5) the vendor has submitted a Federal Employer's Identification Number (FEIN) for the business entity operating as a vendor which differs from the FEIN filed for the same business entity with the USDA SNAP, or with the Oklahoma Tax Commission;
- (6) the vendor has not fulfilled the terms of the WIC vendor agreement;
- (7) the vendor has sold, leased, or discontinued the business entity or moved the business entity to a new location or new address; or
- (8) the vendor corporation, partnership, or limited partnership has been voluntarily or involuntarily dissolved or the vendor sole proprietor has died.

(b) In deciding upon the punishment to be imposed, the department or its designee shall take into consideration the nature of the offense alleged to have been committed, the evidence regarding deliberate, as opposed to inadvertent conduct, the number of previous violations committed by the vendor, and such other evidence as may be relevant to imposition of punishment.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 22 Ok Reg 741, eff 5-12-05 ; Amended at 36 Ok Reg 1676, eff 9-13-19]

310:410-3-54. Termination of authorization and fine assessment

(a) The termination of authorization as a WIC retail vendor and/or imposition of a fine assessment shall occur when the Commissioner of Health or designee finds that the vendor meets any of the criteria set forth in this Chapter.

(b) When the Commissioner of Health or designee determines that the termination of a WIC vendor's authorization and/or imposition of fine

assessment is to occur, the department shall notify the vendor. The notice shall be in writing and shall include:

(1) A statement of the nature of the basis for the adverse actions. The statement shall include a citation to the provisions of the USDA WIC Regulations or this Subchapter on which the termination is based.

(2) A description of the right of the vendor to appeal the adverse action and the right to a hearing under the OAPA.

(c) Hearings under this section shall be conducted in accord with OAC 310:002 and the Administrative Procedures Act.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-55. Notice of violation

(a) Each notice of violation shall be in writing and shall contain the following information:

(1) a description of the nature of the violation;

(2) a citation of the specific provision of the USDA WIC Regulations, or this part, which the department believes has been violated;

(3) a statement of the level of violation as determined by the department;

(4) a statement that the department may take additional action under the Act or this part, including termination of WIC vendor authorization and the WIC vendor agreement, and/or an assessment of penalties;

(5) a description of the vendor's right to appeal the notice within fifteen (15) calendar days of receipt of the notice and the right to request a hearing; and

(6) the effective date for any proposed adverse action against a vendor.

(b) Hearings under this section shall be conducted in accord with OAC 310:002 and the Administrative Procedures Act.

[Source: Added at 10 Ok Reg 4203, eff 8-1-93 (emergency); Added at 11 Ok Reg 3823, eff 7-11-94 ; Amended at 12 Ok Reg 3049, eff 7-27-95 ; Amended at 22 Ok Reg 741, eff 5-12-05]

PART 11. RULES OF PRACTICE AND PROCEDURES IN OKLAHOMA WIC RETAIL VENDOR ADMINISTRATIVE HEARINGS [REVOKED]

310:410-3-60. Applicability [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-61. Parties to hearings [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-62. Appearance and representation of a party [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-63. Commencement of an action [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-64. Motions [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-65. Discovery [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-66. Form of papers [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-67. Service [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-68. Pre-hearing conferences [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-69. Conduct of hearings [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-70. Subpoenas [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-71. Burden of proof [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-72. Hearing officer's report and final decision [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-73. Records of proceedings [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-74. Construction of rules [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-75. Waiver [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

310:410-3-76. Jurisdiction [REVOKED]

[Source: Reserved at 10 Ok Reg 4203, eff 8-1-93 (emergency); Reserved at 11 Ok Reg 3823, eff 7-11-94 ; Revoked at 12 Ok Reg 3049, eff 7-27-95]

SUBCHAPTER 5. PARTICIPATION

310:410-5-1. Purpose

The purpose of the subchapter is to establish the requirement for participation in the WIC program.

[Source: Added at 16 Ok Reg 2505, eff 6-25-99]

310:410-5-2. Definitions

The definitions as specified in section 310:410-3-2 shall apply to this subchapter.

[Source: Added at 16 Ok Reg 2505, eff 6-25-99]

310:410-5-3. Eligibility

(a) To be eligible for WIC services a person must fall under one of the following categories:

- (1) A pregnant female;
- (2) A breast-feeding woman with a child under the age of twelve (12) months;

- (3) A woman who has given birth within the last twelve (12) months; or
 - (4) A child from birth to five years of age.
- (b) Eligibility also requires that the participant live in Oklahoma and have a family income within the program limits.

[Source: Added at 16 Ok Reg 2505, eff 6-25-99]

310:410-5-4. Application

To apply for WIC services the applicant must be the person or the guardian for the person eligible for services. Guardian includes parents, grandparents, foster parents, caretaker, court appointed guardian or other proxy. Application may be made at any local agency.

[Source: Added at 16 Ok Reg 2505, eff 6-25-99]

310:410-5-6. Termination of benefits

- (a) Benefits under the WIC program shall terminate if:
 - (1) The child reaches the age of sixty (60) months;
 - (2) The woman is more than twelve months (12) since the delivery of her last child and is not pregnant; or
 - (3) The family income no longer meets the program limits;
- (b) Sanctions will be sought against any participant who:
 - (1) Provides status information which is false; or
 - (2) Applies for benefits under multiple names, multiple times, or multiple organizations.
- (c) Sanctions may include:
 - (1) Counseling;
 - (2) Suspension of benefits;
 - (3) Termination of benefits; and/or
 - (4) Repayment of benefits.

[Source: Added at 16 Ok Reg 2505, eff 6-25-99 ; Amended at 19 Ok Reg 2075, eff 6-27-02]

310:410-5-7. Hearings

A participant is entitled to a hearing on denial or termination of benefits under the WIC program. The hearing must be requested in writing and presented to any WIC local agency. The local agency will transmit the request for a hearing to the department and a hearing will be scheduled under the Administrative Procedures Act as an individual proceeding. Procedures for the hearing are contained in Chapter 2 of this title.

[Source: Added at 16 Ok Reg 2505, eff 6-25-99]

CHAPTER 451. FIRE EXTINGUISHER INDUSTRY [TRANSFERRED]

Editor's Note: *Effective 11-1-13, "all administrative rules promulgated the State Board of Health relating to the Fire Extinguisher Licensing Act [were] transferred to and [became] a part of the administrative rules of the State Fire Marshal Commission" [Laws 2013, c. 111, § 1(G)]. As directed, the Office of Administrative Rules transferred and renumbered the sections from this Chapter 451 of the State Board of Health's rules in the Oklahoma Administrative Code [OAC 310:451] to a new Chapter 50 in the State Fire Marshal Commission's rules [OAC 265:50]. The rules "shall continue in force and effect as rules of the State Fire Marshal Commission from and after [November 1, 2013], and any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the Oklahoma Fire Marshal Commission" [Laws 2013, c. 111, § 1(G)].*

[**Authority:** 59 O.S. §§ 1820.1 et seq.]

[**Source:** Codified 7-11-08]

SUBCHAPTER 1. GENERAL PROVISIONS [TRANSFERRED]

310:451-1-1. Purpose [TRANSFERRED]

[**Source:** Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-1-1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-1-2. Definitions [TRANSFERRED]

[**Source:** Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-1-2 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-1-3. Adopted references [TRANSFERRED]

[**Source:** Added at 25 Ok Reg 2427, eff 7-11-08 ; Amended at 30 Ok Reg 1965, eff 7-25-13 ; Transferred to 265:50-1-3 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-1-3.1. Compliance with intent of chapter [TRANSFERRED]

[**Source:** Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-1-3.1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

SUBCHAPTER 3. LICENSE REQUIREMENTS [TRANSFERRED]

310:451-3-1. General application and license requirements [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-3-1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-3-2. Application and license fees, period and display, and examination alternatives or prerequisites [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-3-2 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-3-3. Portable Fire Extinguisher license requirements [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-3-3 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-3-4. Pre-Engineered fire suppression system license requirements [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-3-4 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-3-5. Engineered System license requirements [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-3-5 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

SUBCHAPTER 5. SPECIAL PROVISIONS [TRANSFERRED]

310:451-5-1. Portable fire extinguisher tagging requirements [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-5-1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-5-2. Pre-Engineered fire suppression system tagging requirements [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-5-2 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-5-3. Engineered fire suppression system tagging requirements. [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-5-3 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

SUBCHAPTER 7. ENFORCEMENT [TRANSFERRED]

310:451-7-1. License revocation and suspension [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-7-1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

310:451-7-2. Prohibited acts [TRANSFERRED]

[Source: Added at 25 Ok Reg 2427, eff 7-11-08 ; Transferred to 265:50-7-2 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this chapter)]

CHAPTER 505. ANATOMICAL GIFTS

[Authority: 63 O.S., § 2216]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:505-1-1. Purpose

The purpose of this Chapter is to provide rules for anatomical gifts, tissue banks, and eye banks as required by the Uniform Anatomical Gift Act, 63 O.S. Supp. 1999, Section 2201 et seq., as amended.

[Source: Amended at 18 Ok Reg 1711, eff 5-25-01]

310:505-1-2. Anatomical Donation form adopted [REVOKED]

[Source: Revoked at 18 Ok Reg 1711, eff 5-25-01]

310:505-1-3. Definitions

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

"Act" means the Uniform Anatomical Gift Act [63 O.S. Supp. 1999, §2201 et. seq.]

"Commissioner" means the Commissioner of Health.

"Department" means the Oklahoma State Department of Health.

"Designated anatomical gift representatives" means either organ procurement representatives, designated requestors, appropriately trained tissue bank employees when requesting consent for donation of bone, skin, or connective tissue, or appropriately trained eye bank employees when requesting consent for donation of whole eyes, corneas, or other parts of eyes.

"Designated requestor" means an individual designated in writing by the hospital, who has completed a course offered or approved by a designated and qualified Organ Procurement Organization (OPO) or who has equivalent training and experience. Such courses shall be designed in conjunction with the tissue and eye bank community in the methods for approaching potential donor families and requesting organ, tissue, or eye donation.

"Existing eye bank" means any eye bank in Oklahoma which was operating on November 1, 1997 and has been in continuous operation since that date.

"Existing tissue bank" means any tissue bank in Oklahoma which was operating on November 1, 1999 and has been in continuous operation since that date.

"Eye bank" means a person, corporation, partnership, association or other legal entity established, operated, or maintained for the procurement, storage, and/or distribution of whole eyes, corneas, or other parts of eyes.

"General medical surgical hospital" *means a hospital maintained for the purpose of providing hospital care in a broad category of illness and injury. {63 O.S. Supp. 1999, § 1-701}*

"New eye bank" means any eye bank in Oklahoma which was not in operation on November 1, 1997.

"New tissue bank" means any tissue bank in Oklahoma which was not in operation on November 1, 1999.

"Organ procurement representative" means an individual who has been appropriately trained and is employed by a qualified organ procurement organization designated by the Health Care Financing Administration (HCFA) to *perform or coordinate the surgical recovery, preservation, and transportation of organs and that allocates organs to prospective recipients* {63 O.S. Supp. 1999, § 2202(9)} for a particular service area.

"Tissue bank" means a person, corporation, partnership, association or other legal entity established, operated, or maintained for the procurement, storage, and/or distribution of bone, skin, or connective tissue.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

SUBCHAPTER 3. ANATOMICAL GIFTS

310:505-3-1. Requirement to request consent for anatomical gift

Each general medical surgical hospital with fifty (50) or more licensed beds shall ensure that when a person who is determined to be potentially suitable for organ, tissue, or eye donation dies in the hospital, a request for consent for anatomical gift is made when such a request is required by the Act. The hospital shall ensure that each request for consent for anatomical gift is made by a designated anatomical gift representative, and that each such request is made of the appropriate person as described in the Act.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-3-2. Procedures for requesting consent for anatomical gift

Each general medical surgical hospital with fifty (50) or more licensed beds shall establish written policies and procedures describing:

- (1) Who may execute an anatomical gift under the Act;
- (2) The classes of persons and priority of the classes of persons who may consent to a request for anatomical gift of a decedent's body or part of a body under the Act;
- (3) The names and contact information for all hospital designated requestors and the contact information required to initiate the referral process to the designated OPO, tissue bank, or eye bank if they act as designated requestors for the hospital;
- (4) The name and location of the designated OPO for their service area and procedures for how to contact the OPO twenty-four (24)

hours a day;

(5) The names and locations of all tissue and eye banks with which the hospital has agreements to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes;

(6) The methodology for approaching donor families and requesting organ, tissue, or eye donation which encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of the families of potential donors;

(7) How to document a request for anatomical donation and the outcome of the request;

(8) The quality assurance activities used to monitor the identification of potential donors, appropriate requests for consent for anatomical gifts are made, and that outcomes of requests for anatomical gifts are documented.

(9) A method of notifying administrators if other hospital policies, procedures, or processes interfere with the identification or maintenance of potential donors, or in the retrieval of all usable organs, tissues, and eyes.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-3-3. Certificate of request for anatomical gift

(a) The hospital shall ensure that a copy of the completed Certificate of Request For Anatomical Gift is included in the medical records of the decedent when a person who is determined to be potentially suitable for organ, tissue, or eye donation dies in the hospital.

(b) The Certificate of Request for Anatomical Gift shall include:

(1) Identifying information for the hospital and the decedent;

(2) Information on any deferrals of donation made by an OPO, tissue bank, or eye bank;

(3) Identifying information for the requested party and the requesting party;

(4) A description of the specifics and circumstances of the request and the outcome of the request.

(5) A description of the organs and tissues donated when a request is granted and any limitations or special wishes for the gift;

(6) A declaration of consent for the gift and signature blocks for the requested party and the requesting party.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-3-4. Approved means of giving consent

(a) Consent for an anatomical gift may be given in person, or by telephone, telegraph, facsimile, electronic mail, or other electronic means when the identity of the person giving consent can be reasonably assured.

(b) The hospital shall request written confirmation of in person verbal consent, or consent received by telephone, electronic mail, or other

electronic means. The requested party's signature on ODH Form 942 shall be deemed to meet this requirement.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-3-5. Coordination of anatomical gift activities

The hospital shall work cooperatively with the designated OPO, tissue bank and eye bank in educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

SUBCHAPTER 5. TISSUE BANKS

310:505-5-1. Permits

(a) **Requirement for a permit.** Each tissue bank operating in Oklahoma shall hold a valid permit issued by the Department. Each permit shall be issued for a period not to exceed thirty-six (36) months provided all the requirements of this Chapter are met, and shall automatically expire on the last day of the thirty-sixth month from the date of issue if not renewed.

(b) **Permit fee.** Application for a permit shall be made on a form provided by the Department for that purpose. A non-refundable fee of one thousand dollars (\$1000.00) shall accompany each permit application. Any application received by the Department without a fee shall not be considered or processed.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-5-2. Permit Applications

(a) **Initial applications.** Each new tissue bank shall submit a complete application for permit to operate a tissue bank and include with the completed application and fee:

- (1) A map or narrative description which identifies the proposed service area;
- (2) A description of the tissue transplantation needs in the proposed service area;
- (3) An explanation of the probable impact of the new tissue bank on existing tissue banks providing services in the proposed service area;
- (4) Evidence of accreditation by the American Association of Tissue Banks (AATB) or another nationally recognized accreditation organization for tissue agencies approved by the Commissioner;
- (5) The name of the Medical Director and evidence that he or she is currently licensed to practice medicine in Oklahoma; and

- (6) The names and credentials of all technical operations personnel who meet the requirements of OAC 310:505-5-7.
- (b) **Existing tissue banks.** Existing tissue banks applying for a permit for the first time after the effective date of these rules shall not be required to provide the information required at OAC 310:505-5-2(a)(1 - 3).
- (c) **Renewal application.** At least ninety (90) days prior to the expiration of their current permit, each tissue bank shall submit to the Department a complete application for permit to operate a tissue bank and include with the completed application and fee:
- (1) Evidence of accreditation by the AATB or another nationally recognized accreditation organization approved by the Commissioner;
 - (2) The name of the Medical Director and evidence that he or she is currently licensed to practice medicine in Oklahoma; and
 - (3) The names and credentials of all technical personnel who meet the requirements of OAC 310:505-5-7, including evidence of current certification by the AATB or another nationally recognized accrediting or certifying organization for tissue agencies and personnel approved by the Commissioner.
- (d) **Notice of initial permit application.** After a complete application for permit and fee for a new tissue bank has been received, the Department shall cause public notice of the new tissue bank to be published in the newspaper with the greatest circulation in the proposed service area of the new tissue bank. The Department shall also provide written notice of the initial permit application to each tissue bank in the state holding a current permit.
- (e) **Action on permit application.** The Department shall act to issue or deny each initial and renewal permit application within seventy-five (75) days of the publication of the notice for initial permit application, and within seventy-five (75) days of receipt of the complete application and fee for renewal permit application.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-5-3. Compliance with Federal, State, and local laws

Each tissue bank shall comply with applicable Federal, State, and local laws.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-5-4. Enforcement

- (a) **Denial, revocation, suspension, non-renewal of permit.** The permit of a tissue bank may be denied, revoked, suspended, or not renewed for failure to comply with the provisions of the Act or the rules of this Chapter.
- (b) **Appeals.** Appeals of Department actions against a permit or a permit holder shall be conducted according to the Administrative Procedures Act and Chapter 2 of this Title (310:002).

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-5-5. Accreditation and notification

(a) Within one (1) year after receipt of a permit, each tissue bank shall be accredited by the AATB or another nationally recognized accreditation organization for tissue agencies approved by the Commissioner in order to hold, or be eligible to hold a permit.

(b) Each permitted tissue bank shall notify the Department in writing within ten (10) days of the loss of accredited status required by OAC 310:505-5-5(a).

[Source: Added at 18 Ok Reg 1711, eff 5-25-01 ; Amended at 19 Ok Reg 385, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1050, eff 5-13-02]

310:505-5-6. Medical director

Each tissue bank shall have a medical director who is a physician licensed to practice medicine in Oklahoma with appropriate training and experience in tissue bank services.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-5-7. Technical operations personnel

(a) Each tissue bank shall employ sufficient technical operations personnel to meet the procurement, testing, quality control, and quality assurance needs for the number and type of tissue units recovered, processed, stored, and distributed to ensure that a safe and reliable product is provided.

(b) Each tissue bank shall employ at least one technician holding current certification as a Certified Specialist in tissue bank procedures for recovery, processing, storage, and distribution of skin, bone, and connective tissue by the AATB or other nationally recognized accrediting or certifying organization for tissue agencies and personnel approved by the Commissioner.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-5-8. Tissue distribution

Each tissue bank shall give priority in tissue distribution to the Oklahoma medical community and to Oklahoma patients.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-5-9. Annual report

(a) Each tissue bank in Oklahoma shall prepare and submit an annual report to the Department based on the previous calendar year's twelve month period of January 1st through December 31st.

(b) Annual reports shall be provided to the Department by March 31st of each calendar year.

(c) During a tissue bank's first year of operation, the annual report shall be based on the period from the first day of operation to December 31st of that year.

(d) Each annual report shall include at least the following information:

- (1) The accreditation status of the tissue bank;
- (2) A report of all regulatory, accreditation, or internal inspections which result in findings that impact the quality of the product or services provided by the tissue bank;
- (3) The names and certification statuses of all technical personnel who meet the requirements of OAC 310:505-5-7.
- (4) The name and qualifications of the current medical director including evidence the medical director is currently licensed to practice medicine in Oklahoma;
- (5) The type and geographic origins of all donor tissue procured; and
- (6) The number and types of units of processed tissue used for patients in the service area of the tissue bank.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

SUBCHAPTER 7. EYE BANKS

310:505-7-1. Requirement for a permit

Each eye bank operating in Oklahoma shall hold a valid permit issued by the Department. Once issued, a permit to operate an eye bank shall be valid as long as the permitted eye bank is in continuous operation and meets all provisions of the Act and the rules promulgated thereto.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-7-2. Permit application

(a) **Initial application.** New eye banks shall submit a complete application for permit to operate an eye bank and include with the completed application an initial non-refundable fee equal to one quarter of one percent (0.25%) of the capital cost of the proposed eye bank, with a minimum fee of five hundred dollars (\$500.00). Any application received by the Department without a fee shall not be considered or processed.

(b) **Application requirements for new eye banks.** New eye banks shall also include the following along with the completed application and fee:

- (1) A map or narrative description which identifies the proposed service area;
- (2) A description of the eye and eye tissue needs in the proposed service area;
- (3) An explanation of the probable impact of the new eye bank on existing eye banks providing services in the proposed service area;

- (4) Evidence of accreditation by the Eye Bank Association of America (EBAA) or another nationally recognized accreditation organization for eye banks approved by the Commissioner;
- (5) The name of the Medical Director and evidence that he or she is a board-certified ophthalmic surgeon currently licensed to practice medicine in Oklahoma; and
- (6) The names and credentials of all technical operations personnel who meet the requirements of OAC 310:505-7-7.

(c) **Application requirements for existing eye banks.** Existing eye banks applying for a permit for the first time after the effective date of these rules shall not be required to pay a fee or provide the information required at OAC 310:505-7-2(a)(1 - 3).

(d) **Notice of initial permit application.** After a complete application for permit and fee for a new eye bank has been received, the Department shall cause public notice of the new eye bank to be published in the newspaper with the greatest circulation in the proposed service area of the new eye bank. The Department shall also provide written notice of the initial permit application to each eye bank in the state holding a current permit.

(e) **Action on initial permit application.** The Department shall issue or deny each initial permit application within seventy-five (75) days of the publication of the notice. An initial permit shall expire thirty-six (36) months from the date of issue. If construction is not completed and the eye bank is not in operation prior to the expiration date of the permit, the permit shall be void.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-7-3. Compliance with Federal, State, and local laws

Each eye bank shall comply with applicable Federal, State, and local laws.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-7-4. Enforcement

(a) **Denial, revocation, or suspension of a permit.** The permit of a eye bank may be denied, revoked, or suspended for failure to comply with the provisions of the Act or the rules of this Chapter.

(b) **Appeals.** Appeals of Department actions against a permit or a permit holder shall be conducted according to the Administrative Procedures Act and Chapter 2 of this Title (310:002).

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-7-5. Accreditation and notification

(a) Each eye bank shall be accredited within one year of beginning operation by the EBAA or another nationally recognized accreditation organization for eye banks approved by the Commissioner in order to hold, or be eligible to hold a permit.

(b) Each permitted eye bank shall notify the Department in writing within ten (10) days of the loss of accredited status required by OAC 310:505-7-5(a).

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-7-6. Medical director

Each eye bank shall have a medical director who is a board certified ophthalmic surgeon licensed to practice medicine in Oklahoma with appropriate training and experience in eye bank services.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-7-7. Technical operations personnel

(a) Each eye bank shall employ sufficient technical operations personnel to meet the procurement, testing, quality control, and quality assurance needs for the number and type of eyes and eye tissue units recovered, processed, stored, and distributed to ensure a that safe and reliable product is provided.

(b) Each eye bank shall employ at least one person holding current certification as a Certified Eye Bank Technician by the EBAA or other nationally recognized accrediting or certifying organization for eye banks and personnel approved by the Commissioner.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-7-8. Tissue distribution

Each eye bank shall give priority to the Oklahoma medical community and to the needs of patients being treated in Oklahoma.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

310:505-7-9. Annual report

(a) Each eye bank in Oklahoma shall prepare and submit an annual report to the Department based on the previous calendar year's twelve month period of January 1st, through December 31st.

(b) Annual reports shall be provided to the Department by March 31st of each calendar year.

(c) During an eye bank's first year of operation, the annual report shall be based on the period from the first day of operation to December 31st of that year.

(d) Each annual report shall include at least the following information:

- (1) The accreditation status of the eye bank;
- (2) A report of all regulatory, accreditation, or internal inspections which result in findings that impact the quality of the product or services provided by the eye bank;
- (3) The names and certification statuses of all technical personnel who meet the requirements of OAC 310:505-7-7.
- (4) The name and qualifications of the current medical director including evidence the medical director is a board certified

ophthalmic surgeon and currently licensed to practice medicine in Oklahoma;

(5) The numbers and geographic origins of all donor corneas and whole eyes procured; and

(6) The number and geographic destinations of corneas and other parts of eyes.

[Source: Added at 18 Ok Reg 1711, eff 5-25-01]

APPENDIX A. ANATOMICAL DONATION (FORM) [REVOKED]

[Source: Revoked at 18 Ok Reg 1711, eff 5-25-01]

CHAPTER 510. CARE OF EYES FOR NEWBORN CHILDREN [REVOKED]

[Authority: 73 O.S.1971, § 1-511]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:510-1-1. Purpose [REVOKED]

[Source: Revoked at 28 Ok Reg 1060, eff 6-11-11]

SUBCHAPTER 3. APPROVED ANTISEPTICS [REVOKED]

310:510-3-1. Approved antiseptics [REVOKED]

[Source: Revoked at 28 Ok Reg 1060, eff 6-11-11]

SUBCHAPTER 5. RECOMMENDATIONS [REVOKED]

310:510-5-1. Recommendations [REVOKED]

[Source: Revoked at 28 Ok Reg 1060, eff 6-11-11]

CHAPTER 512. CHILDHOOD LEAD POISONING PREVENTION RULES

[**Authority:** 63 O.S.1991, § 1-114.1]
[**Source:** Codified 7-27-95]

SUBCHAPTER 1. GENERAL PROVISIONS

310:512-1-1. Purpose

The rules in this Chapter establish procedures and standards for childhood lead screening, assessment, poison prevention, and reporting as authorized under the provisions of Title 63 O.S. Section 1-114.1.

[**Source:** Added at 12 Ok Reg 3055, eff 7-27-95 ; Amended at 34 Ok Reg 1281, eff 10-1-17]

310:512-1-2. Criteria

(a) The Infant and Children's Health Advisory Council advises the Oklahoma State Board of Health on the establishment of rules for the prevention of childhood lead poisoning which include risk assessment, blood lead screening, laboratory assays, sample collection, reporting, lead hazard control, and rules related to the role of the provider such as: follow-up, diagnosis and treatment, developmental screening, referral for environmental assessments and lead hazard control, and parent education.

(b) All health care providers shall comply with the following procedures for blood lead screening.

(c) After sufficient statewide data collection and documented incidence of low lead exposure, the Commissioner of Health may exempt a community or county from universal lead screening.

[**Source:** Added at 12 Ok Reg 3055, eff 7-27-95 ; Amended at 34 Ok Reg 1281, eff 10-1-17 ; Amended at 38 Ok Reg 2029, eff 9-11-21]

310:512-1-3. Lead poisoning prevention program

(a) The Department maintains a lead poisoning prevention program. This program is responsible for establishing and coordinating activities to prevent lead poisoning and to minimize risk of exposure to lead.

(b) The Department enforces rules for screening children for lead poisoning, and for follow-up of children who have elevated blood lead levels.

(c) The Department may enter into interagency agreements to coordinate lead poisoning prevention, exposure reduction, identification and treatment activities and lead reduction activities with other federal, state and local agencies and programs.

(d) The Department maintains a statewide surveillance system of all Oklahoma resident's blood lead levels provided such information is monitored as confidential except for disclosure for medical treatment purposes or disclosure of non-identifying epidemiological data.

(e) The Department develops and implements public education and community outreach programs on lead exposure, detection and risk reduction.

[Source: Added at 12 Ok Reg 3055, eff 7-27-95 ; Amended at 34 Ok Reg 1281, eff 10-1-17 ; Amended at 38 Ok Reg 2029, eff 9-11-21 ; Amended at 40 Ok Reg 1563, eff 9-11-23]

310:512-1-4. Definitions

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

"Advisory Council" means the Infant and Children's Health Advisory Council.

"Anticipatory guidance" means providing parents or guardians of children under the age of six with information regarding the major causes of lead poisoning and means of preventing lead exposure. Such guidance is to be pertinent to the environment of the child.

"Blood lead screening" refers to measuring lead concentration by capillary or venous blood collection to identify elevated blood lead levels.

"Case Management" refers to providing a collaborative process to assess, educate, coordinate, monitor, or evaluate options and services required to meet the child's environmental health and human service needs.

"CLIA" means the Clinical Laboratory Improvement Amendments. These amendments apply to the Federal Law that governs laboratories who examine human specimens for the diagnosis, prevention, or treatment of any disease or impairment, or the assessment of the health of human beings.

"Clinical Management Guidelines" means voluntary guidelines produced by the Department for clinical management and treatment decisions based on the initial or confirmed blood lead level.

"Confirmatory testing" refers to the collection of a venous blood sample to confirm an initial elevated capillary blood lead screening result. The collection of a capillary sample within 12 weeks to confirm an initial elevated capillary blood lead screening test result may be used if the initial capillary level is less than 10 µg/dL.

"Confirmed elevated blood lead level" refers to a concentration of lead in the blood taken from a venous sample which is above the reference level. It may also refer to a second capillary test as described in "confirmatory testing".

"Department" refers to the Oklahoma State Department of Health.

"Dwelling" refers to a building or structure, including the property occupied by and appurtenant to such dwelling, which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings and without limiting the foregoing, includes child care facilities for children under six years of age, schools and nursery schools.

"Elevated blood lead level" means a concentration of lead in blood at or above the current reference level as defined by the Centers for Disease Control.

"Environmental investigation" means an on-site dwelling investigation to determine the existence, nature, severity, and location of lead or lead-based paint hazards, completed by a person licensed as a

certified risk assessor by the Oklahoma Department of Environmental Quality.

"Follow-up" refers to actions by local health departments and health care providers that may include, depending on the blood lead level and exposure history of the child: risk reduction education, follow-up testing, confirmatory testing, medical evaluation, medical management, environmental investigation, and case management, in accordance with generally accepted medical standards and public health guidelines.

"Follow-up testing" refers to repeat blood lead testing by venous blood draw for any child with a previously confirmed elevated blood lead level.

"Health care provider" means any health professional or facility authorized to conduct blood lead screening. Health care provider includes, but is not limited to, physicians, physician assistants, advance practice registered nurses, city-county health departments, county health departments, medical clinics, medical offices, hospitals, and Head Start programs.

"High risk lead exposure" refers to any positive response on the LERAQ or other suitable risk assessment questionnaire.

"Laboratory" refers to any in-state CLIA approved laboratory or out-of-state CLIA approved laboratory providing blood lead testing for residents of Oklahoma. Laboratory may also refer to any entity using a point of care instrument for the purpose of blood lead testing of Oklahoma residents.

"LERAQ" refers to the Lead Exposure Risk Assessment Questionnaire which consists of a model set of questions developed by the Department to assess a child's risk of exposure to lead and includes information regarding areas of the state with higher-than-average risks for lead exposure.

"Low risk lead exposure" refers to negative responses to all questions on the LERAQ or other suitable risk assessment questionnaire.

"Person" means any natural person.

"Point-of-Care Instrument" refers to a blood lead testing device designed for the quantitative measurement of lead in fresh whole blood.

"Primary Health Care Provider" refers to any person or government entity that provides well child health care services, such as annual examinations and immunizations, to children under six years of age. Primary health care provider includes, but is not limited to, physicians, physician assistants, advance practice registered nurse, local health departments, medical clinics, medical offices, and hospital outpatient clinics.

"Program" refers to the Oklahoma Childhood Lead Poisoning Prevention Program (OCLPPP) of the Department.

"Reference Level" means a level of lead in the blood measured in micrograms per deciliter used to identify children with lead levels that are much higher than most children's lead levels. This level is based on the U.S. population of children ages 1-5 years who are in the highest 2.5% of children when tested for lead in their blood based on the 97.5 percentile of the National Health and Nutrition Examination Survey (NHANES) for the two most recent surveys. The reference level currently in use is 3.5 micrograms per deciliter.

"Risk Assessment Questionnaire" means a set of questions designed to determine an individual's risk for lead exposure and lead poisoning, as approved by the Department and based on recommendations from the CDC.

"Satisfactory specimen" means a specimen collected using an appropriate procedure which is suitable in both blood quantity and quality to perform screening for Blood Lead measurement.

"Target population" refers to any infant or child, 6 months to 72 months of age.

"Unsatisfactory specimen" means a blood specimen which is not suitable in quality or quantity to perform blood lead measurements.

[Source: Added at 12 Ok Reg 3055, eff 7-27-95 ; Amended at 34 Ok Reg 1281, eff 10-1-17 ; Amended at 38 Ok Reg 2029, eff 9-11-21 ; Amended at 40 Ok Reg 1563, eff 9-11-23]

SUBCHAPTER 3. RISK ASSESSMENT, SCREENING AND MANAGEMENT

310:512-3-1. Risk assessment and screening criteria

(a) All children in Oklahoma, 6 months to 72 months of age shall be assessed for blood lead exposure utilizing the risk assessment questionnaire as defined in paragraph (c) as part of each periodic health care visit occurring at age 6, 12, and 24 months and age 3 years, 4 years and 5 years.

(b) All children in Oklahoma shall have a blood lead screening test as part of each periodic health care visit occurring at age 12 and 24 months of age or at any age after age 24 months up to age 72 months, if not previously tested for blood lead.

(c) A risk assessment questionnaire based on recommendations from the CDC and approved by the Department before implementation should include questions related to the following:

(1) Does the child live in or frequently visit a home built before 1978?

(2) Does the child have a sibling or playmate with an elevated blood lead level?

(3) Is the child eligible for Medicaid, WIC, or Head Start?

(4) Does the child live with someone who has a job or hobby that may involve lead (example: jewelry making, building renovation or repair, working with automobile batteries, lead solder, or battery recycling)?

(5) Does the child eat or mouth trinkets or items that contain lead?

(6) Does the child live in an area identified as a high-risk target area by the Program?

(d) A "Yes" or "Don't know" answer to the questions in paragraph (c) is considered a positive answer and requires the child to have a blood lead test.

(e) The Department publishes available information regarding current high-risk target areas on its website located at:

<https://oklahoma.gov/health/leadprevention>.

(f) The Department publishes the LERAQ as an approved risk assessment questionnaire on its website.

[**Source:** Added at 12 Ok Reg 3055, eff 7-27-95 ; Amended at 34 Ok Reg 1281, eff 10-1-17 ; Amended at 38 Ok Reg 2029, eff 9-11-21 ; Amended at 40 Ok Reg 1563, eff 9-11-23]

310:512-3-2. Screening criteria [REVOKED]

[**Source:** Added at 12 Ok Reg 3055, eff 7-27-95 ; Revoked at 34 Ok Reg 1281, eff 10-1-17]

310:512-3-2.1. Primary health care provider responsibilities for risk assessment and screening

- (a) Every primary health care provider who provides a periodic health care visit to a child at age 6, 12, and 24 months and age 3, age 4 and 5 years shall assess the child for risk of lead exposure using the LERAQ, or suitable risk assessment questionnaire approved by the Department.
- (b) For children at high risk for lead exposure according to the LERAQ, or suitable risk assessment questionnaire, the primary health care provider shall perform a blood lead test beginning at 6 months of age, or when initially assessed, if older.
- (c) Every primary health care provider who provides a periodic health care visit to a child shall order an initial capillary or venous blood lead screening test at age 12 and 24 months, or at any age after age 24 months up to age 72 months if never tested.
- (d) Every primary health care provider who provides a periodic health care visit to a child at age 6, 12, and 24 months and age 3, age 4, and 5 years shall:
 - (1) Give oral or written anticipatory guidance to a parent or guardian on prevention of childhood lead poisoning, including, at minimum, the information that children can be harmed by exposure to lead, especially deteriorating or disturbed lead-based paint and the dust from it, and are particularly at risk of lead poisoning from the time the child begins to crawl until 72 months of age; and
 - (2) Discuss the child's blood lead test results with the child's family and any necessary follow up.
- (e) Any health care provider who performs blood lead screening of a child who is six months of age to six years of age and who is not the child's ongoing primary health care provider shall forward the blood lead test result, if elevated at or above the reference level, to the child's primary health care provider.
- (f) If a parent or guardian refuses blood lead testing screening of their child, the health care provider shall have the parent or guardian indicate in writing this refusal in the child's medical record and provide a copy via mail or by fax to the Oklahoma Childhood Lead Poisoning Prevention Program.
- (g) Any health care provider working with a special population such as a recent refugee or immigrant from a country known to have a higher incidence or risk of lead exposure may consider blood lead screening up to age 16.

[Source: Added at 34 Ok Reg 1281, eff 10-1-17 ; Amended at 40 Ok Reg 1563, eff 9-11-23]

310:512-3-3. Blood lead screening tests

- (a) **Capillary sample for blood lead testing.** Capillary blood specimens are acceptable for initial blood lead screening if appropriate collection procedures are followed to minimize the risk of environmental lead contamination. A capillary blood lead sample may be obtained for confirmation of an elevated blood lead level less than 10 µg/dL when a venous sample is not obtainable.

(b) **Venous sample for blood lead testing.** Venous blood is the preferred specimen for blood lead analysis and should be used for lead measurement whenever practical. A venous sample is required for confirmation of blood lead concentration equal to or greater than 10 µg/dL and preferred for confirmation of an elevated blood lead level less than 10 µg/dL.

(c) **Point-of-Care instruments.** Point-of-Care instruments shall not be used to confirm elevated blood lead levels even if the sample is collected by venipuncture.

[Source: Added at 12 Ok Reg 3055, eff 7-27-95 ; Amended at 34 Ok Reg 1281, eff 10-1-17]

310:512-3-4. Providers screening and follow-up [REVOKED]

[Source: Added at 12 Ok Reg 3055, eff 7-27-95 ; Revoked at 34 Ok Reg 1281, eff 10-1-17]

310:512-3-4.1. Health care provider responsibilities for follow-up after screening

(a) Health care providers shall provide or make reasonable efforts to ensure the provision of confirmation and follow-up testing for each child with an elevated blood lead level above the reference level.

(b) If the initial blood lead test result is below the reference level on either a venous or capillary sample, the health care provider shall retest the child annually if answers on the LERAQ or suitable risk assessment questionnaire indicate continuing high risk for lead exposure.

(c) For each child who has an elevated blood lead level at or above the reference level, the health care provider shall take those actions that are reasonably and medically necessary and appropriate based upon the child's blood lead level to reduce, to the extent possible, the child's blood lead level below the reference level. Such actions may include the following:

- (1) Education of a parent or guardian on lead hazards and lead poisoning;
- (2) Clinical evaluation for complication of lead poisoning;
- (3) Follow-up blood lead analyses as indicated based on level of elevation and period of time;
- (4) Developmental screening;
- (5) Referral to the Department for an environmental investigation for a single venous blood lead test result equal to or greater than 10 µg/dL; and
- (6) Chelation therapy should be considered and, when possible, a medical toxicologist, provider experienced in chelation therapy, or pediatric environmental health specialist should be consulted for a child with a blood lead test greater than 45 µg/dL.

(d) If the initial capillary blood lead test result is elevated, the health care provider shall obtain a venous confirmation test in accordance with the Clinical Management Guidelines as established by the Department.

(e) If the initial venous blood lead test result or the confirmation test is elevated, the health care provider shall obtain venous follow-up testing in accordance with the Clinical Management Guidelines as set forth by the

Department.

[Source: Added at 34 Ok Reg 1281, eff 10-1-17 ; Amended at 40 Ok Reg 1563, eff 9-11-23]

310:512-3-5. Reporting requirements

(a) Laboratory.

(1) Laboratories shall report the results of all blood lead tests performed on persons who are residents of Oklahoma to the Childhood Lead Poisoning Prevention Program. These reports are confidential and may be utilized only for the purpose of assuring service delivery, program administration, data analysis, and evaluation.

(2) Federal CLIA regulations at Title 42, of the Code of Federal Regulations, Section 493.1241 (relating to standards for test requests), require that laboratory requisitions contain sufficient patient data that must include patient's name, sex, date of birth, date of collection, test(s) to be performed, the source of the specimen, name and address of person requesting the test, as well as "Any additional information relevant and necessary for a specific test to ensure accurate and timely testing and reporting of results, including interpretation, if applicable." Laboratories shall report the following information to the Childhood Lead Poisoning Prevention Program by electronic data transmission: name, date of birth, sex, address, county of residence, type of sample (venous or capillary), blood lead level, health care provider ordering the test, laboratory identifiers, date the sample was collected, the date of analysis, and additional information already available such as race, ethnicity, Medicaid status and/or Medicaid Number. The laboratory receiving the sample from the health care provider taking the sample shall assure that the laboratory requisition slip is fully completed and includes the information required pursuant to the Subsection. In the event electronic submission is not available, lab reports must be submitted by a method and format approved by the Oklahoma Childhood Lead Poisoning Prevention Program.

(3) Test results that are reported to the Childhood Lead Poisoning Prevention Program have the following time limits:

(A) Results of all blood lead levels less than the reference level at a minimum of a monthly basis.

(B) Results of all blood lead levels equal to or greater than the reference level at a minimum of a weekly basis and if possible daily.

(4) All clinical laboratories shall notify the health care provider ordering the blood lead test when the results of any analysis in a child up to 72 months of age is equal to or greater than 10 µg/dL within 24 hours of the date of the analysis.

(5) Nothing in this Subsection shall be construed to relieve any laboratory from reporting results of any blood lead analysis to the physician, or other health care provider who ordered the test or to any other entity as required by State, Federal or local statutes

or regulations or in accordance with accepted standard of practice.

(b) Health care providers.

(1) All health care providers shall ensure that all of the information as specified in 310:512-3-5(b) (relating to standards for test requests), is completed for all blood lead analyses ordered and that this information accompanies the sample to the testing laboratory.

(2) On written or verbal notification of an elevated capillary lead level, equal to or greater than the reference level, the child's health care provider will obtain confirmatory testing.

(3) All health care providers shall notify the Childhood Lead Poisoning Prevention Program of any blood lead level in a child up to 72 months of age equal to or greater than the reference level within 1 week and equal to or greater than 10 µg/dL within 24 hours of having been notified of this result by the testing laboratory. The following information shall be provided when reporting: name, date of birth, sex, address, county of residence, type of sample (venous or capillary), blood lead level, health care provider ordering the test, laboratory identifiers, date the sample was collected and the date of analysis.

(4) Any health care provider utilizing a point-of-care instrument to test blood lead samples is required to report all such results, regardless of the level, to the Childhood Lead Poisoning Prevention Program, and follow the guidelines for reporting as stated in 310:512-3-5(a) (relating to laboratory reporting).

(5) Upon written notification of unsatisfactory specimens, the child's health care provider will obtain a repeat specimen.

(6) These reports are confidential and may be utilized only for the purpose of assuring service delivery, program administration, data analysis, and evaluation.

[Source: Added at 12 Ok Reg 3055, eff 7-27-95 ; Amended at 34 Ok Reg 1281, eff 10-1-17 ; Amended at 38 Ok Reg 2029, eff 9-11-21 ; Amended at 40 Ok Reg 1563, eff 9-11-23]

310:512-3-6. Fees

The county health department may collect a fee for a blood lead laboratory sample analysis, a fee for collection of a blood lead sample, or a fee for an environmental investigation, as may be indicated. Any fee collected shall not exceed the reasonable cost of providing the service or the Medicaid reimbursement rate allowed for the service, whichever is lower. Any individual consenting to a blood lead test shall be informed of the specific fee prior to the collection of the laboratory specimen.

[Source: Added at 27 Ok Reg 2521, eff 7-25-10]

310:512-3-7. Inability to pay

Persons requesting blood lead level testing will not be denied a blood lead sample analysis or, if indicated, an environmental investigation because of the inability to pay.

[Source: Added at 27 Ok Reg 2521, eff 7-25-10]

CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING

[**Authority:** 63 O.S., §§ 1-103a.1, 1-104, 1-502, 1-502.1, and 1-503]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. DISEASE AND INJURY REPORTING

310:515-1-1. Purpose

The rules in this Chapter implement the Communicable Diseases Reporting Regulations, 63 O.S. §§1-104, 1-106, 1-502, and 1-503.

[**Source:** Amended at 39 Ok Reg 5, eff 7-19-21 (emergency); Amended at 39 Ok Reg 6, eff 8-12-21 (emergency); Amended at 39 Ok Reg 1332, eff 9-11-22]

310:515-1-1.1. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"**AFB**" means Acid Fast Bacillus.

"**AIDS**" means Acquired Immunodeficiency Syndrome.

"**ALT**" means alanine aminotransferase.

"**Anti-HAV-IgM+**" means a positive test result for the hepatitis A virus immunoglobulin M antibody.

"**Anti-HBc-IgM+**" means a positive test result for the hepatitis B core immunoglobulin M antibody.

"**CD4**" means cluster of differentiation 4 glycoprotein that serves as a receptor for HIV on T helper cells.

"**CIDT**" means culture independent diagnostic test system/panel used to detect multiple pathogens.

"**Department**" or "**OSDH**" means the Oklahoma State Department of Health.

"**E. coli**" means *Escherichia coli*.

"**EDTA**" means Ethylenediaminetetraacetic acid.

"**EIA**" means enzyme immunoassay.

"**HbeAg+**" means a positive test result for the hepatitis B "e" antigen.

"**HbsAg+**" means a positive test result for the hepatitis B surface antigen.

"**HBV DNA+**" means a positive test result for deoxyribonucleic acid of the hepatitis B virus.

"**HIV**" means Human Immunodeficiency Virus.

"**LGV**" means lymphogranuloma venereum.

"**PHIDDO**" or "**PHIDDO system**" means Public Health Investigation and Disease Detection of Oklahoma system.

"**NAT for HCV RNA+**" means a positive nucleic acid amplification test result for hepatitis C virus ribonucleic acid.

"**Novel Influenza A**" means an influenza A virus not endemic, not routinely circulating, or for which there is little to no pre-existing immunity, e.g., influenza A H3N2 variant, H5N1, H5N2, H7N3, or H7N9.

"Outbreak of disease" means two or more cases residing in different households that have a similar clinical syndrome of a potentially infectious disease, toxin, or agent of known or unknown etiology.

"RIBA" means recombinant immunoblot assay.

"S/co" means the signal-to-cut-off-ratio.

"Spp." is an abbreviation referring to the term "species," and is used to broaden the antecedent term in order to include all organisms that may be found or described within a given genus.

"Unusual disease or syndrome" means a case of an uncommon, possibly infectious disease of known or unknown etiology, even if laboratory testing may be pending or inconclusive, or if testing for common etiologies is negative. Such cases of disease may not normally be endemic to Oklahoma, may represent emerging or re-emerging disease, and/or disease for which a public health intervention may be needed. Examples of such unusual diseases or syndromes include but are not limited to, unexplained adult respiratory distress syndrome, rash illness with atypical presentation, or an illness occurring along with an unusual pattern of illness or death among animals.

[Source: Added at 24 Ok Reg 1978, eff 6-25-07 ; Amended at 26 Ok Reg 2033, eff 6-25-09 ; Amended at 27 Ok Reg 2522, eff 7-25-10 ; Amended at 34 Ok Reg 1287, eff 10-1-17 ; Amended at 36 Ok Reg 1685, eff 9-13-19 ; Amended at 37 Ok Reg 1408, eff 9-11-20]

310:515-1-2. Diseases to be reported

The diseases listed in this Chapter must be reported, along with patient identifiers, demographics, and contact information, to the Department upon discovery as dictated in sections OAC 310:515-1-3 and OAC 310:515-1-4. Laboratories reporting diseases described in 310:515-1-3, 310:515-1-4(1) and 310:515-1-4(2), or as may be otherwise required to be reported by OSDH, shall be reported electronically using the manner and format prescribed by the State Commissioner of Health.

[Source: Amended at 17 Ok Reg 2942, eff 7-13-00 ; Amended at 19 Ok Reg 1285, eff 5-28-02 ; Amended at 24 Ok Reg 1978, eff 6-25-07 ; Amended at 27 Ok Reg 2522, eff 7-25-10 ; Amended at 34 Ok Reg 1287, eff 10-1-17 ; Amended at 39 Ok Reg 6, eff 8-12-21 (emergency); Amended at 39 Ok Reg 1332, eff 9-11-22]

310:515-1-3. Diseases and conditions to be reported immediately

The following diseases/conditions associated with humans must be reported by any health practitioner or laboratory personnel to the OSDH electronically via secure electronic data transmission and by telephone (405 426-8710) immediately upon suspicion, diagnosis, or testing.

- (1) Anthrax (*Bacillus anthracis*).
- (2) Bioterrorism - suspected disease.
- (3) Botulism (*Clostridium botulinum*).
- (4) Diphtheria (*Corynebacterium diphtheriae*).
- (5) Free-living amebae infections causing primary amebic meningoencephalitis (*Naegleria fowleri*).
- (6) Hepatitis B during pregnancy (HBsAg+).
- (7) Measles (Rubeola).
- (8) Meningococcal invasive disease (*Neisseria meningitidis*).
- (9) Novel coronavirus.

- (10) Novel influenza A.
- (11) Outbreaks of apparent infectious disease.
- (12) Orthopox viruses (i.e., Smallpox, Monkeypox).
- (13) Plague.
- (14) Poliomyelitis.
- (15) Rabies.
- (16) Typhoid fever (*Salmonella* Typhi).
- (17) Viral hemorrhagic fever.

[Source: Amended at 9 Ok Reg 485, eff 1-1-92 (emergency); Amended at 9 Ok Reg 1429, eff 5-1-92 ; Amended at 17 Ok Reg 2942, eff 7-13-00 ; Amended at 19 Ok Reg 1285, eff 5-28-02 ; Amended at 20 Ok Reg 2366, eff 7-11-03 ; Amended at 24 Ok Reg 1978, eff 6-25-07 ; Amended at 26 Ok Reg 2033, eff 6-25-09 ; Amended at 27 Ok Reg 2522, eff 7-25-10 ; Amended at 29 Ok Reg 1601, eff 7-12-12 ; Amended at 31 Ok Reg 1588, eff 9-12-14 ; Amended at 34 Ok Reg 1287, eff 10-1-17 ; Amended at 36 Ok Reg 1685, eff 9-13-19 ; Amended at 39 Ok Reg 6, eff 8-12-21 (emergency); Amended at 39 Ok Reg 1332, eff 9-11-22 ; Amended at 40 Ok Reg 1566, eff 9-11-23]

310:515-1-4. Additional diseases, conditions, and injuries to be reported

The following diseases, conditions and injuries must be reported by physicians, laboratories, and hospitals (by infection control practitioners, medical records personnel, and other designees) to the OSDH as dictated in the following subsections:

- (1) **Infectious diseases.** Reports of infectious diseases and conditions listed in this subsection must be submitted electronically via secure electronic data transmission to the OSDH within one (1) working day (Monday through Friday, state holidays excepted) of diagnosis or positive test.
 - (A) Acid Fast Bacillus (AFB) positive smear. Report only if no additional testing is performed or subsequent testing is indicative of *Mycobacterium tuberculosis* Complex.
 - (B) AIDS.
 - (C) *Anaplasma phagocytophilum* infection.
 - (D) Arboviral infections (West Nile virus, St. Louis encephalitis virus, Eastern equine encephalitis virus, Western equine encephalitis virus, Powassan virus, California serogroup virus, chikungunya virus, Zika virus).
 - (E) Brucellosis (*Brucella* spp.).
 - (F) Campylobacteriosis (*Campylobacter* spp.).
 - (G) Congenital rubella syndrome.
 - (H) Cryptosporidiosis (*Cryptosporidium* spp.).
 - (I) Cyclosporiasis (*Cyclospora cayetanensis*).
 - (J) Dengue Fever.
 - (K) *E. coli* O157, O157:H7, or a Shiga toxin producing *E. coli*. (STEC)
 - (L) Ehrlichiosis (*Ehrlichia* spp.).
 - (M) *Haemophilus influenzae* invasive disease.
 - (N) Hantavirus infection, without pulmonary syndrome.
 - (O) Hantavirus pulmonary syndrome.
 - (P) Hemolytic uremic syndrome, postdiarrheal.
 - (Q) Hepatitis A infection (Anti-HAV-IgM+).

(R) Hepatitis B infection. If any of the following are positive, then all test results on the hepatitis panel must be reported: HBsAg+, anti-HBc-IgM+, HBeAg+, or HBV DNA+. For infants < or = 18 months, all hepatitis B related tests ordered, regardless of test result, must be reported.

(S) Hepatitis C infection in persons having jaundice or ALT > or = 200 with laboratory confirmation. If hepatitis C EIA is confirmed by NAT for HCV RNA, or s/co ratio or index is predictive of a true positive then report results of the entire hepatitis panel. For infants < or = 18 months, all hepatitis C related tests ordered, regardless of test result, must be reported. Positive HCV RNA are reportable by both laboratories and providers. Negative test results for HCV RNA tests are reportable by laboratories only.

(T) HIV.

(i) All tests indicative of HIV infection are reportable by laboratories and providers. If any HIV test is positive, then all HIV test results on the panel must be reported by laboratories. For infants < or = 18 months, all HIV tests ordered, regardless of test result must be reported.

(ii) All HIV nucleotide sequences and negative HIV test results are only reportable by laboratories.

(U) Influenza-associated hospitalization or death.

(V) Legionellosis (*Legionella* spp.)

(W) Leptospirosis (*Leptospira interrogans*).

(X) Listeriosis (*Listeria monocytogenes*).

(Y) Lyme disease (*Borrelia burgdorferi*).

(Z) Malaria (*Plasmodium* spp.).

(AA) Mumps.

(BB) Pertussis (*Bordetella pertussis*).

(CC) Psittacosis (*Chlamydophila psittaci*).

(DD) Q fever (*Coxiella burnetii*).

(EE) Rubella.

(FF) Salmonellosis (*Salmonella* spp.).

(GG) SARS-CoV-2 (COVID-19).

(HH) Shigellosis (*Shigella* spp.).

(II) Spotted Fever Rickettsiosis (*Rickettsia* spp.)
hospitalization or death.

(JJ) Streptococcal disease, invasive, Group A (GAS)
(*Streptococcus pyogenes*).

(KK) *Streptococcus pneumoniae* invasive disease, in
persons less than 5 years of age.

(LL) Syphilis (*Treponema pallidum*). Nontreponemal and
treponemal tests are reportable. If any syphilis test is
positive, then all syphilis test results on the panel must be
reported. For infants < or = 18 months, all syphilis tests
ordered, regardless of test result, must be reported.

(MM) Tetanus (*Clostridium tetani*).

(NN) Trichinellosis (*Trichinella spiralis*).

- (OO) Tuberculosis (*Mycobacterium tuberculosis*).
- (PP) Tularemia (*Francisella tularensis*).
- (QQ) Unusual disease syndrome.
- (RR) Vibriosis (*Vibrionaceae* family: *Vibrio* spp. (including cholera), *Grimontia* spp., *Photobacterium* spp., and other genera in the family).
- (SS) Yellow Fever.

(2) **Infectious diseases.** Reports of infectious diseases and conditions listed in this subsection must be reported to the OSDH via secure electronic data submission within one (1) month of diagnosis or test result.

- (A) CD4 cell count with corresponding CD4 cell count percentage of total (by laboratories only).
- (B) Chlamydia (*Chlamydia trachomatis*).
- (C) Creutzfeldt-Jakob disease.
- (D) Gonorrhea (*Neisseria gonorrhoeae*).
- (E) HIV viral load (by laboratories only).
- (F) LGV. *Lymphogranuloma Venereum* is reportable as Chlamydia and designated as LGV.

(3) **Occupational or environmental diseases.** Laboratories and healthcare providers must report blood lead level results pursuant to the requirements established in Title 310, Chapter 512, childhood Lead Poisoning Prevention Rules.

(4) **Injuries.**

- (A) Burns.
- (B) Drownings and near drownings.
- (C) Traumatic brain injuries.
- (D) Traumatic spinal cord injuries.
- (E) Poisonings, including toxic and adverse effects.

[Source: Amended at 9 Ok Reg 485, eff 1-1-92 (emergency); Amended at 9 Ok Reg 1429, eff 5-1-92 ; Amended at 10 Ok Reg 1997, eff 6-1-93 ; Amended at 11 Ok Reg 3837, eff 7-11-94 ; Amended at 17 Ok Reg 2942, eff 7-13-00 ; Amended at 19 Ok Reg 1285, eff 5-28-02 ; Amended at 20 Ok Reg 2366, eff 7-11-03 ; Amended at 24 Ok Reg 1978, eff 6-25-07 ; Amended at 26 Ok Reg 2033, eff 6-25-09 ; Amended at 27 Ok Reg 2522, eff 7-25-10 ; Amended at 29 Ok Reg 1601, eff 7-12-12 ; Amended at 31 Ok Reg 1588, eff 9-12-14 ; Amended at 34 Ok Reg 1287, eff 10-1-17 ; Amended at 36 Ok Reg 1685, eff 9-13-19 ; Amended at 37 Ok Reg 1408, eff 9-11-20 ; Amended at 39 Ok Reg 6, eff 8-12-21 (emergency); Amended at 39 Ok Reg 1332, eff 9-11-22 ; Amended at 40 Ok Reg 1566, eff 9-11-23]

310:515-1-5. Diseases to be reported by physicians and infection control practitioners [REVOKED]

[Source: Revoked at 9 Ok Reg 485, eff 1-1-92 (emergency); Revoked at 9 Ok Reg 1429, eff 5-1-92]

310:515-1-6. Additional diseases may be designated

The Commissioner of Health may designate any disease or condition as reportable for a designated period of time for the purpose of enhanced public health surveillance or special investigation.

[Source: Amended at 34 Ok Reg 1287, eff 10-1-17]

310:515-1-7. Control of Communicable Diseases Manual

The OSDH adopts the most recently published edition of the publication, "Control of Communicable Diseases Manual", published by the American Public Health Association, as a guideline for the prevention and control of communicable diseases.

[Source: Amended at 17 Ok Reg 2942, eff 7-13-00 ; Amended at 24 Ok Reg 1978, eff 6-25-07 ; Amended at 26 Ok Reg 2033, eff 6-25-09 ; Amended at 34 Ok Reg 1287, eff 10-1-17 ; Amended at 36 Ok Reg 1685, eff 9-13-19]

310:515-1-8. Organisms/specimens to be sent to the Public Health Laboratory

(a) Pure bacterial isolates of the following organisms shall be sent to the OSDH Public Health Laboratory for additional characterization, typing or confirmation within two (2) working days (Monday through Friday, state holidays excepted) of final identification or diagnosis.

- (1) *Bacillus anthracis*.
- (2) *Brucella* spp.
- (3) Carbapenem-resistant *Enterobacteriaceae*.
- (4) Carbapenem-resistant *Pseudomonas aeruginosa*.
- (5) Carbapenem-resistant *Acinetobacter* spp.
- (6) *E. coli* 0157, 0157:H7, or a Shiga toxin producing *E. coli*.
- (7) *Francisella tularensis*.
- (8) *Haemophilus influenza* (sterile site).
- (9) *Listeria monocytogenes* (sterile site).
- (10) *Mycobacterium tuberculosis*.
- (11) *Neisseria meningitidis* (sterile site).
- (12) *Salmonella* spp.
- (13) *Vibrionaceae* family (*Vibrio* spp., *Grimontia* spp., *Photobacterium* spp. And other genera in the family).
- (14) *Yersinia* spp.

(b) Following consultation with an OSDH epidemiologist, clinical specimens from suspected cases of Botulism must be sent to the OSDH Public Health Laboratory for testing.

(c) When *Plasmodium* spp. Is suspected by a healthcare provider, a Giemsa-stained (or other suitable stain) thin and thick, peripheral blood smear prepared from the EDTA should be submitted in addition to the EDTA purple top blood tube.

(d) Laboratories unable to perform reflex culture to isolate/recover the following bacterial pathogens detected by C1DT assays shall submit positive C1DT stool samples in Cary Blair or modified Cary Blair transport media to the OSDH Public Health Laboratory within two (2) working days (Monday through Friday, state holidays excepted) of final C1DT result.

- (1) *E. coli* 0157, 0157:H7, or a Shiga toxin-producing *E. coli*.
- (2) *Salmonella* spp.
- (3) *Vibrio* spp.
- (4) *Yersinia* spp.

(e) Hospitals and laboratories must send, at a minimum, 10% of their weekly positive specimens for SARS-CoV-2 (COVID-19) - PCR or culture positive specimens.

[Source: Added at 17 Ok Reg 2942, eff 7-13-00 ; Amended at 19 Ok Reg 1285, eff 5-28-02 ; Amended at 24 Ok Reg 1978, eff 6-25-07 ; Amended at 26 Ok Reg 2033, eff 6-25-09 ; Amended at 29 Ok Reg 1601, eff 7-12-12 ; Amended at 34 Ok Reg 1287, eff 10-1-17 ; Amended at 36 Ok Reg 1685, eff 9-13-19 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:515-1-9. Medical professional assault data collection

In accordance with 63 O.S. Section 1-114.3(B), assaults on medical care providers shall be reported by hospitals, health clinics, and ambulance services to the State Department of Health.

[Source: Added at 38 Ok Reg 2032, eff 9-11-21]

SUBCHAPTER 3. DISCLOSURES AND USES OF DISEASE PREVENTION AND CONTROL INFORMATION

310:515-3-1. General provisions

Information received, created and/or maintained by the Department pursuant to the provisions of the Public Health Code relating to Disease Prevention and Control is confidential and shall be protected from disclosure unless release or disclosure is sought in accordance with this subchapter or is otherwise authorized by law.

[Source: Added at 24 Ok Reg 1978, eff 6-25-07]

310:515-3-2. Disclosures upon written consent

Information received, created and/or maintained by the Department pursuant to the provisions of the Public Health Code relating to Disease Prevention and Control may be disclosed to a requesting person upon the presentation of a valid written consent executed by the person whose information is being kept confidential or the legal guardian or legal custodian of such person, under the following conditions:

(1) If the written consent is delivered to the Department by a person other than the person whose information is being kept confidential or the legal guardian or legal custodian of such person, the written consent must either be verified under oath or contain some form of attestation certifying or confirming the authenticity of the signature of the person whose information is being kept confidential or the legal guardian or legal custodian of such person.

(2) The written consent must advise the person whose information is being kept confidential or the legal guardian or legal custodian of such person the identity of all persons and/or entities who are likely or intended to receive or view the information sought to be released or disclosed. The identity must include the full name, address and title or office of such person or entity identified in the written consent. The written consent must state that the information will not be released or disclosed to any person or entity not so identified.

(3) The written consent must include a notice thereon, in bold typeface, that the information authorized for release may include records that may indicate the presence of a communicable or venereal disease, which may include, but are not limited to, diseases such as hepatitis, syphilis, gonorrhea and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS).

(4) The written consent must advise the person whose information is being kept confidential or the legal guardian or legal custodian of such person of the provisions of 63 O.S.Supp.2005, § 1-502.2.

[Source: Added at 24 Ok Reg 1978, eff 6-25-07]

310:515-3-3. Grounds for denial

A person whose information is being kept confidential or the legal guardian or legal custodian of such person may be denied access to information if the information was obtained from someone other than a health care provider under a promise of confidentiality, the access requested would be reasonably likely to reveal the confidential source of the information and the requested information cannot be presented in a manner that preserves the confidentiality of the source. The Department incorporates HIPAA, 42 C.F.R. § 164.524(a)(2)(v)(2006) only as guidance in applying this section.

[Source: Added at 24 Ok Reg 1978, eff 6-25-07]

310:515-3-4. Disclosures permitted without a written consent

Information received, created and/or maintained by the Department pursuant to the provisions of the Public Health Code relating to Disease Prevention and Control may, without first obtaining a written consent in accordance with this subchapter, be disclosed, shared and/or disseminated with health professionals engaged in activities described or identified in the provisions of the Public Health Code relating to Disease Prevention and Control.

[Source: Added at 24 Ok Reg 1978, eff 6-25-07]

CHAPTER 517. NOVEL CORONAVIRUS REGULATIONS [REVOKED]

[Source: Codified 9-11-22 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:517-1-1. Purpose [REVOKED]

[Source: Added at 39 Ok Reg 1334, eff 9-11-22 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 2. NOVEL CORONAVIRUS REPORTS [REVOKED]

310:517-2-1. Specimens to be sent to the Public Health Laboratory [REVOKED]

[Source: Added at 39 Ok Reg 1334, eff 9-11-22 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:517-2-2. Emergency reporting requirements [REVOKED]

[Source: Added at 39 Ok Reg 1334, eff 9-11-22 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 3. HOSPITAL LICENSED BED CAPACITY [REVOKED]

310:517-3-1. Procedures to expand or modify licensed bed capacity [REVOKED]

[Source: Added at 39 Ok Reg 1334, eff 9-11-22 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

CHAPTER 520. COMMUNICABLE DISEASES IN SCHOOLS REGULATIONS

[Authority: 63 O.S.1971, § 1-502]

[Source: Codified 12-31-91]

310:520-1-1. Purpose

The rules in this Chapter implement the Communicable Diseases in Schools Regulations, 63 O.S. 1971, Section 1-502.

310:520-1-2. Quarantinable diseases

The following diseases listed in this Chapter are declared quarantinable for both the cases and contacts:

- (1) Smallpox
 - (2) Yellow Fever
 - (3) Cholera
 - (4) Plague
- Second Annotated Edition, International Health Regulations, 1969, (published in 1974).

310:520-1-3. Duty of school personnel

(a) An important part of a school health program is the prevention and control of communicable diseases. The teacher is in a strategic position to detect beginning symptoms of illness by the careful and continuous observation of children in the classroom. There are three general measures which school personnel can use to prevent the spread of disease:

- (1) Oklahoma law requires parents to provide proper and necessary immunizations for their children, particularly diphtheria, whooping cough, tetanus, polio, rubella and measles during the preschool age. All schools are required to maintain immunization records or exemptions on each student.
- (2) Encourage parents to keep sick children at home.
- (3) Isolate pupils who appear to be ill and make preparations to send them home. Good health is more important than a perfect attendance record.

(b) We cannot emphasize too strongly the fallacy of the idea that children are always in condition to attend school and that perfect attendance records are to be sought at any cost.

310:520-1-4. Diseases for which children should be excluded

(a) Diseases for which children should be excluded are shown on Appendix A of this Chapter. These are suggested periods of exclusion and can be modified on the circumstances surrounding the problem.

(b) When school officials have reasonable doubt as to the contagiousness of any person who has been excluded from school for an infectious disease, they may require a written statement from the county health department director, county superintendent of health, school nurse, or a private physician before the person is permitted to reenter school.

(c) The superintendent, teacher, or other official in charge of any school may exclude any child suffering from or exhibiting the following symptoms:

- (1) fever alone, 100 degrees Fahrenheit;
- (2) sore throat or tonsillitis;
- (3) any eruption of the skin, or rash;
- (4) any nasal discharge accompanied by fever;
- (5) a severe cough, producing phlegm; or
- (6) any inflammation of the eyes or lids.

(d) The decision to close schools in times of epidemics should be made by the school authorities in consultation with public health officials. In times of epidemics, the teachers should be unusually alert for signs of illness and report any symptoms of illness to the proper authorities.

APPENDIX A. COMMUNICABLE DISEASES

Figure 1

DISEASE	INCUBATION PERIOD	MODE OF TRANSMISSION	PERIOD OF COMMUNICABILITY	CONTROL MEASURES	PUBLIC HEALTH RESPONSE
AIDS / HIV (Acquired Immune Deficiency Syndrome)	Variable, may occur months to years after infection with HIV (Human immunodeficiency virus)	Person to person by (1) sexual contact, (2) exposure to blood such as occurs when sharing needles during intravenous drug use, or (3) from mother to infant during pregnancy or at the time of birth.	Person infected with HIV should be considered potentially infectious for life.	Education of those who are infected and those who are at risk of becoming infected about how to prevent transmission of HIV (i.e. safer sexual practices, stop IV drug use or needle sharing etc.)	Education and counseling in conjunction with HIV testing. Encourage notification of sexual partners and others at risk about their possible exposure.
CAMPYLOBACTER INFECTION	1-10 days, average 3-5 days	By ingestion of contaminated food, water or unpasteurized milk from contact with infected animals, or persons by the fecal-oral route	Throughout course of infection, usually several days to several weeks	Exclude from foodhandling and day-care until effective chemotherapy has been initiated and/or diarrhea has ceased. Thorough handwashing after bowel movements or diapering, before eating and preparing food	Patient interview and assessment. Contact investigation. Counseling
CHICKENPOX (Varicella)	14-21 days, average 13-17 days	Person to person by direct contact, droplet or airborne spread of secretions, indirectly through articles contaminated by secretions.	One day before rash until all lesions have crusted	Exclude from school and avoid contact with susceptibles for at least 5 days after the eruption first appears or until vesicles become dry.	Contact investigation to assess exposure to high-risk individuals (i.e., children with leukemia).
CHLAMYDIA INFECTION	Poorly defined, probably 7-14 days but may be longer	Contact with infected person as a result of sexual activity; neonatal infections by contact with birth canal during childbirth.	Unknown; recapses are probably common	Examine, test, and treat all sexual contacts. Sexual contacts within past 30 days treated regardless of test results.	Patient interview. Contact referral. Counseling
DIPHTHERIA*	Average 2-5 days	Contact (Airborne Droplet Spread) with case or carrier, less frequently with articles contaminated by discharges from lesions.	Variable; usually 2 weeks or less; seldom more than 4 weeks. Rarely, chronic carriers for 6 months or more.	Isolate until 2 successive cultures of skin lesions or nose/throat cultures are negative. All contacts should receive active immunization and previously unimmunized contacts should also receive an appropriate antibiotic. Close contacts should be kept under surveillance.	Immediate interview and contact investigation.
GIARDIASIS	5-25 days or longer, median 7-10 days	Person to person spread by fecal-oral route; ingestion of contaminated food or water. Contact with infected animals	Variable; entire period of infection	Exclude from foodhandling and day-care until effective chemotherapy has been initiated and/or diarrhea has ceased. Thorough handwashing after bowel movements or diapering, before eating and preparing food	Patient interview and assessment. Contact investigation. Counseling
GONORRHEA	2-30 days, average 2-7 days; often asymptomatic, especially in females	Contact with infected person as a result of sexual activity; neonatal infections by contact with birth canal during childbirth.	Months if untreated	Examine, culture and treat all sexual contacts. Sexual contacts within past 30 days treated regardless of test results.	Patient interview. Contact referral. Counseling
HAEMOPHILUS* INFLUENZAE MENINGITIS OR INVASIVE DISEASE	Probably short, 2-4 days	Person to person by droplet spread and contact with discharges from nose and throat during infectious period	Variable; as long as organisms are present in nose or throat	Rilampro prophylaxis. Observe contacts under 4 years of age for signs of illness; especially fever	Interview of parents and contact investigation. If day-care facility involved, see <i>Haemophilus influenzae</i> day-care checklist for follow-up.
HEPATITIS A	15-50 days, average 28-30 days	Person to person spread by fecal-oral route; ingestion of contaminated food or water	Approximately 2 weeks before and 1-2 weeks after onset of jaundice	Exclude from high-risk situations (foodhandling, day-care and patient care) for 2 weeks after onset of jaundice. Thorough handwashing after bowel movements or diapering, before eating and preparing food. Household, day-care, and other intimate contacts-immune globulin 100 (0.02 ml/kg body weight, within 14 days of last exposure.	Immediate patient interview and assessment. Contact investigation. Counseling. If case in high-risk situation, contact Communicable Diseases Division.

Figure 2

DISEASE	INCUBATION PERIOD	MODE OF TRANSMISSION	PERIOD OF COMMUNICABILITY	CONTROL MEASURES	PUBLIC HEALTH RESPONSE
HEPATITIS B	45-180, average 60-90 days	Percutaneous or mucous membrane inoculation of blood, saliva or semen from infected person. Sexual transmission.	Blood is infectious during late incubation period, clinical disease and for variable period after recovery (as long as HBsAg positive).	Blood precautions until disappearance of HBsAg and appearance of anti-HBc. For blood or needle exposure to known HBsAg positive persons: hyperimmune globulin (HBIG) (0.06 ml/kg body weight) within 7 days within 24 hours if possible and hepatitis B vaccine given at 0, 1 and 6 months. HBIG 0.10 ml/kg within 14 days for sexual contacts.	Patient interview and assessment. Contact investigation. Counseling.
HEPATITIS Non-A Non-B (most commonly Hepatitis C)	Ranges from 2 weeks to 6 months, average 6-9 weeks.	Blood transfusions, percutaneous or mucous membrane inoculation of blood. Sexual transmission.	Blood is infectious for unknown amount of time. Chronic carrier state exists.	Blood precautions for unknown period after recovery. IG 0.06 ml/kg for blood or needle exposure to diagnosed case is recommended but efficacy is unknown.	Patient interview and assessment. Contact investigation. Counseling.
IMPETIGO (Staphylococcal Disease)	Variable and indefinite, average 4-10 days.	Direct contact with purulent drainage from an infected lesion.	Until all lesions are healed.	Avoid contact with purulent drainage from lesion. Cover lesions when attending school/day care.	None unless outbreak identified.
LYME DISEASE	For erythema migrans (EM), from 3-32 days after tick exposure. However, early stages of the disease may be asymptomatic & patient may present with late manifestations.	Tick-borne; tick usually must feed for several hours before transmission occurs.	No evidence for person to person transmission. Rare cases of congenital transmission have been reported.	While in tick infested areas, wear light colored clothing, covering legs & arms; tuck pants in socks and apply tick repellent; search body every 3-4 hours for attached ticks. Remove ticks promptly.	Education regarding methods of prevention (see control measures).
MEASLES* (Rubeola)	7-18 days, average 10 days. Rash usually appears approx. 10 days after exposure.	Person to person by droplet spread and discharges from nose and throat during infectious period.	4 days before rash appears to 4 days after onset of rash.	Isolation from first symptoms until 5 days after appearance of rash. Vaccinate susceptible contacts within 48 hours of exposure or as soon as possible. Consider IG for some high risk susceptibles (i.e. infants, immunocompromised).	Patient interview and contact investigation. Institute outbreak control measures.
INGOCOCCAL* MENINGITIS	2-10 days, average 3-4 days.	Person to person by droplet spread and discharges from nose and throat during infectious period (which often is asymptomatic).	Until organisms no longer present in discharges from nose and throat.	Isolation from first symptom until on appropriate antibiotic for 24 hours. Rifampin prophylaxis for close contacts.	Patient interview and contact investigation. If day-care/childcare involved, contact Communicable Diseases Division.
MONONUCLEOSIS (Mono)	4-6 weeks.	Person to person by oropharyngeal route, via saliva.	Prolonged pharyngeal excretion may persist for months after infection.	Disinfection of articles soiled with nose and throat discharges. Exclude from school only during acute phase.	None.
MRSA (Methicillin-Resistant Staphylococcus aureus)	Commonly 4-10 days, but disease may not occur until several months after colonization.	Direct person to person contact is thought to be the primary method of transmission, however bed linen or environmental surfaces may play a significant role.	Variable; as long as organisms are present in the body substances (i.e., weeping wounds, nasal discharges).	Body substance isolation (especially handwashing before and after patient contact). Treatment of MRSA infections. Colonization is not grounds for exclusion from a nursing home.	Educating health care providers (i.e., nursing home employees) about MRSA and body substance isolation practices.
MUMPS	12-25 days, average 18 days.	Person to person by direct contact with saliva of an infected person.	From 6 days before to 9 days after symptoms or swelling appear.	Isolation for 9 days from onset. Vaccination may help protect susceptible contacts.	Vaccination is indicated for unimmunized contacts but may not provide protection.
PERTUSSIS* (Whooping cough)	Commonly 7-10 days, rarely exceeding 14 days.	Person to person by direct contact, droplet or airborne spread of secretions.	7 days after exposure until 3 weeks after onset of paroxysmal cough. Antibiotics (usually erythromycin) may shorten infectious period.	A 14 day course of erythromycin for all household and other close contacts. Inadequately immunized household contacts <7 years old should be quarantined for 14 days after last exposure or until cases and contacts have received 5 days of minimum 14 day course of antibiotics.	Immediate interview of parents and contact investigation.
ROCKY MOUNTAIN SPOTTED FEVER	3-14 days	Tick-borne; several hours (4-6) of tick attachment usually required before transmission occurs.	No person to person transmission. The tick remains infective for life.	While in tick infested areas, wear light colored clothing, covering legs & arms; tuck pants in socks and apply tick repellent; search body every 3-4 hours for attached ticks. Remove ticks promptly.	Education regarding methods of prevention (see control measures).
RUBELLA	6-18 days, average range 14-32 days.	Person to person by droplet infection and discharges from nose and throat during infectious period and indirectly through articles contaminated by secretions.	For about 7 days before and 4 days after rash appears. Infants with congenital rubella syndrome may shed virus for months after birth.	Isolation until 4 days after rash appears. Pregnant contacts should be serologically tested for susceptibility and advised according to results.	Contact investigation to identify pregnant female contacts, especially those in the first trimester of pregnancy.

CHAPTER 521. CONTROL AND TREATMENT OF COMMUNICABLE DISEASE

[Authority: 63 O.S., §§ 1-104, 1-106, and 1-502]
[Source: Codified 6-27-02]

SUBCHAPTER 1. GENERAL PROVISIONS

310:521-1-1. Purpose and authority

The purpose of this chapter is to establish the rules for the control and treatment of communicable disease in Oklahoma. The Commissioner of Health has the authority to control, suppress, or prevent the occurrence or spread of any communicable, contagious or infectious disease, provide for the segregation and isolation of persons having or suspected of having any such disease, and may designate places of quarantine or isolation under Title 63 O.S. §1-106. The Board of Health has authority to adopt rules to aid in the prevention and control of communicable diseases under Title 63 O.S. §1-502.

[Source: Added at 19 Ok Reg 2075, eff 6-27-02 ; Amended at 25 Ok Reg 1148, eff 5-25-08]

310:521-1-2. Definitions

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

"Biologic public health threat" means an infectious, communicable disease, the agent of which may be readily transmitted from an infectious person to a susceptible person without their knowledge or consent, and the infectious nature of which is known to cause increasing incidence of infection and disease upon transmission such that there is a threat to the general public health.

"Clinical case" means a case of an infectious disease as defined by the presence of signs and symptoms compatible with the disease and the absence of laboratory confirmation, which may be considered communicable.

"Commissioner" means the State Commissioner of Health or any other person delegated specific authority by the Commissioner to act under this Chapter.

"Communicable disease" means an infectious disease that is transmissible (as from person to person) by direct contact with an affected individual or by indirect contact with the individual's bodily discharges.

"Compliance order" means an order issued by the Commissioner enforcing treatment, isolation, quarantine, or other behavioral expectations.

"Contagious" means the ability to spread a communicable disease agent, as determined by the Commissioner.

"Department" means the Oklahoma State Department of Health.

"Directly observed therapy" or "DOT" means disease treatment administered by a Public Health Nurse, DOT Provider or other person

authorized by the Commissioner who observes the patient ingest each dose of oral medication and/or witnesses the administration of each dose of parenteral medication.

"Infectious disease" means a disease caused by the entrance into the body of microorganisms (as bacteria, protozoans, fungi, or viruses) that grow and multiply therein.

"Isolation" means the confinement of an individual or group of individuals who have or are suspected of having an infectious disease constituting a biologic public health threat to an appropriate facility or location to prevent the transmission of disease.

"Laboratory criteria for diagnosis" means that appropriate laboratory testing has been conducted which has identified the likely presence of the infectious agent.

"Non-compliant behavior" means behavior on the part of the person with the suspected or confirmed infectious disease which results in failure to comply with the ordered or prescribed diagnostic procedures, treatment, therapy, isolation, quarantine, or control measures.

"Non-contagious" means an infectious or suspected infectious disease that is no longer considered communicable because one or more of the following have occurred: 1) full passage of the maximum period of infectivity for that disease; 2) completion of a minimum treatment regimen; 3) certain clinical criteria are no longer present; or 4) certain laboratory criteria have been met.

"Order for Examination" means an order issued by the Commissioner instructing a person suspected or confirmed to have an infectious disease to undergo testing to determine the presence of a communicable disease.

"Order for Isolation" means an order issued by the Commissioner instructing a person suspected or confirmed to have a communicable disease to cease all public or other prohibited contact.

"Order for Quarantine" means an order issued by the Commissioner that restricts the movement or activities of a person suspected or confirmed to have been exposed to and potentially incubating an infectious disease of public health importance.

"Order for Treatment" means an order issued by the Commissioner instructing a person suspected or confirmed to have a communicable disease to undergo treatment for that disease.

"Quarantine" means restricting the movement or activities of an individual or group of individuals who are known or suspected to have been exposed to an infectious disease constituting a biologic public health threat, generally for the duration of the maximum incubation period of the known or suspected disease.

"Respondent" means the person(s) or legal entity(ies) named in an order, petition or other pleading for an individual proceeding or other administrative hearing, against whom relief is sought.

"Suspect case" means a person with symptoms and/or signs consistent with an infectious disease, and the likelihood of appropriate exposure to have been infected with the infectious agent, as judged in the opinion of an experienced public health professional.

[Source: Added at 19 Ok Reg 2075, eff 6-27-02 ; Amended at 24 Ok Reg 1981, eff 6-25-07 ; Amended at 25 Ok Reg 1148, eff 5-25-08]

SUBCHAPTER 3. TUBERCULOSIS

310:521-3-1. Specific authority

Tuberculosis control and treatment is specifically delegated to the Oklahoma State Department of Health in 63 O.S. 1-401 through 1-410.

[Source: Added at 19 Ok Reg 2075, eff 6-27-02 ; Amended at 25 Ok Reg 1148, eff 5-25-08]

310:521-3-2. Definitions

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

"Tuberculosis treatment" means tuberculosis therapy with an American Thoracic Society/Centers for Disease Control and Prevention recommended regimen or other regimen as prescribed or approved by the Commissioner.

[Source: Added at 19 Ok Reg 2075, eff 6-27-02 ; Amended at 24 Ok Reg 1981, eff 6-25-07 ; Amended at 25 Ok Reg 1148, eff 5-25-08]

310:521-3-3. Standards of tuberculosis treatment

(a) The Commissioner shall establish surveillance to identify all cases of tuberculosis in Oklahoma. All tuberculosis suspects shall be investigated to establish or exclude the diagnosis of tuberculosis disease.

(b) A person with tuberculosis in a contagious state will remain in isolation until non-contagious criteria are met.

(c) The Commissioner shall:

- (1) Review the Tuberculosis treatment regimen for each person with active or suspected tuberculosis,
- (2) Make recommendations for change, as indicated, and
- (3) Establish the anticipated length of therapy.

(d) Directly Observed Therapy (DOT) shall be the standard for treatment of persons determined to have active tuberculosis disease. Exceptions may be granted by the Commissioner when necessary and for cause.

(e) Compliance orders will be issued to tuberculosis patients to establish behavioral expectations in regard to treatment, isolation and monitoring.

(f) Tuberculosis treatment shall continue by DOT until a prescribed course of therapy has been completed.

(g) Non-compliant behavior in regard to treatment, isolation or patient monitoring will be reported to the Commissioner. Action will be taken to eliminate the non-compliant behavior when possible or to pursue enforcement action, as determined by the Commissioner.

[Source: Added at 19 Ok Reg 2075, eff 6-27-02 ; Amended at 25 Ok Reg 1148, eff 5-25-08]

310:521-3-4. Completion of tuberculosis treatment

Completion of tuberculosis treatment occurs when the prescribed number of doses have been taken within the appropriate length of time for the established regimen, as determined by the Commissioner.

[Source: Added at 19 Ok Reg 2075, eff 6-27-02 ; Amended at 25 Ok Reg 1148, eff 5-25-08]

310:521-3-5. Alteration to treatment regimen

Alteration in the prescribed treatment regimen may be necessitated based on drug hypersensitivity, drug resistance, drug toxicity, concurrent therapy with other drugs, or other disease conditions.

[Source: Added at 19 Ok Reg 2075, eff 6-27-02 ; Amended at 25 Ok Reg 1148, eff 5-25-08]

SUBCHAPTER 5. HIV (HUMAN IMMUNODEFICIENCY VIRUS) AND AIDS (ACQUIRED IMMUNODEFICIENCY SYNDROME)

310:521-5-1. Specific authority

HIV/AIDS prevention and control is specifically delegated to the Oklahoma State Department of Health in 63 O.S., Section 1-502.

[Source: Added at 24 Ok Reg 1981, eff 6-25-07]

310:521-5-2. Definitions

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

"AIDS" means Acquired Immunodeficiency Syndrome and is the most severe manifestation of infection with the Human Immunodeficiency Virus (HIV). The Centers for Disease Control and Prevention (CDC) lists numerous opportunistic infections and neoplasms (cancers) that, in the presence of HIV infection, constitute an AIDS diagnosis.

"Abstinence" means the absence of any sexual activity, which includes oral sex, anal sex or vaginal sex.

"Barrier protection" means the use of a latex condom during sexual activity.

"HAART" means Highly Active Antiretroviral Therapy, which is the combination of several antiretroviral medications used to slow the rate at which HIV multiplies in the body.

"HIV positive" means a person has tested positive, using a Western Blot confirmatory test, for HIV antibodies, the virus known to cause AIDS.

"HIV/STD Service surveillance section" means the unit of the Department tasked with the duty to process reports and information concerning the incidence and occurrence of sexually transmitted disease discovered or reported in Oklahoma.

"Opportunistic infection" means infections, which are rarely seen in those with normal immune systems, but are deadly to those people who have AIDS and a compromised immune system.

"PCRS" means Partner Counseling Referral Services, which are offered by the OSDH HIV/STD Service to persons infected with HIV and their sexual partners to assist with informing their sexual partners about potential exposure to HIV.

"Retrovirus" means RNA (ribonucleic acid) virus. Retroviruses replicate (duplicate) by making a DNA (deoxyribonucleic acid) copy of their RNA. It is the DNA genes that allow the virus to replicate in the human body.

"Sexual activity" means any activity, which includes oral sex, anal sex, or vaginal sex.

"Transmission activity" means activity that involves the sharing or use of an instrument or device that is invasive or pierces the epidermis.

"Viral load" means the relative amount of human immunodeficiency virus in a person's body.

[Source: Added at 24 Ok Reg 1981, eff 6-25-07]

310:521-5-3. Standards of HIV/AIDS prevention and treatment

(a) The Commissioner shall establish surveillance to identify all cases of HIV or AIDS in Oklahoma. All persons suspected of having AIDS or being HIV positive shall be investigated to establish or exclude the diagnosis of AIDS or being HIV positive.

(b) All health care providers, laboratories and county health departments are required to notify HIV/STD Service surveillance section of all reported cases of HIV and AIDS within 24 hours of diagnosis or notice. Upon receipt of reports to the surveillance section, the information will be entered into the HIV/AIDS database and a Disease Intervention Specialist (DIS) will be assigned to the report for case investigation and performance of PCRS.

(c) PCRS shall, at a minimum, include assisting HIV positive persons with informing their partners about potential exposure to HIV, how the risk of exposure can be decreased or minimized, or if already infected, how transmission to others may be prevented or avoided, and to information that will aid the infected person and his partners to gain access to counseling, testing, medical treatment, prevention and other services. Additionally, PCRS shall include any information that is generally scientifically accepted regarding measures that can be adopted or implemented to prevent the transmission of HIV or AIDS, including:

- (1) Abstinence from sexual activity.
- (2) If abstinence is not practiced, the correct use of an effective barrier protection device such as a latex condom.
- (3) Refraining from sharing intravenous needles or other invasive drug injection devices.
- (4) Refraining from the donation of blood, plasma, body organs or other tissue or semen.

(d) PCRS may include, as necessary and indicated, the following recommendations to a HIV positive person:

- (1) Regular meetings with a Disease Intervention Specialist to monitor compliance with recommended PCRS.
- (2) Seeking or remaining in the care of a physician who can monitor progression of the person's HIV infection, and when indicated by the physician, take such HIV medications, including HAART, that will reduce or stabilize the person's viral load.
- (3) Periodic evaluations for tuberculosis, hepatitis, or any recognized form of sexually transmitted disease.
- (4) Disclosure to all personal health care providers to or from whom the person seeks or receives care (physicians, dentists, nurses or other health care workers), that the person is HIV-positive.
- (5) Disclosure, prior to engaging or contemplating the engagement of any sexual activity or other transmission activity, to all partners or participants, that the person is HIV-positive.

(e) If a person identified as HIV positive or diagnosed with AIDS refuses to voluntarily engage in PCRS is reported to have engaged in sexual activity without observing PCRS recommendations a compliance order will be issued to the person mandating compliance with PCRS recommendations.

[Source: Added at 24 Ok Reg 1981, eff 6-25-07]

SUBCHAPTER 7. ISOLATION OR QUARANTINE

310:521-7-1. Examination

The Commissioner may issue an order for the examination of any individual upon the suspicion or confirmation that said individual has a communicable disease. Such examination may include a clinical examination, a specific diagnostic test or tests, or a specific laboratory test or tests. The purpose of such examination(s) and/or test(s) is to determine the presence of the suspected infectious organism or the presence of indicators of the suspected infectious organism, and to determine the contagious state of the individual to the extent possible.

[Source: Added at 25 Ok Reg 1148, eff 5-25-08]

310:521-7-2. Treatment

The Commissioner may issue an order for the treatment of any individual suspected or confirmed to have a communicable disease. The Commissioner may also order the treatment of any individual or individuals exposed to certain infectious agents. Such treatment plans will be according to procedures developed within the Department.

[Source: Added at 25 Ok Reg 1148, eff 5-25-08]

310:521-7-3. Isolation or quarantine

(a) **Isolation.** The Commissioner may issue an order for the isolation of any individual or group of individuals upon determination:

(1) That such individual or individuals who are reasonably known or suspected to have a communicable disease constituting a biologic public health threat and who remain within the transmission period for said disease; and

(2) That isolation is the necessary means to control the spread of the agent and the disease constituting a biologic public health threat.

(b) **Quarantine.** The Commissioner may issue an order for the quarantine of any individual or group of individuals upon determination:

(1) That such individual or individuals who are reasonably known or suspected to have been exposed to a communicable disease constituting a biologic public health threat and who remain within the incubation period for said disease; and

(2) That quarantine is the necessary means to contain the communicable disease constituting a biologic public health threat to which an individual or individuals have been or may have been exposed.

(c) **Affected area.** The Commissioner may issue an order for the quarantine of a facility, complex, or campus including but not limited to an apartment complex, dormitory, health care facility, hotel, correctional facility, or the individuals therein.

[Source: Added at 25 Ok Reg 1148, eff 5-25-08]

310:521-7-4. Means of isolation or quarantine

The Department shall recommend to the Commissioner the appropriate means of isolation or quarantine, which shall generally be the least restrictive means that effectively protects unexposed and susceptible individuals. The place of isolation selected shall meet such infection control standards that it effectively complies with nationally accepted guidelines for the prevention of transmission of the infectious agent. The place of quarantine selected shall allow the most freedom of movement and communication with family members and other contacts without allowing transmission of the suspected infectious agent to others.

[Source: Added at 25 Ok Reg 1148, eff 5-25-08]

310:521-7-5. Delivery of orders

A representative of the Department shall deliver orders of examination, treatment, quarantine, or isolation, or shall ensure the delivery of the order by an appropriate party, to the affected individual or individuals in person to the extent practicable.

[Source: Added at 25 Ok Reg 1148, eff 5-25-08]

310:521-7-6. Administrative hearings and court enforcement

(a) Any person who is subject to an order of the Commissioner for isolation or quarantine and who contests such an order may request an individual proceeding or hearing. In order to uphold a quarantine order the Department must prove by a preponderance of the evidence that the Respondent was, or was suspected of having been, exposed to an infectious disease constituting a biologic public health threat. In order to uphold an isolation order the Department must prove by a preponderance of the evidence that the Respondent has, or is suspected of having, an infectious disease constituting a biologic public health threat. If requested, an individual proceeding pursuant to this subsection shall be convened as quickly as reasonably possible, which may be held telephonically or by other electronic means. A Respondent may request a hearing verbally or in writing. If the request for hearing is verbal, it shall be the duty of the hearing officer to take a statement for the record of the Respondent's reason for contesting the Commissioner's order. If the Commissioner's order is upheld at the conclusion of the hearing, the Respondent may appeal the administrative decision pursuant to Section 318 of Title 75 of the Oklahoma Statutes.

(b) Upon finding that there is probable cause to believe that any individual or individuals who are subject to an order of examination, treatment, isolation, or quarantine has failed to or refuse to comply with such order, the Commissioner may request an emergency order from the district court to enforce the Commissioner's order. If granted, the emergency order shall require the individual or individuals to be taken immediately into custody by law enforcement officials for the purpose of examination or treatment or to be detained for the duration of the order of isolation or quarantine or until the Commissioner determines that the risk of transmission of a biologic public health threat is no longer present.

(c) Subsections a or b of this section may be suspended in the event of a declaration of emergency by the Governor pursuant to Oklahoma law or upon written directive of the Commissioner of Health to employ a constitutionally-sufficient alternative process due to exigent circumstances during such emergency. Such suspension of subsections a and b shall only exist for the duration of the emergency.

[Source: Added at 25 Ok Reg 1148, eff 5-25-08]

310:521-7-7. Health status monitoring

A representative of the Department shall monitor the health status of those under quarantine or isolation according to means dictated through procedure of the Department. Such means may include use of appropriate data collection forms, use of appropriate medical tests and or procedures, regular telephone calls, visits by local health personnel or other pre-determined providers, self-reports, reports of caregivers or healthcare providers, or by other means. If an individual or individuals under quarantine develop symptoms compatible with a disease constituting a biologic public health threat, then such individual or individuals may be further ordered into isolation.

[Source: Added at 25 Ok Reg 1148, eff 5-25-08]

310:521-7-8. Essential needs

A representative of the Department shall conduct an assessment to determine the essential needs of those isolated or quarantined as required by procedure of the Department.

[Source: Added at 25 Ok Reg 1148, eff 5-25-08]

310:521-7-9. Release from isolation or quarantine

The Commissioner will determine when an individual or individuals are determined to no longer be at risk of developing disease and becoming infectious or to no longer pose a risk of transmission of the infectious agent constituting a biologic public health threat to other individuals. The individuals under the order of quarantine or isolation shall be so notified by the Commissioner and shall be released from quarantine or isolation immediately upon notification.

[Source: Added at 25 Ok Reg 1148, eff 5-25-08]

SUBCHAPTER 9. HARM-REDUCTION SERVICES

310:521-9-1. Purpose and specific authority

The purpose of this subchapter is to establish the rules for harm-reduction services. The State Commissioner of Health is authorized pursuant to Title 63 O.S. § 2-1101 to promulgate rules for the implementation of harm-reduction services established under Title 63 O.S. §§ 2-101(48) and 2-1101, the Uniform Controlled Dangerous Substances Act, Article 10. Harm-Reduction Services.

[Source: Added at 39 Ok Reg 1336, eff 9-11-22]

310:521-9-2. Definitions

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

"Administrator" means the director or similarly titled person responsible for the entity providing harm-reduction services through a program registered with the Department.

"Applicant" means the entity in whose name the harm-reduction services program shall be registered.

"AIDS" means Acquired Immunodeficiency Syndrome and is the most severe manifestation of infection with the Human Immunodeficiency Virus (HIV). The Centers for Disease Control and Prevention (CDC) lists numerous opportunistic infections and neoplasms (cancers) that, in the presence of HIV infection, constitute an AIDS diagnosis.

"Client" means a person who receives assistance through a harm-reduction services program.

"Harm-Reduction Services" means programs established to: *reduce the spread of infectious diseases related to injection drug use, reduce drug dependency, overdose deaths and associated complications, and increase safe recovery and disposal of used syringes and sharp waste.* Title 63 O.S. § 2-101(48)

"Hepatitis B (HBV)" means a vaccine-preventable liver infection caused by the hepatitis B virus (HBV). Hepatitis B is spread when blood, semen, or other body fluids from a person infected with the virus enters the body of someone who is not infected.

"Hepatitis C (HCV)" means a liver infection caused by the hepatitis C virus (HCV). Hepatitis C is spread through contact with blood from an infected person.

"Human Immunodeficiency Virus (HIV)" means HIV (human immunodeficiency virus) is a virus that attacks the body's immune system. If HIV is not treated, it can lead to AIDS (acquired immunodeficiency syndrome).

"HIV positive" means a person has tested positive for HIV antibodies, the virus known to cause AIDS.

"Policies and Procedures Manual" means a written manual detailing the policies and procedures for the safe and lawful operation of a harm-reduction services program.

"Program" means harm-reduction services provided by an entity registered to provide such services with the Department.

"Program Site" means the location where harm-reduction services are provided.

"Sharps Waste" means used needles, syringes, or lancets.

"Staff" means any employee, independent contractor, or volunteer adequately educated and trained to provide harm-reduction services on behalf of a program.

[Source: Added at 39 Ok Reg 1336, eff 9-11-22]

310:521-9-3. Eligible providers

Harm-reduction services are limited to persons in the following categories:

- (1) *Government entities*, as provided in Title 63 O.S. § 2-1101;
- (2) *Religious institutions or churches*;
- (3) *Nonprofit organizations*;
- (4) *For-profit companies*;
- (5) *Nongovernmental entities partnering with a governmental agency*; and
- (6) *Tribal governments*. Title 63 O.S. § 2-1101(A)

[Source: Added at 39 Ok Reg 1336, eff 9-11-22]

310:521-9-4. Registration requirements.

No entity may engage in harm-reduction services without first registering with the Department in the form and manner prescribed by

the Department.

[Source: Added at 39 Ok Reg 1336, eff 9-11-22]

310:521-9-5. Scope of services

(a) Registered programs may engage in harm-reduction services as outlined in 63 O.S. § 2-1101(B) and shall offer such services free of charge.

(b) Registered programs shall operate and furnish services in compliance with all applicable federal, state, and local laws and regulations.

[Source: Added at 39 Ok Reg 1336, eff 9-11-22]

310:521-9-6. Application for registration

(a) All entities providing harm-reduction services must complete an application for registration with the Sexual Health and Harm Reduction Service Program at the Department. All applicants must provide the following information:

(1) The legal name and form of organization registered with the Oklahoma Secretary of State as well as the name under which it will be doing business in the State of Oklahoma.

(2) The name, address, telephone number, and email address for the administrator of the program and a secondary entity contact, together with:

(A) A signed, notarized statement attesting that the applicant accepts full responsibility for ensuring that the program operates in compliance with the provisions of all federal and state laws and regulations;

(B) The address and telephone number for each program site, including both fixed locations with permanent structures and venues at which services may be provided by a mobile unit;

(C) The scheduled hours of operations for each program site; and

(D) A copy of the program's most current version of harm-reduction service policies and procedures, including but not limited to, clear and concise procedures for the safe and secure disposal of sharps waste and any biomedical waste generated by services provided by the program.

(b) Registration applications will be reviewed within sixty (60) days of receipt thereof by the Department. A written correspondence of approval or denial will be sent to the applicant. If an application is denied, a letter of corrective actions may be supplied to the applicant.

(c) Registration shall be valid for one (1) year and shall be renewed by submission of an application for renewal at least thirty (30) days prior to expiration of current registration in the form and manner prescribed by the Department.

[Source: Added at 39 Ok Reg 1336, eff 9-11-22]

310:521-9-7. Quarterly reporting to the Department

(a) Programs shall submit to the Department electronic reports, in the manner designated by the Department, on the last business day of each calendar quarter, which report the following information for the most recent calendar quarter:

- (1) *The number of clients served including basic demographic information;*
- (2) *Number and type of referrals provided;*
- (3) *Number of syringes, test kits and antagonists distributed;*
- (4) *Number of used syringes collected; and*
- (5) *Number of rapid HIV and viral hepatitis tests performed including the number of reactive test results.* Title 63 O.S. § 2-1101(C).

(b) Failure to report data described in Section 310:521-9-7 constitutes grounds for non-renewal of the service provider's registration.

[Source: Added at 39 Ok Reg 1336, eff 9-11-22]

CHAPTER 525. DIRECT SERVICES TO INDIVIDUALS

[**Authority:** 63 O.S., §§ 1-104 et seq., 1-106, 1-106.1, 1-206.1(a), and 1-208.1]

[**Source:** Codified 5-28-02]

SUBCHAPTER 1. GENERAL PROVISIONS

310:525-1-1. Purpose

This Chapter identifies the authority and provides definitions for direct health services provided to individuals by the Department.

[**Source:** Added at 19 Ok Reg 1288, eff 5-28-02]

310:525-1-2. Authority

Oklahoma State Board of Health; 63 O.S. 1991, §§ 1-104 et seq. §§ 1-106, 1-108, 1-208.1, 1-219, 1-227 et seq. 1-230 and 1-231 et seq.; 63 O.S. 2000 Supp. § 1-106.1.

[**Source:** Added at 19 Ok Reg 1288, eff 5-28-02]

310:525-1-3. Definitions

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

"Direct health services" means health services provided to an individual to promote and maintain overall health. Services may include assessment, identification of health concerns/ problems, education, treatment, referral, and monitoring of health status.

"Fee schedule" means a listing of services offered and the corresponding fee, if any, assigned to those services.

"Sliding fee scale" means a schedule of discounts for individuals based on federal poverty level, family income, family size, and other program specified economic considerations.

[**Source:** Added at 19 Ok Reg 1288, eff 5-28-02]

SUBCHAPTER 3. CHILD GUIDANCE

310:525-3-1. Purpose

The purpose of this Chapter is to establish rules for eligibility for child guidance services and to establish a procedure for fees to be charged for those services.

[**Source:** Added at 19 Ok Reg 1288, eff 5-28-02]

310:525-3-2. Definitions

"Child Guidance" means promoting optimal development, behavior and interaction of children.

"Family" means natural parents, adoptive parents, foster parents, legal guardians, siblings, aunts, uncles, grandparents or other caregivers living in the home with the identified child.

"Other adults" means childcare providers, teachers, school counselors, caseworkers, and others responsible for influencing the development of children.

[Source: Added at 19 Ok Reg 1288, eff 5-28-02 ; Amended at 23 Ok Reg 1343, eff 5-25-06]

310:525-3-3. Services

Child Guidance services are provided to children, families, and other adults responsible for influencing the development of children. Child Guidance services include, but are not limited to, screening, assessment, and evaluation of behavior, communication, hearing and development; and intervention, prevention and education services for risks or delays in behavior, communication, hearing, and/or development.

[Source: Added at 19 Ok Reg 1288, eff 5-28-02 ; Amended at 23 Ok Reg 1343, eff 5-25-06]

310:525-3-4. Eligibility

Persons authorized to be served by Child Guidance programs are children birth through eighteen (18) years of age, their families, and other adults responsible for influencing their development.

[Source: Added at 19 Ok Reg 1288, eff 5-28-02 ; Amended at 23 Ok Reg 1343, eff 5-25-06 ; Amended at 40 Ok Reg 1568, eff 9-11-23]

310:525-3-5. Fees

(a) Fees will be charged for Child Guidance services based upon the ability of the child's family to pay as set by the sliding fee scale and upon the potential for payments or contribution from the family's third party insurance provider. Families will not be denied Child Guidance services, or be subjected to any variation in quality or delivery of Child Guidance services, because of inability to pay.

(b) The schedule of fees will be consistent with Medicaid rates established by the Oklahoma Health Care Authority pursuant to 63 O.S. §§ 5007(F) and 5009.

(c) The Commissioner of Health must approve any changes to the sliding fee scale prior to implementation.

[Source: Added at 19 Ok Reg 1288, eff 5-28-02 ; Amended at 23 Ok Reg 1343, eff 5-25-06]

SUBCHAPTER 5. DISEASE AND PREVENTION SERVICES

310:525-5-1. Purpose

The rules in this subchapter implement the fee provisions of the Public Health Code which authorize fees for services of the Oklahoma State Department of Health.

[Source: Added at 26 Ok Reg 2036, eff 6-25-09]

310:525-5-2. Fees

Fees may be charged for disease and prevention services as follows. The fees listed reflect actual costs incurred by the Department for product and person-time. The fees are the maximum to be charged by the Department as follows.

- (1) Tuberculin skin test: \$45;
- (2) Blood assay for *Mycobacterium tuberculosis*: \$46; and
- (3) X-ray consultation: \$84.

[Source: Added at 26 Ok Reg 2036, eff 6-25-09]

CHAPTER 526. DENTAL SERVICES

[**Authority:** 63 O.S. §§ 1-104, 1-105, and 1-2710 et seq.]

[**Source:** Codified 6-25-07]

SUBCHAPTER 1. GENERAL PROVISIONS

310:526-1-1. Purpose

This chapter identifies the authority and provides definitions for dental services provided to individuals by the Department.

[**Source:** Added at 24 Ok Reg 203, eff 11-1-06 (emergency); Added at 24 Ok Reg 1983, eff 6-25-07]

310:526-1-2. Authority

Oklahoma State Commissioner of Health; 63 O.S. Sections 1-104 and 1-2710 et seq.

[**Source:** Added at 24 Ok Reg 203, eff 11-1-06 (emergency); Added at 24 Ok Reg 1983, eff 6-25-07 ; Amended at 38 Ok Reg 2032, eff 9-11-21]

310:526-1-3. Definitions

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

"Advisory Committee" means a committee utilized during an Oklahoma Dental Loan Repayment Program (ODLRP) selection process whose responsibilities and makeup are described in these Rules.

"Commissioner" means the Commissioner of Health of the Oklahoma State Department of Health or his/her designee.

"Contract" means a written agreement between the participating dentist and the Oklahoma State Department of Health upon the dentist's acceptance into the Oklahoma Dental Loan Repayment Program (ODLRP.)

"Dental Health Professional Shortage Area" or "DHPSA" means a location in Oklahoma that has been officially designated, on or about January 1 of each year, as experiencing special dental health problems and dentist practice patterns that limit access to dental care.

"Dental Service" means the Dental Program of the Oklahoma State Department of Health.

"Dental services" means the provision of diagnostic, preventive, restorative, emergency and palliative services provided by licensed general or pediatric dentists. The provision of dental services includes a reasonable amount of time for performing tasks related to the service, such as record-keeping.

"Dentist" means a person who is licensed to practice dentistry by the Oklahoma Board of Dentistry.

"Dentistry" means the practice of dentistry by a dentist as defined in the latest editions of the Oklahoma State Dental Act and the Oklahoma Board of Dentistry Rules and Regulations.

"Department" means the Oklahoma State Department of Health.

"Educational expenses" means all or part of the principal and interest of an educational loan which has been taken out by an individual that meets eligibility criteria for the Program.

"Medicaid dental provider" means a dentist who has fulfilled the Oklahoma Health Care Authority requirements to be reimbursed fees for services provided to the Title XIX Medicaid population.

"Medicaid patient" means a patient enrolled, at the time of dental treatment, in the State Title XIX Medicaid Program as administered by the Oklahoma Health Care Authority.

"New dental school graduate" means a dentist who has graduated from an accredited U.S. dental school during the last five years prior to the effective funding cycle for which applicant is submitting an application for the ODLRA Program.

"ODLRA" means the Oklahoma Dental Loan Repayment Act.

"ODLRP" means the Oklahoma Dental Loan Repayment Program.

"Oklahoma Health Care Authority" or **"OHCA"** means the state agency responsible for the Title XIX Medicaid Program in Oklahoma.

"Participating dentist" or **"participant"** means a dentist selected to participate in the Program and who has an effective ODLRP contract with the Department.

"Patient" means the individuals treated at an approved practice site.

"Program" means the Oklahoma Dental Loan Repayment Program.

"Service obligation" means the terms established by the contract as defined by the Department and may include options to renew for up to a total participation in the Program of five (5) years.

[Source: Added at 24 Ok Reg 203, eff 11-1-06 (emergency); Added at 24 Ok Reg 1983, eff 6-25-07 ; Amended at 25 Ok Reg 1151, eff 5-25-08 ; Amended at 27 Ok Reg 2524, eff 7-25-10]

SUBCHAPTER 3. OKLAHOMA DENTAL LOAN REPAYMENT PROGRAM

310:526-3-1. Purpose

The rules in this subchapter implement the Oklahoma Dental Loan Repayment Act, 63 O.S. Section 1-2710 et seq. The purpose of this rule is to create a program designed to increase the number of dentists serving and caring for those dependent upon the state for dental care and to make dental care accessible to underserved metropolitan and rural areas by providing educational loan repayment assistance to qualified service providers.

[Source: Added at 24 Ok Reg 203, eff 11-1-06 (emergency); Added at 24 Ok Reg 1983, eff 6-25-07]

310:526-3-2. Description and operation of the Program

(a) **Department's equal opportunity policies applicable.** The Department's Dental Service administers the Oklahoma Dental Loan Repayment Program in accordance with the Department's policies governing equal opportunity and access to programs, services and

activities.

(b) **General operation of the Program.** The Program provides educational loan repayment assistance for a number not to exceed twenty-five (25) full time (or full time equivalent, or as designated by Advisory Committee or Department) dentists licensed to practice in Oklahoma. The Program provides prorated educational loan repayment assistance based upon the percentage of time worked. Dentists entering the Program agree to teach at the University of Oklahoma College of Dentistry if applicable faculty positions are available, or provide dental care and services to Medicaid recipients in a designated dental health professional shortage area (DHPSA) or exempted facility according to state law.

(c) **Determining individual awards.** The amount of award, not to exceed \$50,000 per year for each participating full time equivalent dentist, is determined by the Department annually based upon the amount of funds appropriated to the Department. If the participating dentist's eligible loans are less than the cumulative repayment assistance total available over 5 years, that participating dentist shall be in the Program no longer than required to pay off the total eligible loans and shall not receive more funding assistance than the total eligible indebtedness.

(d) **Distributing the awards.** Each award is distributed in accordance with state law.

(e) **Default.** If the participating dentist does not fulfill the terms of the service obligation, the Department may collect from the participant the entire amount of loan repayment assistance extended to the participant under the Program, plus interest.

[Source: Added at 24 Ok Reg 203, eff 11-1-06 (emergency); Added at 24 Ok Reg 1983, eff 6-25-07 ; Amended at 27 Ok Reg 2524, eff 7-25-10 ; Amended at 31 Ok Reg 1590, eff 9-12-14 ; Amended at 32 Ok Reg 1790, eff 9-11-15 ; Amended at 38 Ok Reg 2032, eff 9-11-21]

310:526-3-3. Eligibility to participate in the Program

(a) **Eligibility requirements common to both non-faculty and faculty participants.** Eligibility for repayment assistance for non-faculty and faculty participants requires compliance with the following requirements:

- (1) receipt or award of a dental degree from an accredited United States dental school within the previous five (5) years;
- (2) completion of all requirements to receive or be awarded an active unrestricted license to practice dentistry in the State of Oklahoma at the time the service obligation begins; and,
- (3) a financial need with outstanding eligible dental school loans.

(b) **Additional eligibility requirements for non-faculty participants.** Eligibility for repayment assistance for non-faculty participants requires compliance with the following additional requirements:

- (1) an established general or pediatric dental practice, or the commitment to establish such a practice, located in an Oklahoma DHPSA with the exception that any dentist licensed to practice as a pediatric dentistry specialist as defined by the State Dental Act or any dentist practicing in a Federally Qualified Health Center

(FQHC), FQHC look-alike, county health department, or city-county health department may be exempt from the requirement to practice in a DHPA;

(2) fulfillment of all applicable requirements of the Oklahoma Health Care Authority to qualify as a Medicaid Dental Provider at the time the service obligation begins; and,

(3) agree that during the service obligation/contract period, a minimum 30% of patient visits are by Medicaid recipients.

(c) Additional eligibility requirements for faculty participants.

Eligibility for repayment assistance for faculty participants requires compliance with the additional requirement of abiding by the rules and regulations for a faculty member, and the job duties assigned by the Dean of the University of Oklahoma College of Dentistry.

(d) Limitations upon eligibility common to both non-faculty and faculty participants.

A non-faculty or faculty participant's eligibility may be rescinded or terminated if any of the following conditions occur:

(1) a breach of an obligation for service to a federal, state, or local government entity;

(2) an obligation for service to a federal, state, or local government entity that interferes with the fulfillment of the requirements of the Program that remains unsatisfied; or,

(3) default or material breach of an agreement to repay a higher education loan or borrowing agreement.

(e) Additional considerations.

(1) Preference is given to graduates of the University of Oklahoma College of Dentistry.

(2) Preference is given to eligible practice sites that are not Medicaid/Soonercare specific.

(3) Geographic diversity of the participants is an objective of the Program.

(4) An eligible practice site is a solo, group, or incorporated private practice, and any federal, state, local, or private for-profit or nonprofit dental facility.

(5) To qualify for the 30% minimum Medicaid recipient requirement the participant must use a count of patient visits during the service obligation. The 30% requirement is monitored monthly, but the participant is deemed to be compliant if the yearly average is 30% or greater.

(f) Eligible loans. Loans eligible for repayment assistance are any loans for educational expenses while attending dental school from a college, university, government, commercial source, or an organization, institution, association, society, or corporation that is exempt from taxation under 501(c)(3) or (4) of the Internal Revenue Code of 1986. The ODLRP participant must be able to provide, upon request, documentation that commercial loans were used for payment of educational expenses.

310:526-3-4. Procedures for administering the Program

The Program shall develop dental loan repayment procedures as may be necessary to carry out the administration of the Program. The Program shall delineate the following procedures:

- (1) **Dental Health Professional Shortage Areas (DHPSA).** Dental health professional shortage areas for Oklahoma shall be established by the Commissioner using the following criteria.
 - (A) The percentage of Medicaid enrollees receiving dental services each year.
 - (B) The ratio of the number of Medicaid enrollees per Medicaid dental provider.
 - (C) The ratio of the number of Oklahoma residents in the general population per Oklahoma licensed general practice or pediatric dentist.
- (2) **Applications.** All interested new dental school graduates shall file an application with the Department. This application can be submitted at any time during the year. Applications are available in the Dental Service office of the Oklahoma State Department of Health, in person or online.
- (3) **Approval by the Department.** Applications are reviewed by the Advisory Committee. Following this review, the Advisory Committee forwards their recommendations to the Department. Applications are approved or declined as determined by the Department.
- (4) **Renewal of loan repayment contracts.** The original loan repayment contract may be renewed for up to a total participation in the Program of five (5) years, contingent upon funding from the Legislature and continued approval of the Department based upon the dentist's performance and recommendations of the Advisory Committee if requested.
- (5) **Advisory Committee.** The Department will appoint and convene an Advisory Committee to assist in the dental loan repayment process. The Advisory Committee includes five (5) members with representation from the Oklahoma Dental Association, the University of Oklahoma College of Dentistry, the Oklahoma Health Care Authority, the Oklahoma Board of Dentistry, and the Oklahoma Oral Health Coalition. The Advisory Committee is responsible for reviewing the eligible applicants, as determined by the Department, and making recommendations to the Department. The Department makes the final selection of Program participants.

[Source: Added at 24 Ok Reg 203, eff 11-1-06 (emergency); Added at 24 Ok Reg 1983, eff 6-25-07 ; Revoked at 32 Ok Reg 1790, eff 9-11-15 ; Amended at 38 Ok Reg 2032, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:526-3-5. Applicant Contracts

- (a) Each applicant, before being granted loan repayment assistance under the Program, enters into a contract with the Department agreeing

to the terms and conditions.

(b) The participant fulfills all contractual obligations outlined, referenced or described in the contract.

(c) The contract shall be signed by the Commissioner, or the Commissioner's designee, on behalf of the Department, and by the applicant.

(d) The Department may file suit against any participant for any balance due the Department for any contract, or portion thereof, that is unfulfilled or breached by the participant. The Department may cancel or amend any contract made between it and the participant upon cause deemed sufficient by the Department.

[Source: Added at 24 Ok Reg 203, eff 11-1-06 (emergency); Added at 24 Ok Reg 1983, eff 6-25-07 ; Amended at 38 Ok Reg 2032, eff 9-11-21]

310:526-3-6. Annual Report

The Department presents a report on the Program to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate within one month of the beginning of each regular session of the Legislature.

[Source: Added at 24 Ok Reg 203, eff 11-1-06 (emergency); Added at 24 Ok Reg 1983, eff 6-25-07 ; Amended at 38 Ok Reg 2032, eff 9-11-21]

CHAPTER 527. ALTERNATIVES-TO-ABORTION SERVICES

[Authority: 63 O.S. §§ 1-104, 1-105 and 1-740.11-12]

[Source: Codified 6-25-07]

310:527-1-1. Purpose

The purpose of this chapter is to provide definitions and eligibility requirements for the establishment and implementation of the program to facilitate funding to nongovernmental entities that provide alternatives-to-abortion services.

[Source: Added at 24 Ok Reg 206, eff 11-1-06 (emergency); Added at 24 Ok Reg 1986, eff 6-25-07]

310:527-1-2. Definitions

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

"Alternatives to Abortion Services" *means those services that promote childbirth instead of abortion by providing information, counseling, and support services that assist pregnant women or women who believe they may be pregnant to choose childbirth and to make informed decisions regarding the choice of adoption or parenting with respect to their children. [63 O.S. § 1-740.11]*

"Department" means the Oklahoma State Department of Health.

[Source: Added at 24 Ok Reg 206, eff 11-1-06 (emergency); Added at 24 Ok Reg 1986, eff 6-25-07]

310:527-1-3. Services

(a) Alternatives-to-abortion services must focus on positive outcome-based results that are measurable and relate to promoting childbirth, adoption or parenting of children.

(b) Alternatives-to-abortion services may include, but are not limited to: medical care, nutritional services, housing assistance, adoption services, educational and/or employment assistance, child care assistance, and parenting education and support services. [63 O.S. § 1-740.11]

(c) Services will be made available without requirement for age, sex, race, religion, nationality, marital status or pregnancy history.

(d) Services may be provided from the time a woman is pregnant, or believes she is pregnant, through the first year following the birth of her child.

[Source: Added at 24 Ok Reg 206, eff 11-1-06 (emergency); Added at 24 Ok Reg 1986, eff 6-25-07]

310:527-1-4. Eligibility Requirements

(a) To be eligible to receive alternatives-to-abortion funding, organizations must provide services that promote childbirth by providing information, counseling and support services that assist pregnant women or women who believe they may be pregnant to choose childbirth and to make informed decisions regarding the choice of adoption or parenting with respect to their children.

(b) Any organization or affiliate of an organization that provides or promotes abortion or directly refers for abortion shall not be eligible to receive alternatives-to-abortion funding. Organizations that provide nondirective counseling relating to a pregnancy will not be disqualified from receiving these funds. [63 O.S. § 1-740.12]

(c) The Department may not contract for alternatives-to-abortion services with an adoption agency that is not licensed by the State. [63 O.S. § 1-740.11]

[Source: Added at 24 Ok Reg 206, eff 11-1-06 (emergency); Added at 24 Ok Reg 1986, eff 6-25-07]

310:527-1-5. Alternatives-to-Abortion Services Revolving Fund

Awards to organizations providing alternatives-to-abortion services shall be made from the Alternatives-to-Abortion Services Revolving Fund in accordance with the Central Purchasing Act.

[Source: Added at 24 Ok Reg 206, eff 11-1-06 (emergency); Added at 24 Ok Reg 1986, eff 6-25-07]

CHAPTER 528. CHILDREN FIRST ELIGIBILITY REQUIREMENTS

[Authority: 63 O.S., §§ 1-104 and 1-110.1]

[Source: Codified 6-12-03]

310:528-1-1. Purpose

This Chapter identifies the authority, provides general definitions, and establishes eligibility requirements for the Children First Service of the Oklahoma State Department of Health.

[Source: Added at 20 Ok Reg 1658, eff 6-12-03]

310:528-1-2. Definitions

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

"Children First Mother" means the woman that meets Children First Service eligibility requirements and enrolls in the service.

[Source: Added at 20 Ok Reg 1658, eff 6-12-03]

310:528-1-3. Services

(a) Services will be provided by a public health nurse in the home of the Children First Mother unless the Children First Mother requests that the services be provided in a different location.

(b) Services include limited maternal and child health assessments; child development assessments; parenting education; health, safety and nutrition education; appropriate referrals to services such as primary health care, family planning, mental health services, job training, literacy services, employment opportunities, housing, and substance abuse treatment.

(c) Services will be made available without requirement for legal residence, age, sex, race, religion, nationality, marital status or pregnancy history.

(d) Acceptance of services must be voluntary, and individuals must not be subjected to any coercion to receive services.

(e) Acceptance of services shall not be a prerequisite to eligibility for, or receipt of, any other services provided by the Oklahoma State Department of Health (OSDH).

(f) All information obtained as to personal facts and circumstances of individuals will be held confidential, and shall not be divulged without the individual's written consent, court order, or by request of staff from a District Attorney's Office, a law enforcement official, or the Department of Human Services when conducting a child abuse investigation.

(g) Services will be prioritized to Children First Mothers whose household income is no greater than 185% of the federal poverty level. No more than 15% of a nurse home visitor's caseload should be above 185% of the federal poverty level.

[Source: Added at 20 Ok Reg 1658, eff 6-12-03 ; Amended at 37 Ok Reg 1410, eff 9-11-20]

310:528-1-4. Eligibility requirements

The Children First Mother must be at or less than 28 weeks gestation when the initial Children First visit occurs, be within the prioritized services as set forth in 310:528-1-3(g), and

- (1) be expecting her first live birth, never parented and plans on parenting this child; or
- (2) be expecting her first live birth, never parented and is contemplating placing the child for adoption; or
- (3) be expecting her first live birth and has parented stepchildren or younger siblings; or
- (4) be expecting her first live birth, been pregnant before, but the pregnancy did not result in a live birth; or
- (5) be expecting a live birth, been pregnant and delivered a child in the past, but the child died within the first six months of life; or
- (6) be expecting a live birth, been pregnant and delivered a child in the past, but the mother placed the child for adoption immediately following delivery of the child.

[Source: Added at 20 Ok Reg 1658, eff 6-12-03 ; Amended at 37 Ok Reg 1410, eff 9-11-20]

310:528-1-5. Fees

No fees will be charged to eligible participants for Children First home visitation services.

[Source: Added at 20 Ok Reg 1658, eff 6-12-03]

CHAPTER 529. MULTIDISCIPLINARY TEAMS FOR CHILD PROTECTION

[**Authority:** 63 O.S., §§ 1-227.1, 1-227.2, and 1-227.7]
[**Source:** Codified 6-12-03]

SUBCHAPTER 1. GENERAL PROVISIONS

310:529-1-1. Purpose

This Chapter identifies the authority and provides general definitions for multidisciplinary teams for child protection.

[**Source:** Added at 19 Ok Reg 2917, eff 7-26-02 (emergency); Added at 20 Ok Reg 1659, eff 6-12-03]

310:529-1-2. Authority

Oklahoma State Board of Health; 63 O.S. 2001 § 1-227.7; 63 O.S. 2001 § 1-227.2.

[**Source:** Added at 19 Ok Reg 2917, eff 7-26-02 (emergency); Added at 20 Ok Reg 1659, eff 6-12-03]

310:529-1-3. Definitions

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

"Department" means the Oklahoma State Department of Health.

"Interagency agreement(s)" means the written document(s) signed by multidisciplinary team member agencies that specify the cooperative effort of the member agencies to the team and delineates roles.

"Multidisciplinary team" means a group of individuals of differing disciplines working together collaboratively on a common purpose.

"Standards" means the state of the art criteria used to determine functionality of a multidisciplinary team.

[**Source:** Added at 19 Ok Reg 2917, eff 7-26-02 (emergency); Added at 20 Ok Reg 1659, eff 6-12-03]

SUBCHAPTER 3. CHILD ABUSE PREVENTION SERVICE

310:529-3-1. Purpose

The Department is responsible for the Child Abuse Prevention Service. The Child Abuse Prevention Service is responsible for assisting the Child Abuse Training and Coordination Council in the performance of their duties. One of the duties of the Child Abuse Training and Coordination Council is to annually approve the list of functioning multidisciplinary teams. A functioning multidisciplinary team can apply for funding to the Department of Human Services from the Child Abuse

Multidisciplinary Account. The purpose of this chapter is to establish the minimal standards to determine a functioning multidisciplinary team.

[Source: Added at 19 Ok Reg 2917, eff 7-26-02 (emergency); Added at 20 Ok Reg 1659, eff 6-12-03]

310:529-3-2. Authority

Oklahoma State Board of Health; 63 O.S. 2001 § 1-227.7; 63 O.S. 2001 § 1-227.2.

[Source: Added at 19 Ok Reg 2917, eff 7-26-02 (emergency); Added at 20 Ok Reg 1659, eff 6-12-03]

310:529-3-3. Definitions

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

"Annual survey" means a written document submitted on at least a yearly basis to the Office of Child Abuse Prevention summarizing the activities of the team as related to child protection investigations and services with the data elements and format proscribed by the Child Abuse Training and Coordination Council.

"Child abuse multidisciplinary account" means a continuing fund established by the Oklahoma Legislature for the purpose of providing operating funds to functional multidisciplinary teams.

"Child Abuse Training and Coordination Council" means the Office of Child Abuse Prevention B Child Abuse Training and Coordination Council as established in O.S. Title 63 § 1-227.9.

"Communityneeds assessment" means conducting a process that results in a written document that identifies available services, service gaps, untapped resources and community based priorities for improvement or development of services to the victim and family according to the format and schedule of the Child Abuse Training and Coordination Council.

"Confidentiality statement" means the written document signed by multidisciplinary team members assuring that all proceedings conducted during team meetings and child protective investigations will be kept confidential according to clearly defined limits, state law and respective agency policy and procedure.

"Data collection" means multidisciplinary teams shall maintain data on every case reviewed by the multidisciplinary team in the format proscribed by the Child Abuse Training and Coordination Council.

"Expertise" means individual team members obtaining training and experience in a particular aspect of the multidisciplinary team approach, conducting legally sound and age appropriate interviews, effective investigation techniques or knowledge about how to conduct joint investigations.

"Initial team training" means a training conducted during the early formation of the team where individual team members are oriented to the multidisciplinary child abuse team approach.

"Joint investigations" means law enforcement and child welfare staff conduct a collaborative investigation with written protocols to decrease duplicative efforts and to ensure a thorough process.

"Multidisciplinary team members" means team members to include police officers or other law enforcement agents, child protective services workers within the Oklahoma Department of Human Services, mental health professionals, medical personnel, multidisciplinary child abuse team coordinators, child advocacy center director and the district attorney or assistant district attorney.

"Protocol" means specific methods and procedures used to conduct child protection investigations and interviews.

[Source: Added at 19 Ok Reg 2917, eff 7-26-02 (emergency); Added at 20 Ok Reg 1659, eff 6-12-03]

310:529-3-4. Services provided

A multidisciplinary team conducts joint investigations in an effort to effectively respond to child abuse reports.

[Source: Added at 19 Ok Reg 2917, eff 7-26-02 (emergency); Added at 20 Ok Reg 1659, eff 6-12-03]

310:529-3-5. Standards for eligibility

A multidisciplinary team will adhere to the following minimal standards:

- (1) Develop individual and team expertise through training according to the format and schedule established by the Child Abuse Training and Coordination Council;
- (2) Conduct and submit a Community Needs Assessment that will identify available services, service gaps, untapped resources, and priorities for improvement or development of services to improve the delivery of services to the victim and family according to the schedule established by the Child Abuse Training and Coordination Council;
- (3) Conduct joint investigations, wherever feasible, in an effort to effectively respond to child abuse reports;
- (4) Utilize written protocols approved by the Child Abuse Training and Coordination Council for interviewing and investigating to increase joint investigations and decrease duplicative efforts;
- (5) Utilize an approved Child Abuse Training and Coordination Council formalized case review process, interagency agreement, and confidentiality statement; and
- (6) Submit data collected in the format and schedule prescribed by the Child Abuse Training and Coordination Council to complete the Child Abuse Training and Coordination Council Annual Survey.

[Source: Added at 19 Ok Reg 2917, eff 7-26-02 (emergency); Added at 20 Ok Reg 1659, eff 6-12-03]

CHAPTER 530. FAMILY PLANNING CENTERS

[**Authority:** 63 O.S., §§ 1-106, 1-106.1, and 1-206.1(a)]

[**Source:** Codified 6-27-02]

310:530-1-1. Purpose

The purpose of this chapter is to describe the family planning services offered by the Department and to establish the procedures and methods used by the Department to determine the annual allocation of programmatic costs attributable to the operation of the Family Planning Client Fee System and to determine the recommended fee assessment to be collected from persons receiving family planning services provided by the Department.

[**Source:** Added at 19 Ok Reg 2077, eff 6-27-02 ; Amended at 21 Ok Reg 2751, eff 7-12-04]

310:530-1-2. Definitions

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

"Attributable analysis period" means the most recently completed period for which cost and client encounter data is available.

"Client" means a female or male of reproductive age who requests family planning services.

"Commissioner of Health" and **"Commissioner"** mean the Oklahoma State Commissioner of Health, the chief executive officer of the Department. References in the subchapter to the Commissioner may include a designee of the Commissioner of Health. Designations shall be subject to such powers and limitations as are specified in writing.

"Contraceptive methods" means any Federal Drug Administration (FDA) approved medication or method that prevents pregnancy.

"Delivered product" means a contraceptive device or pharmacological substance administered or given to the client for use or consumption.

"Department" means the Oklahoma State Department of Health.

"Examination service" means a qualified family planning service described in the Family Planning Policies and Procedures Manual and incorporating a medical history and/or physical assessment element(s) as the central component of the service delivered to the client.

"Examination service component" means the set of all examination services provided by the family planning program.

"Family planning" means those services which will allow an individual to freely determine the number and spacing of their children, encompassing the spectrum from infertility to desired sterilization. Abortion is not a method of family planning.

"Family planning centers" means county health departments providing family planning services.

"Federal poverty level (FPL) guidelines" means the levels set forth in the most recent Poverty Guidelines issued pursuant to 42 U.S.C. § 9902(2).

"Laboratory service" means a qualified family planning service described in the Family Planning Policies and Procedures Manual and incorporating the performance of tests in a laboratory setting as the central component of the service delivered to the client.

"Laboratory service component" means the set of all laboratory services provided by the family planning program.

"Medical cost center" or laboratory cost center" means those cost centers used by the Department to allocate costs determined to be necessary for the delivery of family planning services.

"Recommended fee assessment for utilization of services" or "RFA" means the maximum fee assessed to a client who receives a family planning service or product provided pursuant to this Chapter by the Department.

"Relative value" means the value assigned to a service described in the relative value study that most closely matches or approximates the description of the service provided by the family planning program.

"Relative value study" means an accredited study of a given set of medical services that establishes the relationship between the medical services studied indicating the proportionate value of each service to that of the others in the study.

"Schedule of fees" means a listing of services offered and the corresponding fee, if any, assigned to those services.

"Sliding fee scale" means a schedule of discounts for individuals based upon federal poverty level, family income, family size, and other program specified economic considerations.

[Source: Added at 19 Ok Reg 2077, eff 6-27-02 ; Amended at 21 Ok Reg 2751, eff 7-12-04]

310:530-1-3. Services

(a) Services will include health assessment, screening, health maintenance, and preventive services; initial assessment of health problems; treatment of uncomplicated health problems; and education to reduce risk behaviors.

(b) Individuals will have freedom of choice of contraceptive method(s) available from the Family Planning Centers as long as there are no medical contraindications to the method(s) selected.

(c) Services will be made available without requirement for legal residence, age, sex, race, religion, nationality, marital status or pregnancy history.

(d) Acceptance of services must be voluntary, and individuals must not be subjected to any coercion to receive services or to employ, or not to employ, any particular method of family planning.

(e) Acceptance of services shall not be a prerequisite to eligibility for, or receipt of, any other services provided by the Oklahoma State Department of Health (OSDH).

(f) All information obtained as to personal facts and circumstances of individuals will be held confidential, and shall not be divulged without the individual's written consent or court order.

[Source: Added at 19 Ok Reg 2077, eff 6-27-02]

310:530-1-4. Methods and Procedures

(a) **General.** Fees will be charged for services based upon client's ability to pay, and upon the potential for payments or contribution from the client's third party health insurance provider. Clients will not be denied family planning services, or be subjected to any variation in quality or delivery of family planning services, because of inability to pay. The Commissioner of Health must approve the schedule of fees for family planning services annually and prior to implementation. The calculation of the maximum recommended fee assessment will be completed before July 1 implementation each year.

(b) **Determining the base unit cost.**

(1) **Examination services component.** The base unit cost for the examination service component is derived by dividing the total dollar amount attributable to the medical cost center by the sum of the collective weighted values of each examination service. The collective weighted value of each examination service is derived by multiplying the relative value for the examination service by the frequency of encounters for that service during the attributable analysis period.

(2) **Laboratory service component.** The base unit cost for the laboratory service component is derived by dividing the total dollar amount attributable to the laboratory cost center by the sum of the collective weighted values of each laboratory service. The collective weighted value of each laboratory service is derived by multiplying the relative value for the laboratory service by the frequency of encounters for that service during the attributable analysis period.

(c) **Deriving the applicable ancillary unit cost.**

(1) **Allocated unit indirect costs.** Allocated unit indirect costs are those indirect unit costs attributable to the family planning program and are prorated and added as an ancillary cost to each examination service provided by family planning centers. The allocated unit indirect cost is derived by dividing the sum of all indirect costs approved by the Commissioner for allocation to family planning during the attributable analysis period by the relative proportion of the collective weighted value of a given examination service to the total collective weighted value of the examination service component.

(2) **Unit clinical supply costs.** Unit clinical supply costs are prorated and added as an ancillary cost to each examination service provided by family planning centers. The unit clinical supply cost is derived by dividing the sum of all non-laboratory supplies consumed by family planning during the attributable analysis period by the relative proportion of the collective weighted value of a given examination service to the total collective weighted value of the examination service component.

(3) **Unit laboratory supply costs.** Unit laboratory supply costs are prorated and added as an ancillary cost to each laboratory service provided by family planning centers. The unit laboratory supply cost is derived by dividing the sum of all laboratory

supplies consumed by family planning during the attributable analysis period by the relative proportion of the collective weighted value of a given laboratory service to the total collective weighted value of the laboratory service component.

(d) **Deriving the inflationary adjustment modifier.** The inflationary adjustment modifier is derived by first consulting the annual percentage change in the Medical Care expenditure category reported for the South Region in the latest Consumer Price Index Detailed Report published by the United States Department of Labor prior to the time the maximum RFA is due to be calculated by the Department for the upcoming fiscal year. The annual percentage change reported is multiplied by the subtotal of the sum of ancillary unit costs and the product of the base unit cost and the weighted value attributed to the service.

(e) **Deriving the sliding fee scale adjustment.** The sliding fee scale adjustment is used to convert the maximum RFA into the adjusted RFA. The scale is divided into seven (7) increments that correspond to incremental levels of poverty ranging from 100% to 250% of poverty based upon the annual Federal Poverty Guidelines. The base increment of the sliding fee scale shall correspond to 100% of poverty and cause the maximum RFA to be reduced to zero. The next increment of the sliding fee scale shall correspond to approximately 118.75% of poverty and cause the assessment to be reduced to a sum that is 10% of the maximum RFA. The next increment of the sliding fee scale shall correspond to approximately 137.5% of poverty and cause the assessment to be reduced to a sum that is 20% of the maximum RFA. Successive increments of the sliding fee scale shall correspond to successive incremental increases of approximately 37.5 percentage points of poverty and cause incremental 20 percentage point increases of the percentage of the maximum RFA to be assessed to the client.

(f) **Deriving the maximum recommended fee assessment for utilization of services (RFA).**

(1) **Examination services.** The maximum RFA for a given examination service is derived by multiplying the base unit cost determined for the examination service by the weighted value attributed to the service. This product is then added to the sum of the ancillary unit costs derived for the service. The subtotal derived is then added to the inflationary adjustment modifier to derive the maximum RFA. The maximum RFA is then applied to the sliding fee scale adjustment applicable to the client and adjusted as indicated to derive the adjusted RFA for a given examination service.

(2) **Laboratory services.** The maximum RFA for a given laboratory service is derived by multiplying the base unit cost determined for the laboratory service by the weighted value attributed to the service. This product is then added to the sum of the ancillary unit costs derived for the service. The subtotal derived is then added to the inflationary adjustment modifier to derive the maximum RFA. The maximum RFA is then applied to the sliding fee scale adjustment applicable to the client and adjusted as indicated to derive the adjusted RFA for a given laboratory service.

(3) **Delivered products.** The maximum RFA for a delivered product is the average unit cost incurred by the Department for the product during the most recently completed purchasing cycle. This amount is then applied to the sliding fee scale adjustment applicable to the client and adjusted as indicated.

(g) **Waiver.** The family planning center may waive in whole or in part an adjusted RFA for any client who is unable, for good cause, to pay for the family planning service or product provided.

[Source: Added at 19 Ok Reg 2077, eff 6-27-02 ; Amended at 21 Ok Reg 2751, eff 7-12-04 ; Amended at 26 Ok Reg 1497, eff 6-11-09]

CHAPTER 531. VISION SCREENING

[**Authority:** 63 O.S., §§ 1-104, 1-105 and 1-106 et seq.; 70 O.S., § 1210.284]

[**Source:** Codified 5-11-07]

SUBCHAPTER 1. GENERAL PROVISIONS

310:531-1-1. Purpose

This subchapter identifies the authority and provides definitions for vision screening services provided to elementary school age children by approved vision screening providers.

[**Source:** Added at 24 Ok Reg 867, eff 5-11-07 ; Amended at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10]

310:531-1-2. Authority

Commissioner of the Oklahoma State Department of Health; 70 O.S. § 1210.284; 63 O.S. §§1-103, 1-103a.1, 1-104 and 1-106 et seq.

[**Source:** Added at 24 Ok Reg 867, eff 5-11-07 ; Amended at 31 Ok Reg 1591, eff 9-12-14 ; Amended at 37 Ok Reg 1411, eff 9-11-20]

310:531-1-3. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Board" means the State Board of Health.

"Commissioner" means the State Commissioner of Health of the Oklahoma State Department of Health.

"Comprehensive Eye Exam" means a clinical assessment and tests administered by a licensed optometrist or ophthalmologist to assess a person's level of vision as well as detect any abnormality or diseases.

"Department" means the Oklahoma State Department of Health.

"Infant and Children's Health Advisory Council" means the advisory council to the Board and Department in the area of infant and child health including vision screening.

"LEA Numbers Chart" means a vision screening test that determines relative visual acuity for distance vision using a chart with numbers. Chart is recommended for school age children and can be used with children who use English as a second language.

"Ophthalmologist" means a person licensed by the state of Oklahoma to practice medicine who has a specialty in ophthalmology.

"Optometrist" means a person licensed by the state of Oklahoma to practice optometry.

"Referral" means parent/guardian notification that the student's screening results indicate a need for a comprehensive eye exam by an ophthalmologist or optometrist.

"Sloan Letters Chart" means a vision screening test that determines relative visual acuity for distance vision using a chart with letters. Chart is recommended for school age children.

"Vision screening provider(s)" means a person(s) who has successfully completed vision screening training using curricula approved by the Department, submitted an application to the Department, and has been approved by the Department as being a vision screening provider.

"Vision screening" means the process or system used to identify children in grades K, 1 and 3 who may be at risk of having or developing visual problems that may adversely affect their ability to acquire knowledge, skill or learning, for the purpose of recommending further evaluation by an optometrist or ophthalmologist.

"Vision screening trainer(s)" is a person(s) who has been approved as a vision screening provider and completed additional training approved by the Department to provide training to potential vision screening providers.

"Vision Screening Registry" is a system for collecting and maintaining in a structured manner the names of individuals that have been approved by the Department as vision screening providers.

[Source: Added at 24 Ok Reg 867, eff 5-11-07 ; Amended at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14 ; Amended at 37 Ok Reg 1411, eff 9-11-20]

SUBCHAPTER 3. ADVISORY COMMITTEE [REVOKED]

310:531-3-1. Purpose [REVOKED]

[Source: Added at 24 Ok Reg 867, eff 5-11-07 ; Amended at 26 Ok Reg 2036, eff 6-25-09 ; Revoked at 31 Ok Reg 1591, eff 9-12-14]

310:531-3-2. Advisory Committee [REVOKED]

[Source: Added at 24 Ok Reg 867, eff 5-11-07 ; Revoked at 31 Ok Reg 1591, eff 9-12-14]

310:531-3-3. Rules of Order [REVOKED]

[Source: Added at 24 Ok Reg 867, eff 5-11-07 ; Revoked at 31 Ok Reg 1591, eff 9-12-14]

SUBCHAPTER 5. VISION SCREENING STANDARDS FOR CHILDREN

310:531-5-1. Purpose

This subchapter identifies those children to be screened and standards for vision screening tools, vision screening providers and vision screening trainers.

[Source: Added at 24 Ok Reg 867, eff 5-11-07 ; Amended at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10]

310:531-5-2. Oklahoma Vision Screening Standards

- (a) Parents or guardians of any child subject to the Oklahoma School Code shall provide certification of vision screening for any child who is:
- (1) in kindergarten, and the vision screening shall be completed within the previous twelve (12) months or during the school year;
 - (2) in the first grade, and the vision screening shall be completed within the previous (12) months, with certification provided to school personnel within thirty (30) days of the beginning of the school year; and
 - (3) in the third grade, and the vision screening shall be completed within the previous twelve (12) months, with certification provided to school personnel within thirty (30) days of the beginning of the school year.
- (b) Vision screening must, at a minimum, utilize one of the following vision screening tests using standard screening procedures for relative visual acuity:
- (1) For school age children, the Sloan Letter Chart,, or LEA Numbers Chart, at a distance of ten (10) feet or any new vision screening tool determined by the Department to be a comparably effective and efficient screening tool; or
 - (2) For children under 72 months of age, a photoscreener or any new vision screening tool determined by the Department to be a comparably effective and efficient screening tool.
- (c) The following distance visual acuity criteria shall be used as a basis for referring a child for further evaluation by an optometrist or ophthalmologist: Refer for a two-line difference in either eye, even in the passing range, or acuity 20/40 or worse in either eye.

[Source: Added at 24 Ok Reg 867, eff 5-11-07 ; Amended at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14 ; Amended at 37 Ok Reg 1411, eff 9-11-20]

310:531-5-3. Approval of vision screening providers

- (a) In order to become an approved vision screening provider, an individual must make application to the Department and include documentation of successful completion of training conducted by an approved trainer using an approved training curriculum that includes the following:
- (1) common eye problems;
 - (2) the screening process;
 - (3) required screening tools;
 - (4) screening special populations; and,
 - (5) basic anatomy and physiology of the eye.
- (b) The Department will review and approve vision screening providers.
- (c) The vision screening provider approval will be valid from the date of approval by the Department and ends three years from the most recently approved training.
- (d) All approved vision screening providers will be added to the statewide registry on the Internet website maintained by the Department.

(e) Oklahoma licensed optometrists and ophthalmologists are exempt from the application and successful completion of vision screening standards training by an approved trainer, and are exempt from being placed on the approved vision screeners registry managed by the Department.

(f) Unless otherwise provided by law, no person shall engage in vision screening as provided in 70 O.S. § 1210.284 without first being listed on the vision screening registry maintained by the Department.

[Source: Added at 24 Ok Reg 867, eff 5-11-07 ; Amended at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14 ; Amended at 40 Ok Reg 1569, eff 9-11-23]

310:531-5-4. Disclaimer

Any disclosure or other notice provided by a vision screener or other person subject to this chapter describing a vision screening provided in accordance with this chapter must include a disclaimer that advises the parent or guardian that a vision screening is not equivalent to a comprehensive eye examination.

[Source: Added at 26 Ok Reg 2036, eff 6-25-09]

310:531-5-5. Re-approval of vision screening providers

A vision screening provider may renew his or her status by submitting documentation of completion of training, conducted by an approved trainer, using an approved curricula, prior to the end of his or her third year. Oklahoma licensed optometrists and ophthalmologists are exempt from the application and successful completion of vision screening standards training by an approved trainer, and are exempt from being placed on the approved vision screeners registry managed by the Department.

[Source: Added at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14 ; Amended at 37 Ok Reg 1411, eff 9-11-20 ; Amended at 40 Ok Reg 1569, eff 9-11-23]

310:531-5-6. Approval of vision screening trainers

(a) In order to become an approved vision screening trainer an individual must be an approved vision screening provider and make application to the Department and include documentation of successful completion of training conducted by an approved trainer using an approved training curriculum that includes the following:

- (1) common eye problems;
- (2) the screening process;
- (3) required screening tools;
- (4) screening special populations;
- (5) basic anatomy and physiology of the eye; and,
- (6) techniques for effective training of vision screening providers.

(b) The applicant must provide to the Department documentation of successful completion of training, which is administered by a trainer approved by the Department using a training curriculum for trainers approved by the Department.

(c) The Department will review and approve vision screening trainers and the approved curricula used for training vision screening providers. The approval of a vision screening trainer ends three years from the most recent approval.

(d) Oklahoma licensed optometrists and ophthalmologists are exempt from the application and successful completion of vision screening standards training by an approved trainer, and are exempt from being placed on the approved vision screeners registry managed by the Department.

[Source: Added at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14 ; Amended at 37 Ok Reg 1411, eff 9-11-20 ; Amended at 40 Ok Reg 1569, eff 9-11-23]

310:531-5-7. Re-approval of vision screening trainers

A vision screening trainer may renew his or her status by submitting documentation of completion of an approved training, conducted by an approved trainer, using an approved curricula, prior to the end of his or her third year. Oklahoma licensed optometrists and ophthalmologists are exempt from the application and successful completion of vision screening standards training by an approved trainer, and are exempt from being placed on the approved vision screeners registry managed by the Department.

[Source: Added at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14 ; Amended at 37 Ok Reg 1411, eff 9-11-20 ; Amended at 40 Ok Reg 1569, eff 9-11-23]

310:531-5-8. Approval of vision screening trainers of trainers [REVOKED]

[Source: Added at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14 ; Revoked at 37 Ok Reg 1411, eff 9-11-20]

310:531-5-9. Re-approval of vision screening trainers of trainers [REVOKED]

[Source: Added at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14 ; Revoked at 37 Ok Reg 1411, eff 9-11-20]

SUBCHAPTER 7. REGISTRY ENFORCEMENT FOR VISION SCREENING

310:531-7-1. Purpose

The purpose of this subchapter is to establish procedures for the investigation of complaints against vision screening providers or trainers engaged in vision screening or training and where evidence from an investigation is sufficient, provide for hearings pursuant to the Oklahoma Administrative Procedures Act and OAC 310:2-1-1 *et seq.* Disciplinary sanctions may be imposed upon vision screening providers or trainers engaged in vision screening or training including monetary penalties,

removal from the vision screening registry for five (5) years or less, or summary removal from the registry pending a hearing for removal.

[Source: Added at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10]

310:531-7-2. Grounds for discipline

(a) An approval of a vision screening provider may be modified, suspended, or terminated for one or more of the following reasons:

- (1) Failure to conduct vision screenings according to the procedures and referral criteria approved by the Department, including but not limited to, deletion of one or more portions of the process outlined in the screening standards and training curriculum, or addition of one or more procedures not contained in the screening standards and training curriculum, in sections 310:531-5-2 and 310:531-5-3, respectively;
- (2) Making referrals for comprehensive eye examinations that indicate a conflict of interest, financial or otherwise;
- (3) Failure to participate in a training curricula approved by the Department upon expiration of his or her three year approval;
- (4) Violations of a student's right of privacy in the student's education records pursuant to the Family Educational Rights and Privacy Act of 1974, 20 United States Code §§1232 *et seq.* and the rules promulgated thereunder; and
- (5) Any act that harms, or threatens harm to, a child.

(b) An approval of a vision screening trainer may be modified, suspended, or terminated for one or more of the following reasons:

- (1) Failure to conduct training workshops for vision screening providers utilizing curricula and/or procedures approved by the Department;
- (2) Failure to participate in a training curricula approved by the Department upon expiration of the three year approval;
- (3) Violations of a student's right of privacy in the student's education records pursuant to the Family Educational Rights and Privacy Act of 1974, 20 United States Code §1232 *et seq.* and the rules promulgated thereunder; and
- (4) Any act that harms, or threatens to harm, a child.

(c) An approval of a vision screening trainer of trainers may be modified, suspended, or terminated for one or more of the following reasons:

- (1) Failure to conduct training workshops for vision screening trainers utilizing curricula and/or procedures approved by the Department;
- (2) Failure to participate in a training curricula approved by the Department upon expiration of the three year approval;
- (3) Violations of a student's right of privacy in the student's education records pursuant to the Family Educational Rights and Privacy Act of 1974, 20 United States Code §§ 1232 *et seq.* and the rules promulgated thereunder; and
- (4) Any act that harms, or threatens harm to, a child.

[Source: Added at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14]

310:531-7-3. Complaint investigation

(a) **Reporting complaints.** Any person may report to the Department any complaint or allegations of non-compliance with 70 O.S. § 1210.284 or this Chapter by a vision screening provider or trainer by submitting the following:

- (1) the name, address, and telephone number, if known, of the vision screening provider or trainer who is the subject of the complaint;
 - (2) the location(s) where the alleged non-compliance occurred;
 - (3) the date(s) of non-compliance;
 - (4) the reporting party's name, address and telephone number;
- and,
- (5) the specific allegations against the vision screening provider or trainer, including but not limited to references to, or a copy of supporting documentation regarding, or any witnesses to, the alleged non-compliance.

(b) **Process.** Upon receipt of a complaint against a vision screening provider or trainer alleging non-compliance with 70 O.S. § 1210.284 or this Chapter, the Department shall conduct an investigation.

[Source: Added at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14]

310:531-7-4. Summary removal

(a) If in the course of an investigation the Department determines that a vision screening provider has engaged in conduct of a nature that is, or is likely to be detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent such harm, the Commissioner may order summary removal of the name of the vision screening provider from the registry for vision screening maintained by the Department pending the Department filing a petition to remove the name of the vision screening provider from the registry following an individual proceeding pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. §§ 309 *et seq.* A presumption of imminent harm to the public shall exist if the Department determines that probable cause exists that a vision screening provider has harmed, or threatened harm to, a child while providing vision screening services. The order of summary removal from the registry must include the specific grounds for the summary removal, a citation of the statute or law allegedly violated, and inform the vision screening provider of the process to request a hearing to contest the summary action.

(b) Any vision screening provider whose name has been summarily removed from the registry for vision screening may request a hearing to contest such summary action. The Department shall have the initial burden of persuasion to show that the provider has engaged in conduct that has caused, or is likely to cause, harm to a child. If the Department meets this burden of persuasion, the vision screening provider has the burden to prove that the conduct of the provider in providing vision screening services would not harm a child.

(c) If in the course of an investigation the Department determines that a vision screening trainer has engaged in conduct of a nature that is, or is likely to be detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent such harm, the Commissioner may order summary removal of the name of the vision screening trainer from the list for vision screening trainers maintained by the Department pending the Department filing a petition to remove the name of the vision screening trainer from the list following an individual proceeding pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. §§ 309 *et seq.* A presumption of imminent harm to the public shall exist if the Department determines that probable cause exists that a vision screening trainer has harmed, or threatened harm to, a child while providing vision screening services. The order of summary removal from the list must include the specific grounds for the summary removal, a citation of the statute or law allegedly violated, and inform the vision screening trainer of the process to request a hearing to contest the summary action.

(d) Any vision screening trainer whose name has been summarily removed from the list for vision screening trainers may request a hearing to contest such summary action. The Department shall have the initial burden of persuasion to show that the trainer has engaged in conduct that has caused, or is likely to cause, harm to a child. If the Department meets this burden of persuasion, the vision screening trainer has the burden to prove that the conduct of the trainer in providing vision screening services would not harm a child.

[Source: Added at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14]

310:531-7-5. Appearance before the Advisory Committee [REVOKED]

[Source: Added at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10 ; Revoked at 31 Ok Reg 1591, eff 9-12-14]

310:531-7-6. Right to a hearing

Except as provided for in section 310:531-7-4, the name of a vision screening provider or trainer may not be removed from the vision screening registry or vision screening trainer's list until the Department provides notice to the vision screening provider or trainer and an opportunity for a hearing to contest the Department's allegations. The notice to the vision screening provider or trainer must comply with 75 O.S. § 309. The vision screening provider or trainer must request a hearing within twenty (20) days of receiving the notice from the Department or the sanction may be imposed by default.

[Source: Added at 26 Ok Reg 2036, eff 6-25-09 ; Amended at 27 Ok Reg 2526, eff 7-25-10 ; Amended at 31 Ok Reg 1591, eff 9-12-14]

310:531-7-7. Hearing procedure and decisions

(a) **Delegation.** The Commissioner of Health may delegate the authority to issue a final decision in these matters as specified in 75 O.S. Section 311.1 and OAC 310:002. The Administrative Law Judge shall issue a decision within fifteen (15) working days following the close of the hearing record. The decision shall include Findings of Fact and Conclusions of Law separately stated.

(b) **Procedure.** The hearing shall be conducted in accord with the Oklahoma Administrative Procedures Act and Chapter 2 of this Title.

(c) **Final order.** The final order resulting from a hearing shall comply with the requirements of, and be served upon each party and attorney pursuant to, 75 O.S. § 312. The Department shall transmit a copy of the Final Order to the Vision Screening Registry when the Order is mailed.

(d) **Appeal.** An appeal of the Final Order shall be perfected pursuant to 75 O.S. Section 318 of the Administrative Procedures Act.

[Source: Added at 27 Ok Reg 2526, eff 7-25-10]

SUBCHAPTER 9. SPORTS EYE SAFETY RESOURCE [REVOKED]

310:531-9-1. Purpose [REVOKED]

[Source: Added at 27 Ok Reg 2526, eff 7-25-10 ; Revoked at 31 Ok Reg 1591, eff 9-12-14]

310:531-9-2. Eye safety resource [REVOKED]

[Source: Added at 27 Ok Reg 2526, eff 7-25-10 ; Revoked at 31 Ok Reg 1591, eff 9-12-14]

CHAPTER 535. IMMUNIZATION REGULATIONS

[**Authority:** 10 O.S., § 412; 63 O.S., §§ 1-104, 1-206.1, and 1-502; 70 O.S., §§ 1210.191 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. CHILDHOOD IMMUNIZATIONS

310:535-1-1. Purpose

The rules in this Chapter implement the Immunization Regulations, 70 O.S 1981, Section 1210.191 et seq.

310:535-1-2. Criteria for immunizations required

(a) Each child shall present certification that he or she has received or is receiving the immunizations as specified below before he or she is admitted to any public, private, or parochial school.

(b) Certification shall include the following:

(1) Diphtheria, Tetanus and Pertussis (DTP/DTaP) vaccine in five doses unless the fourth dose is received on or after the fourth birthday in which case only four doses are required. If the doses are not completed by the seventh birthday, the series must be completed with Adult Td vaccine and/or Tdap vaccine based on the individual's age at the time the first dose was received and age at the time the series is completed and beginning with the fall 2011-12 school year one dose of Tdap vaccine for students entering the seventh grade. Each year following the 2011-12 school year, the Tdap requirement shall be extended one grade level so that in the 2016-17 school year and all subsequent school years, students in grades seven through twelve shall be required to have received one dose of Tdap vaccine.

(2) Poliomyelitis vaccine in four doses unless the last dose is on or after the fourth birthday in which case only three doses are required. If the doses are not started or completed by the eighteenth birthday, no additional doses are required.

(3) Measles, Mumps and Rubella (MMR) vaccine with the first dose on or after the first birthday and the second dose at least twenty-eight days thereafter for children in grades kindergarten through eighth grade in the school year beginning in 1998. In the school year beginning in 1999, this requirement shall apply to the children through the ninth grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2002, children in all grades shall be required to have the second dose of vaccine.

(4) Hepatitis B vaccine in three doses for students of any age or two doses for students eleven through fifteen years of age who complete the alternative dosage schedule providing that the alternative schedule is fully documented. Such documentation must include the name of the vaccine and the dosage received for each dose of that vaccine:

(A) before entering seventh and eighth grades in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering the seventh through ninth grades. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2002, children in grades seven through twelve shall be required to have the three doses of the vaccine.

(B) before entering kindergarten in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering kindergarten and first grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2004, all children entering school shall be required to have the three doses of the vaccine.

(5) Hepatitis A vaccine in two doses with the first dose on or after the first birthday and the second dose six to eighteen calendar months later:

(A) before entering kindergarten in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering kindergarten and first grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2004, all children entering school shall be required to have the two doses of the vaccine.

(B) before entering grade seven in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering the seventh and eighth grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2003, children in grades seven through twelve shall be required to have the two doses of the vaccine.

(6) Varicella (chickenpox) vaccine in one dose on or after the first birthday: before entering kindergarten in 1998. In lieu of vaccination, a parent's statement of a history of the disease chickenpox will be accepted. In the school year beginning in 1999, this requirement shall apply to the children entering kindergarten and first grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2010, all children entering school shall be required to have the vaccine or a parent's statement of a history of the disease chickenpox.

(c) The minimum intervals between doses and minimum ages for doses shall be as follows:

(1) DTP/DTaP:

(A) First and second dose - 4 weeks

(B) Second and third dose - 4 weeks

(C) Third and fourth dose - 4 months

(D) Fourth and fifth dose - 6 months

(E) For all fifth doses given after January 1, 2003 the minimum age for the fifth dose is 4 years of age

(2) Polio:

- (A) First and second dose - 4 weeks
- (B) Second and third dose - 4 weeks
- (C) Third and fourth dose - 4 weeks

(3) MMR: First and second dose - 4 weeks

(4) Hepatitis B 3-dose series:

- (A) First and second dose - 1 month (4 weeks)
- (B) Second and third dose - 2 months (8 weeks), and the third dose at least 4 months (16 weeks) after first dose, and the third dose not before 24 weeks of age

(5) Hepatitis B 2-dose series: First and second dose - 4 months

(6) Hepatitis A: First and second dose -- 6 months and for all doses given on or after January 1, 2003, 6 months will be defined as 6 calendar months

(7) Four day grace period: Vaccine doses administered 4 days or less before the minimum intervals or ages listed in the preceding sections will be counted as valid.

(d) A child, through his parent or guardian, may apply for an exemption from this requirement by submitting a form to the Department. The school shall maintain a copy of the approved application in the child's records. All exemptions submitted prior to a student entering 7th grade shall expire at the end of the student's 6th grade year. A new exemption is required to be completed and submitted to the Oklahoma State Department of Health by the parent or guardian prior to enrolling the child in 7th grade.

(1) A request for exemption for medical reasons shall contain a certificate signed by a physician stating that the physical condition of the child is such that the immunization would endanger the life or health of the child and that the child should be exempt for immunization.

(2) A request for exemption for religious or other personal reasons shall contain a signed written statement from the parent or guardian stating a summary of the objections. Lost or unobtainable immunization records are not grounds for personal exemption.

(e) A child participating in a pre-kindergarten school program shall have received or be in the process of receiving the appropriate immunization for the listed diseases based on the child's age.

(f) The Department may grant exemptions or substitutions in the immunization schedule based on a medical history of a physical condition such that the immunization would endanger the life or health of the child or a medical history stating the child is likely to be immune as a result of having had a vaccine-preventable disease if the following are met:

(1) A history of having had diphtheria and/or tetanus is not acceptable as proof of immunity since infection with diphtheria or tetanus may not render an individual immune to either of these diseases,

(2) A history of having had polio, pertussis, rubella, mumps, hepatitis B, or hepatitis A must be supported by laboratory evidence to be acceptable as proof of immunity to these diseases,

- (3) A history of having had measles must be accompanied by a statement from a physician, public health authority, or laboratory evidence to be acceptable as proof of immunity to measles,
- (4) A parental history of having had varicella is acceptable evidence of immunity to varicella.

(g) Haemophilus influenzae type B (Hib) vaccine is not a requirement for children attending pre-kindergarten, kindergarten, or school.

(h) In some circumstances, the United States Food and Drug Administration may approve the use of an alternative dosage schedule for an existing vaccine. These alternative schedules may be used to meet the requirements only when the alternative schedule is fully documented. Such documentation must include the name of the vaccine and dosage received for each dose of that vaccine.

[Source: Amended at 13 Ok Reg 1795, eff 4-18-96 (emergency); Amended at 14 Ok Reg 1749, eff 5-27-97 ; Amended at 15 Ok Reg 4163, eff 7-29-98 (emergency); Amended at 16 Ok Reg 1400, eff 5-27-99 ; Amended at 17 Ok Reg 3448, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1717, eff 5-25-01 ; Amended at 19 Ok Reg 2919, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1661, eff 6-12-03 ; Amended at 22 Ok Reg 1132, eff 5-26-05 ; Amended at 23 Ok Reg 1344, eff 5-25-06 ; Amended at 24 Ok Reg 1987, eff 6-25-07 ; Amended at 27 Ok Reg 2531, eff 7-25-10 ; Amended at 37 Ok Reg 1413, eff 9-11-20 ; Amended at 38 Ok Reg 2035, eff 9-11-21]

310:535-1-3. Criteria for immunizations required for child care

(a) Each child two months of age or older shall present certification that he or she has received or is receiving the immunizations as specified below before he or she is admitted to, and while enrolled in, a child care center or child care home.

(b) Certification shall include the following:

- (1) 5 DTaP/DTP doses at 2, 4, 6, and 12 to 18 months and 4 to 6 years or beginning at 6 weeks of age with minimum intervals of 4 weeks between doses 1 and 2 and doses 2 and 3 and 4 months between doses 3 and 4 and 6 months between doses 4 and 5, with all fifth doses given on or after January 1, 2003 given on or after the fourth birthday; The fifth DTaP/DTP is not required if the fourth DTaP/DTP is administered on or after the fourth birthday;
- (2) 4 Polio doses at 2, 4 and 6 to 18 months and 4 to 6 years or beginning at 6 weeks of age with minimum intervals of 4 weeks between all doses; The fourth Polio is not required if the third dose is given on or after the fourth birthday;
- (3) 1 to 4 Haemophilus influenzae type B (Hib) doses at 2, 4, 6, and 12 to 15 months of age or older depending upon age at first Hib immunization and type of vaccine used or beginning at 6 weeks of age with minimum intervals of 4 weeks between doses 1, 2, and 3, if a third dose is part of the primary series, and the booster dose no earlier than 12 months of age and at least 8 weeks after the previous dose;
- (4) 2 Measles, Mumps, Rubella doses with the first dose on or after the first birthday and the second dose at 4 to 6 years or at anytime after the first dose provided at least 4 weeks have elapsed since the receipt of the first dose;
- (5) 1 Varicella dose on or after the first birthday;

(6) 2 Hepatitis A doses with the first dose on or after the first birthday and the second dose six to eighteen months later and for all doses given on or after January 1, 2003, 6 months will be defined as 6 calendar months;

(7) 3 Hepatitis B doses with minimum intervals as follows: 1 month (4 weeks) between doses 1 and 2, two months (8 weeks) between doses 2 and 3, four months (16 weeks) between doses 1 and 3, and dose 3 no earlier than 24 weeks of age;

(8) 1 to 4 doses of pneumococcal conjugate vaccine (PCV) for children 2 months through 59 months of age at 2, 4, 6, and 12 to 15 months of age or older depending upon age at first PCV immunization with minimum intervals between doses as follows: 4 weeks between doses 1, 2, and 3 and 8 weeks between doses 3 and 4 or any dose given as the final dose at age >12 months.

(9) Vaccine doses administered 4 days or less before the minimum intervals or ages listed in the preceding sections will be counted as valid.

(c) In the event that the parent, guardian, or responsible adult presenting a child for admission to a child care facility certifies in writing that a family emergency exists, the immunization requirements shall be waived for a period not to exceed thirty days. No such waiver shall be knowingly permitted more than once for any child.

(d) Immunization records for children attending school-age programs are not required if those records are maintained by the school and are readily available.

(e) A child, through his parent or guardian, may apply for an exemption from this requirement by submitting a form to the Department. The child care center or child care home shall maintain a copy of the approved application in the child's records.

(1) A request for exemption for medical reasons shall contain a certificate signed by a physician stating that the physical condition of the child is such that the immunization would endanger the life or health of the child and that the child should be exempt for immunization.

(2) A request for exemption for religious or other personal reasons shall contain a signed written statement from the parent or guardian stating a summary of the objections. Lost or unobtainable immunization records are not grounds for personal exemption.

(f) The Department may grant exemptions or substitutions in the immunization schedule based on a medical history of a physical condition such that the immunization would endanger the life or health of the child or a medical history stating the child is likely to be immune as a result of having had a vaccine-preventable disease if the following are met:

(1) A history of having had diphtheria and/or tetanus is not acceptable as proof of immunity since infection with diphtheria or tetanus may not render an individual immune to either of these diseases;

(2) A history of having had polio, pertussis, rubella, mumps, or hepatitis A must be supported by laboratory evidence to be acceptable as proof of immunity to these diseases;

- (3) A history of having had measles must be accompanied by a statement from a physician, public health authority, or laboratory evidence to be acceptable as proof of immunity to measles;
- (4) A parental history of having had varicella is acceptable evidence of immunity to varicella.
- (5) A history of having had Hib before age two years is not acceptable as proof of immunity since infection with Hib prior to age two years may not render an individual immune.

[Source: Amended at 16 Ok Reg 1400, eff 5-27-99 ; Amended at 19 Ok Reg 2919, eff 7-26-02 (emergency); Amended at 20 Ok Reg 1661, eff 6-12-03 ; Amended at 22 Ok Reg 1132, eff 5-26-05 ; Amended at 23 Ok Reg 1344, eff 5-25-06 ; Amended at 24 Ok Reg 1987, eff 6-25-07 ; Amended at 37 Ok Reg 1413, eff 9-11-20 ; Amended at 38 Ok Reg 2035, eff 9-11-21]

310:535-1-4. Criteria for making mumps reportable [REVOKED]

[Source: Revoked at 16 Ok Reg 1400, eff 5-27-99]

SUBCHAPTER 3. ADULT IMMUNIZATIONS

310:535-3-1. Types of vaccines

County health departments may collect fees for the following adult immunizations: Hepatitis A; Hepatitis B; Hepatitis A/Hepatitis B combined; Meningococcal; Typhoid; Varicella; Influenza; Pneumococcal; Tetanus/Diphtheria combined; Measles, Mumps, and Rubella combined; Polio; Yellow fever; and other currently licensed vaccines recommended for adults and vaccines licensed in the future which are recommended for adults.

[Source: Added at 19 Ok Reg 2078, eff 6-27-02 ; Amended at 20 Ok Reg 1863, eff 5-8-03 (emergency); Amended at 21 Ok Reg 2753, eff 7-12-04]

310:535-3-2. Fees and charges

- (a) The county health departments may collect for the cost of the vaccine, and an administration fee of not more than \$5.00 higher than the current reimbursement rate established by the Centers for Medicare and Medicaid Services per dose of vaccine administered. The cost for each immunization referenced in section 310:535-3-1 shall be posted in plain view in the county health departments that offer adult immunizations. Any adult who requests immunizations shall be informed of the specific fee prior to receiving the immunization.
- (b) Documentation confirming the cost of an adult immunization shall be available upon request.

[Source: Added at 19 Ok Reg 2078, eff 6-27-02 ; Amended at 20 Ok Reg 1863, eff 5-8-03 (emergency); Amended at 21 Ok Reg 2753, eff 7-12-04 ; Amended at 26 Ok Reg 2039, eff 6-25-09]

CHAPTER 540. INFANT HEARING SCREENING

[**Authority:** 73 O.S.1981, §§ 1-543 and 1-545]

[**Source:** Codified 12-31-91]

310:540-1-1. Purpose

The rules in this Chapter implement the Infant Hearing Screening Regulations, 63 O.S. 1991, Sections 1-543 through 1-545.

[**Source:** Amended at 18 Ok Reg 99, eff 10-30-00 (emergency); Amended at 18 Ok Reg 1719, eff 5-25-01]

310:540-1-2. Definitions

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

"Audiologist" means an individual holding a state licensure in the field of Audiology.

"Discharge" means the release of the newborn from care and custody of a perinatal licensed health facility to the parents or into the community.

"Hearing Screening Procedure" means the combination of physiologic hearing screening and risk factor tracking used to determine, from the total population of infants born, the infants at risk for hearing loss.

"Newborn screening filter paper" means a newborn screening blood spot collection kit approved by the Oklahoma State Department of Health.

"Other health care provider" means the health care provider who will be providing health care for the infant after birth including midwives, physician assistants, nurse practitioners, and hospital hearing screening vendors.

"Parent" means a natural parent, stepparent, adoptive parent, legal guardian, or other legal custodian of a child.

"Physician" means an M.D. or D.O. licensed in the State of Oklahoma to practice medicine.

"Physiologic Screening" means the use of a bilateral physiologic screening technique to determine, from the total population of infants born, the infants at risk for hearing loss.

"Risk Factors" mean conditions identified by the Joint Committee on Infant Hearing (JCIH 2000 Position Statement or later) which place a newborn at risk for delayed-onset or progressive hearing loss.

"Subsequent hearing screening" means a hearing screening completed at minimum 72 hours after the initial hearing screening.

"Transfer" means release of the newborn from care and custody of one perinatal licensed health facility to another.

[**Source:** Amended at 18 Ok Reg 99, eff 10-30-00 (emergency); Amended at 18 Ok Reg 1719, eff 5-25-01 ; Amended at 37 Ok Reg 1416, eff 9-11-20 ; Amended at 38 Ok Reg 2038, eff 9-11-21]

310:540-1-3. Guidelines

(a) **Newborns Subject to Screening.** All newborns in Oklahoma shall have a Hearing Screening Procedure completed unless the parent

refuses because of religious or personal objections.

(b) **Screening Based on Birth Location.** Requirements for the Hearing Screening Procedure are as follows:

(1) Hospitals:

(A) For facilities with a two-year average annual birth census of 15 or greater:

(i) All infants will receive a physiologic and risk factor screening before discharge.

(ii) Infants transferred to another facility will be screened by the receiving facility before discharge.

(B) For facilities with a two-year average annual birth census of 14 or less:

(i) All infants will receive a physiologic and risk factor screening before discharge if physiologic screening equipment is available.

(ii) Infants transferred to another facility will be screened by the receiving facility before discharge.

(iii) If physiologic screening equipment is not available, the infant will:

(I) be screened for risk factors; and

(II) receive a physiologic screening referral.

A parent is encouraged to have the infant's screening occur within the first month of life.

(2) Out-of-Hospital Births: All infants who are not born in a hospital will have their hearing screened within the first month of life. The infant's physician or other health care provider is responsible for completing the risk factor screening and for referring the infant to a health care facility with trained personnel and appropriate equipment for a physiologic screen or an audiologist.

(c) **Refusal.** A parent may refuse the newborn hearing screening on the grounds that such examination conflicts with their religious tenets and/or practices; refusal of hearing screening shall be indicated in writing utilizing the Newborn Screening Program Refusal Form provided by the Department. The Newborn Screening Program Refusal Form must be completed in its entirety.

(d) **Physiologic Screening.** A qualified and properly trained individual, as determined by the screening facility, will perform the Hearing Screening Procedure. The physiologic screening will include the use of at least one of the following:

(1) Auditory Brainstem Response Testing (ABR);

(2) Otoacoustic Emissions Testing (OAE); or

(3) Any new or improved techniques considered appropriate by the Commissioner of Health.

(e) **Sharing Results.** The hospital or midwife will ensure that hearing screening results will be made available to the physician or other health care provider.

(f) **Audiologist Referral.** A newborn may be referred to an audiologist for a diagnostic hearing evaluation for these reasons:

(1) They did not pass the hearing screening;

(2) They passed the initial or subsequent hearing screening but, based on risk factors, is at risk for progressive or late onset hearing loss.

(3) They did not pass the recommended six month follow hearing screening.

(g) **Parent Education.** Before discharge, a newborn's parent will receive the following information and materials:

(1) results of the infant's hearing screening, which may include the following.

(A) passed physiologic hearing screening

(B) referred on physiologic hearing screening; or

(C) considered as "at risk" for hearing loss

(2) a copy and in-person review of the Newborn Hearing Screening Parent/Guardian Information Sheet; and

(3) appropriate resource information to allow the newborn to receive the medical, audiologic, and other follow-up services as necessary.

(h) **Reporting of Results and Quality Assurance.** It is a hospital's responsibility to ensure that the newborn screening filter paper is correctly completed and that results are forwarded to the Oklahoma State Department of Health via the newborn screening filter paper, fax, or secure email within one week of performing the hearing screen.

Efforts to ensure compliance includes the following:

(1) adhere to instructions for completion of the hearing screening section located on the newborn screening filter paper kit

(2) ensure hospital personnel involved in screening and/or reporting are properly trained using national and state resources such as in-service trainings, web trainings, or consultation with the Newborn Hearing Screening Program

(3) designate a site coordinator to ensure:

(A) every infant is screened,

(B) each infant's filter paper has been fully completed for each infant; and

(C) the detachable medical record copy is a permanent part of each infant's record.

(i) **Screening Verification.** Physicians, other health care providers, or local county health department staff who examine a child within the first three months of life will verify that the infant's hearing has been screened. Infants not screened will be referred to a health care facility with trained personnel and appropriate equipment for a physiologic screen or an audiologist.

(j) **Reporting Follow-Up Evaluations.** Health care facilities, physicians, audiologists or other health care providers involved in completing follow-up hearing screens or diagnostic evaluations will forward results and recommendations to the Oklahoma State Department of Health via fax or secure email within one week of performing the hearing screen or diagnostic evaluation.

(k) **Reporting Standards.** To facilitate the reporting of newborns and infants who have or are at risk for hearing loss, the reporting requirements will be designed to be as simple as possible and easily completed by nonprofessional and professional individuals involved in the

program.

(l) **Tracking System.** The Oklahoma State Department of Health will utilize a tracking system to track infants identified at risk for hearing loss for a period up to one year in order to assure appropriate follow-up care.

(m) **Data Reporting.** The Oklahoma State Department of Health will compile and report data collected from hearing screening procedures at least annually and will share such information as directed by the Commissioner of Health.

[Source: Amended at 18 Ok Reg 99, eff 10-30-00 (emergency); Amended at 18 Ok Reg 1719, eff 5-25-01 ; Amended at 37 Ok Reg 1416, eff 9-11-20 ; Amended at 38 Ok Reg 2038, eff 9-11-21]

CHAPTER 545. LABORATORY REGULATIONS FOR SYPHILIS BLOOD TESTS

[**Authority:** 63 O.S.1971, § 1-515]

[**Source:** Codified 12-31-91]

310:545-1-1. Purpose

The rules in this Chapter implement the Laboratory Regulations for Syphilis Blood Tests, 63 O.S. 1971, § 1-515.

310:545-1-2. Approved laboratory

An approved laboratory shall be any laboratory that meets the requirements of Section 353 of the Public Health Service Act (42 U.S.C. 263a) as revised by the Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578.

[**Source:** Amended at 10 Ok Reg 4311, eff 8-1-93 through 7-14-94 (emergency); Amended at 12 Ok Reg 3059, eff 7-27-95]

310:545-1-3. Approved serological tests for syphilis

A standard serological test for syphilis shall be any of the following tests and shall be indicated on the Certificate of Premarital Examination.

- (1) RPR-Rapid Plasma Reagin (RPR) 18-mm Circle Card Test
- (2) VDRL-Venereal Disease Research Laboratory Slide Test
- (3) TRUST - Toluidine Red Unheated Serum Test
- (4) RST - Reagin Screen Test
- (5) USR - Unheated Serum Reagin Test

[**Source:** Amended at 10 Ok Reg 4311, eff 8-1-93 through 7-14-94 (emergency); Amended at 12 Ok Reg 3059, eff 7-27-95]

310:545-1-4. Certification of laboratory approval [REVOKED]

[**Source:** Amended at 10 Ok Reg 4311, eff 8-1-93 through 7-14-94 (emergency); Amended at 12 Ok Reg 3059, eff 7-27-95]

310:545-1-5. Revocation of approval [REVOKED]

[**Source:** Revoked at 10 Ok Reg 4311, eff 8-1-93 through 7-14-94 (emergency); Revoked at 12 Ok Reg 3059, eff 7-27-95]

CHAPTER 546. FEE SCHEDULE FOR PUBLIC HEALTH LABORATORY SERVICE

[**Authority:** : 63 O.S., § 1-106.1]

[**Source:** Codified 6-27-94]

310:546-1-1. Purpose

The rules in this Chapter implement the fee provisions of the Public Health Code which authorizes fees for services of the Oklahoma State Department of Health.

[**Source:** Added at 11 Ok Reg 135, eff 8-10-93 (emergency); Added at 11 Ok Reg 1535, eff 4-12-94 (emergency); Added at 11 Ok Reg 3171, eff 6-27-94]

310:546-1-2. Public Health Laboratory Service fee schedule

Fees for services of the Public Health Laboratory are as follows:

- (1) \$18.00 - Enteric Bacteria
- (2) \$17.00 - TB & Fungus Culture
- (3) \$19.00 - Parasite Exam
- (4) Rate Not to Exceed Current Medicaid Rate for Oklahoma - Newborn Screening Approved by the Board of Health
- (5) \$7 - Hepatitis B Surface Antigen
- (6) \$7 - Hepatitis B Core Antibody
- (7) \$18.00 - Gonorrhea Culture
- (8) HIV-1 Screen
 - (A) \$25 - Private Sector
 - (B) \$8.50 - Indian Health
 - (C) \$8.50 - Dept. of Corrections
- (9) \$50 - HIV-1 Western Blot
- (10) There is no charge to county health departments for the services listed in 1 through 12 of this section.

[**Source:** Added at 11 Ok Reg 135, eff 8-10-93 (emergency); Added at 11 Ok Reg 1535, eff 4-12-94 (emergency); Added at 11 Ok Reg 3171, eff 6-27-94 ; Amended at 21 Ok Reg 1285, eff 5-27-04 ; Amended at 26 Ok Reg 2040, eff 6-25-09]

CHAPTER 550. NEWBORN SCREENING AND RESOURCES FOR TRISOMY 13, 18, AND 21

[**Authority:** 63 O.S., §§ 1-103a, 1-104, and 1-533 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. NEWBORN SCREENING GENERAL PROVISIONS

310:550-1-1. Purpose

Under 63 O.S., Sections 1-533 and 1-534 the following rules and regulations are established concerning the screening of all infants born in Oklahoma for the disorders of phenylketonuria, congenital hypothyroidism, galactosemia, sickle cell diseases, cystic fibrosis, congenital adrenal hyperplasia, medium-chain acyl coenzyme A dehydrogenase deficiency (MCAD), biotinidase deficiency, amino acid disorders, fatty acid oxidation disorders, organic acid disorders, severe combined immunodeficiency (SCID), spinal muscular atrophy (SMA), x-linked adrenoleukodystrophy (X-ALD), mucopolysaccharidosis type I (MPS I) and pompe disease upon completion of laboratory validation studies, and establishment of short-term follow-up services, and approval by the Commissioner of Health. This chapter also establishes rules and regulations concerning pulse oximetry screening of all infants born at birthing facilities in Oklahoma for critical congenital heart disease (CCDH) to be performed by the birthing facility pursuant to 63 O.S. Section 1-550.5.

[**Source:** Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 25 Ok Reg 1151, eff 5-25-08 ; Amended at 25 Ok Reg 105, eff 10-2-07 (emergency); Amended at 25 Ok Reg 1153, eff 5-25-08 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21]

310:550-1-2. Definitions

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

"Amino Acid Disorders" refers to a group of inherited metabolic conditions in which the body is unable to metabolize or process amino acids properly due to a defective enzyme function. This causes an amino acid or protein build up in the body. If not treated early in life, these defects can cause developmental disability or death. Each amino acid disorder is associated with a specific enzyme deficiency. Treatment depends on the specific amino acid disorder.

"Biotinidase Deficiency" means an inherited disease caused by the lack of an enzyme that recycles the B vitamin biotin, which if not treated, may cause serious complications, including coma and death.

"Birth Defects Registry" means a registry established by the Commissioner of Health to monitor and track birth defects for all infants born in Oklahoma.

"Birthing Facility" means a facility that provides care during labor and delivery, and to the newborn. This includes a unit of a hospital

that is licensed and accredited to provide birthing services, or a freestanding birthing center.

"Certified Laboratory" refers to the Oklahoma State Public Health Laboratory and/or a laboratory approved by the Oklahoma State Department of Health to conduct newborn screening.

"CCHD Screening" means the screening test for the detection of critical congenital heart disease that is recommended by the United States Department of Health and Human Services.

"CLIA '88" means the Clinical Laboratory Improvement Amendments of 1988, public law 100-578. This amendment applies to the Federal Law that governs laboratories that examine human specimens for the diagnosis, prevention, or treatment of any disease or impairment, or the assessment of the health of human beings.

"Confirmatory Testing" means definitive laboratory testing needed to confirm a diagnosis.

"Congenital Adrenal Hyperplasia" or **"CAH"** means the most common form of CAH, 21-hydroxylase deficiency. This genetic disorder is caused by the lack of an enzyme that the adrenal gland uses to process hormones. Serious loss of body salt and water can result in death. In girls the genitalia may appear as those of a male, and can result in incorrect sex assignment. Hormone treatment is required for life.

"Congenital Hypothyroidism" means a disease caused by a deficiency of thyroid hormone (thyroxine) production, which if not treated, leads to developmental disabilities.

"Critical Congenital Heart Disease" means a congenital heart defect that places an infant at significant risk for disability or death if not diagnosed soon after birth.

"Cystic Fibrosis" means a multisystem genetic disorder in which defective chloride transport across mucous membranes causes dehydration of secretions. The result is a production of a thick, viscous mucous that disrupts the normal function of the lungs, gut, and pancreas. This leads to chronic lung infections, fatal lung disease, and problems with digestion. Early detection and treatment can prevent malnutrition, and enhance surveillance and treatment of lung infections.

"Days of Age" means the age of a newborn in 24-hour periods so that a newborn is one day of age 24 hours following the hour of birth for both blood spot screening and pulse oximetry screening.

"Department" refers to the Oklahoma State Department of Health.

"Discharge" means release of the newborn from care and custody of a perinatal licensed health facility to the parents or into the community.

"Disorder" means any condition detectable by newborn screening that allows opportunities, not available without screening, for early treatment and management to prevent developmental disability and/or reduce infant morbidity and mortality.

"Echocardiogram" means a test that uses ultrasound to provide an image of the heart.

"Fatty Acid Oxidation Disorders" refers to a group of inherited metabolic conditions in which the body is unable to oxidize (breakdown) fatty acids for energy due to a defective enzyme function. If not treated early in life, this defect may cause developmental disability or death.

"Galactosemia" means an inherited disease caused by the body's failure to break down galactose due to a defective enzyme function, which if not treated early in life, may cause developmental disability or death.

"Hemoglobin" means a protein in the red blood cell that carries oxygen.

"Hemoglobinopathy" means an inherited disorder associated with structural abnormality of hemoglobin, anemia, and variable impaired ability of the red blood cells to carry oxygen.

"Infant" means a child 6 months of age and younger.

"Infant's Physician" means the licensed medical or osteopathic physician listed by the submitter or the individual responsible for the medical care of the infant after discharge from the birthing facility.

"Initial Specimen" means the first blood specimen collected subsequent to birth, pursuant to these procedures.

"Long-term Follow-up" means follow-up services that begin with diagnosis and treatment and continues throughout the lifespan. This includes parent education, networking, referral, and care coordination.

"Medical Home" means a Planned Health Care Provider.

"Medium-chain acyl coenzyme A dehydrogenase deficiency" or **"MCAD"** means a genetic disorder of fatty acid metabolism. This disorder can cause metabolic crisis when an infant/child fasts. This crisis can lead to seizures, failure to breathe, cardiac arrest, and death. Treatment is effective by preventing fasting.

"Mucopolysaccharidosis Type I" or **"MPS I"** means a condition in which individuals are missing an enzyme to break down large sugar molecules. This disorder can impact many different organs and tissue leading to developmental delays if not identified and treated early.

"Newborn" means an infant thirty (30) days of age and younger.

"Newborn Screening" means the use of various laboratory and clinical tests to screen infants for certain inherited disorders where a potential net benefit and availability of effective treatments have been demonstrated.

"Newborn Screening Form Kit" or **"Form Kit"** means a filter paper approved by the Department for collection of the newborn screening specimen and associated demographic data.

"Newborn Screening Laboratory" means a laboratory operated by the Department or a laboratory certified by the Department to conduct the tests and carry out the follow-up required by these procedures.

"Newborn Screening Program" or **"The Program"** refers to the Public Health Laboratory and Short-term Follow-up Program at the Department.

"Newborn Screening Program Coordinator" refers to the coordinator of the Short-term Follow-up Program at the Department.

"Organic Acid Disorders" refers to a group of inherited metabolic conditions in which the body is unable to metabolize or process organic acids properly due to a specific enzyme deficiency, which if not treated early in life, may cause developmental disability and death.

"Pediatric Subspecialist" means a physician licensed in Oklahoma, board certified in pediatrics and a pediatric subspecialty.

"Phenylketonuria" or "PKU" means an inherited disease caused by the body's failure to convert the amino acid phenylalanine to tyrosine due to defective enzyme function, which if not treated early in life, causes developmental disability.

"Planned Health Care Provider" or "Medical Home" means the health care provider who will be providing health care for the infant after discharge from the hospital.

"Pompe" or "Pompe Disease" means a condition in which individuals are missing an enzyme to break down complex sugar molecules. This disorder can lead to muscle weakness, poor muscle tone and heart defects if not identified and treated early.

"Premature Newborn" means a newborn weighing less than 2500 grams or any live birth before the thirty-seventh week of gestation.

"Pulse Oximetry Screening" means a test using a device placed on an extremity to measure the percentage of oxygen in the blood.

"Repeat Specimen" means an additional newborn screening specimen to be collected after the initial specimen.

"Satisfactory Specimen" means a blood specimen collected using a single Form Kit that is suitable in both quantity and quality to perform newborn screening for the disorders approved by the Commissioner of Health and listed in 310:550-1-1. Federal CLIA '88 regulations require that the Form Kit includes the patient's name, date of birth, sex, date of collection, test(s) to be performed, and complete name and address of person requesting the test.

"Screened" means a specimen that has been collected and tested on an infant less than 6 months of age.

"Screening" means a test to sort out well persons who may have a disease or defect from those who may not. A screening test is not intended to be diagnostic.

"Severe Combined Immunodeficiency" means a group of potentially fatal inherited disorders related to the immune system, which if not treated, can lead to potentially deadly infections.

"Short-term Follow-up" includes services provided by the Department and the health care provider that begin when the laboratory reports an abnormal, unsatisfactory screen result, or a result is not reported due to specific collection criteria, and ends with a diagnosis of "normal", the infant is lost to follow-up (repeat testing not achieved), the parent(s) or guardian(s) refuse follow-up, or the affected infant receives appropriate treatment and referral to a pediatric subspecialist.

"Sick Newborn" means a newborn with any condition or episode marked by pronounced deviation from the normal healthy state; illness.

"Sickle Cell Disease" means an inherited disease caused by abnormal hemoglobin(s) (hemoglobinopathy), which may cause anemia and variable impaired ability of the red blood cells to carry oxygen, and if not treated early in life, may result in severe illness, developmental disability or death.

"Specimen" means blood collected on the Newborn Screening Form Kit.

"Spinal Muscular Atrophy" or **"SMA"** means conditions in which the loss of specialized nerves cells leads to progressive weakness and atrophy of muscles, and developmental disability. In severe cases, the muscles used for breathing and swallowing may be affected.

"Submitter" means a hospital, other facility, or physician submitting a blood specimen on a Newborn Screening Form Kit.

"The Program" means the Newborn Screening Program in the Department.

"Transfer" means release of the newborn or infant from care and custody from one licensed health facility to another.

"Unsatisfactory Specimen" means a blood specimen submitted on a Form Kit that is not suitable in quantity or quality to perform screening for the disorders approved by the Commissioner of Health and listed in 310:550-1-1 and/or Federal CLIA '88 regulations are not followed and the Form Kit does not include the required patient's name, date of birth, sex, date of collection, test(s) to be performed, and the provider ordering the newborn screen.

"X-Linked Adrenoleukodystrophy" or **"X-ALD"** means a condition affecting the nervous system and adrenal glands in which the ability of the nerves to relay information to the brain and the adrenal glands to make certain hormones (adrenocortical insufficiency) are impacted. Affected individuals may experience learning and developmental disability, difficulty swallowing, muscle weakness, weight loss, skin changes, vomiting, and coma.

[Source: Amended at 8 Ok Reg 3115, eff 7-12-91 (emergency); Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 12 Ok Reg 41, eff 10-5-94 (emergency); Amended at 12 Ok Reg 1685, eff 6-12-95 ; Amended at 15 Ok Reg 121, eff 10-15-97 (emergency); Amended at 15 Ok Reg 1979, eff 5-26-98 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 25 Ok Reg 105, eff 10-2-07 (emergency); Amended at 25 Ok Reg 1153, eff 5-25-08 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21 ; Amended at 40 Ok Reg 1570, eff 9-11-23]

SUBCHAPTER 3. TESTING OF NEWBORNS

310:550-3-1. Testing of newborns

- (a) A blood sample from all newborns in Oklahoma shall be tested by a Certified Newborn Screening Laboratory for the disorders approved by the Commissioner of Health and listed in 310:550-1-1.
- (b) All newborns in Oklahoma shall be tested for CCHD by a pulse oximetry screening after twenty-four (24) hours of age or prior to discharge from the birthing facility.
- (c) A parent or guardian may refuse the blood test screening, hearing screening, and/or pulse oximetry screening of their newborn on the grounds that such examination conflicts with their religious tenets and/or practices; refusal of screening shall be indicated in writing utilizing the Newborn Screening Program Refusal Form provided by the Program.
- (d) The Newborn Screening Program Refusal Form must be completed in its entirety. This signed refusal form will be placed in the newborn's medical record with a copy sent to the Newborn Screening Program Coordinator.

[Source: Amended at 8 Ok Reg 3115, eff 7-12-91 (emergency); Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 15 Ok Reg 121, eff 10-15-97 (emergency); Amended at 15 Ok Reg 1979, eff 5-26-98 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 25 Ok Reg 105, eff 10-2-07 (emergency); Amended at 25 Ok Reg 1153, eff 5-25-08 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21]

SUBCHAPTER 5. NEWBORN SCREENING BLOOD SPECIMEN COLLECTION

310:550-5-1. Blood specimen collection

(a) **Blood specimen collection for hospital births.** For all live hospital births, the physician, or licensed or certified birth attendant shall order the collection of a newborn screening blood specimen prior to transfusion, as early as possible after 24 hours of age or immediately prior to discharge, whichever comes first. Since prompt identification of newborns at risk for screened disorders is extremely important, the specimen shall be collected as early as possible after 24 hours of age. Specimens shall be collected on a single Newborn Screening Form Kit using capillary or venous blood. Umbilical cord blood is not recommended for use. The hospital is responsible for collecting specimens on all newborns.

- (1) If the initial specimen for any newborn is collected at or prior to 24 hours of age, the hospital and the physician are responsible for notifying the newborn's parent(s) or guardian(s) verbally and in writing, utilizing the parent educational form on the Newborn Screening Form Kit, that a repeat specimen must be submitted as soon as possible after 24 hours of age. The infant's physician is responsible for ensuring that the repeat specimen is collected.
- (2) The hospital is responsible for submitting a satisfactory specimen and for documenting all requested information on the Form Kit including the parent's/guardian's name, address, and phone or alternate phone number, the provider ordering the

newborn screen, and the infant's physician.

(3) The hospital is responsible for documenting specimen collection and results in the infant's hospital record.

(4) Newborns who are transferred from one hospital to another shall have specimen collection documented in the infant's hospital record. It is the responsibility of the infant's physician and the receiving hospital to ensure the specimen is collected and submitted to the Program.

(5) It is the responsibility of the hospital and physician to ensure that all newborns are screened prior to discharge. If a newborn is discharged prior to specimen collection, it is the responsibility of the hospital to notify the Newborn Screening Program Coordinator as soon as possible. The infant's physician is responsible for ensuring the specimen is collected as required.

(b) Screening for premature/sick newborns. For all premature/sick newborns, the physician shall order the collection of a newborn screening blood specimen prior to transfusion, as early as possible after twenty-four (24) hours of age, but no later than three to seven days of age, or immediately prior to discharge, whichever comes first. Since prompt identification of newborns at risk for screened disorders is extremely important, the specimen shall be collected as early as possible after twenty-four (24) hours of age. It is recommended that a repeat newborn screening specimen be collected at fourteen (14) days of age. Specimens shall be collected on the Newborn Screening Form Kit using capillary or venous blood. Umbilical cord blood is not recommended for use. The hospital and the physician are responsible for ensuring that specimens are collected on all premature/sick newborns.

(1) Premature/sick newborns screened at or prior to twenty-four (24) hours of age must be re-screened between seven to fourteen (7-14) days of age.

(2) Premature/sick newborns who could not be screened prior to a transfusion should be screened by the seventh (7th) day of life, with a repeat specimen collected when a blood specimen will again reflect the newborn's own metabolic processes and hemoglobin type (the accepted time period to determine hemoglobin type is ninety to one hundred and twenty (90 to 120) days after transfusion).

(3) The recommended follow-up study for an abnormal thyroid screen in a premature newborn is a serum free T4 (measured by direct dialysis or an equivalent method) and thyroid stimulating hormone (TSH) level at seven to fourteen (7-14) days of age.

(c) Specimen collection for out-of-hospital births.

(1) For all newborns who are not born in a hospital, the infant's physician, or licensed or certified birth attendant is responsible for collection and submission of a satisfactory newborn screening blood specimen as early as possible after twenty-four (24) hours of age. If there is not a physician, or licensed or certified birth attendant involved in a non-hospital birth, the person attending the birth and the parents of the newborn are responsible for collection and submission of a satisfactory newborn screening specimen.

(2) If a physician examines a child in the first three months of life who was not born in a hospital, or was born out of state, the physician will verify that the child has been screened. If the child has not been screened or if results of screening are not available, the physician is responsible for collecting and submitting a satisfactory newborn screening blood specimen.

[Source: Amended at 8 Ok Reg 3115, eff 7-12-91 (emergency); Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 12 Ok Reg 41, eff 10-5-94 (emergency); Amended at 12 Ok Reg 1685, eff 6-12-95 ; Amended at 15 Ok Reg 121, eff 10-15-97 (emergency); Amended at 15 Ok Reg 1979, eff 5-26-98 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 22 Ok Reg 392, eff 12-21-04 (emergency); Amended at 22 Ok Reg 794, eff 5-12-05 ; Amended at 25 Ok Reg 105, eff 10-2-07 (emergency); Amended at 25 Ok Reg 1153, eff 5-25-08 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21]

310:550-5-2. Guidelines for newborn screening blood specimen collection and pulse oximetry screening

(a) Newborn screening blood specimen collection.

(1) Specimens obtained with a Newborn Screening Form Kit should be collected in accordance with the standard for Blood Collection on Filter Paper for Newborn Screening Programs, NBS01-A6, Sixth Edition, as adopted and published by the Clinical and Laboratory Standards Institute on July 31, 2013, or most recent version. Failure to follow these methods of blood collection may cause inaccurate results, or unsatisfactory specimen results ,that require repeat collection.

(2) Submitters are responsible for submitting a satisfactory newborn screening blood specimen.

(b) Pulse oximetry screening.

(1) **Pulse oximetry screening.** Pulse oximetry screening will be performed utilizing the hospital protocol. A recommended protocol is provided by the Program.

(2) **Authorized provider.** An authorized health care provider shall perform the pulse oximetry screening.

(3) Newborns receiving routine care.

(A) The duties of the birthing facility or nurse include the following:

- (i) Perform pulse oximetry screening on the newborn between twenty-four (24) hours and forty-eight(48) hours of life; or
- (ii) Schedule the newborn to be screened at the facility between twenty-four (24) hours and forty-eight (48) hours of life, if unable to perform the pulse oximetry screening; or
- (iii) Notify the infant's physician if screening was not performed.

(B) If the newborn is scheduled for discharge from a birthing facility after twelve (12) hours of life but before twenty-four (24) hours of life, the birthing facility shall perform pulse oximetry screening as late as is practical before the newborn is discharged and notify the infant's physician of the early screening.

(C) If the newborn is discharged before twelve (12) hours of life, the birthing facility shall perform the pulse oximetry screening between twenty-four (24) hours and forty-eight (48) hours of life.

(4) **Newborns in special care or intensive care settings.** For newborns who have been in special care or intensive care units, birthing facilities shall perform pulse oximetry screening prior to discharge utilizing the hospital protocol, unless the newborn has an identified congenital heart defect or has had an echocardiogram performed. A recommended protocol is provided by the Program. Continuous pulse oximetry monitoring may not be substituted for CCHD screening.

(5) **Circumstances in which pulse oximetry screening is not indicated.** If pulse oximetry screening is not performed, the reason shall be documented on the Newborn Screening Form Kit. Instances where pulse oximetry screening is not indicated include but are not limited to:

(A) Clinical evaluation of the newborn has included an echocardiogram which ruled-out CCHD; or

(B) The newborn has confirmed CCHD based on prenatal or postnatal testing.

[Source: Amended at 8 Ok Reg 3115, eff 7-12-91 (emergency); Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 12 Ok Reg 41, eff 10-5-94 ; Amended at 12 Ok Reg 1685, eff 6-12-95 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21 ; Amended at 40 Ok Reg 1570, eff 9-11-23]

SUBCHAPTER 7. NEWBORN SCREENING HOSPITAL RECORDS

310:550-7-1. Hospital records

(a) Newborn screening blood test results.

(1) The hospital is responsible for implementing a procedure to ensure that a newborn screening blood specimen has been collected on every newborn and transported to the Newborn Screening Laboratory within twenty-four (24) to forty-eight (48) hours of collection. If more than one newborn screen is collected on an infant, each copy of the newborn screen kit should be placed in the infant's medical record. Specimens should be transported in the manner designated by the Department and/or receiving laboratory.

(2) The hospital shall immediately notify the infant's physician, parent(s) or guardian(s), and Newborn Screening Program Coordinator if an infant is discharged without a sample having been collected. These notifications shall be documented in the infant's hospital record.

(3) If test results are not received by the hospital within fifteen (15) days after the date of collection, the hospital shall contact the Newborn Screening Laboratory to verify that a specimen was received. If a specimen was not received, the hospital shall notify

the physician.

(4) Any hospital or any other laboratory that collects, handles or forwards newborn screening blood specimens shall keep a log containing the name and date of birth of the infant, name of the ordering physician, name of infant's provider, medical record number, serial number of the Newborn Screening Form Kit, date of specimen collection, date specimen was sent to the certified laboratory, date that test results were transmitted or received and the test results.

(b) Pulse oximetry screening results.

(1) Record of results.

(A) All pulse oximetry screening results shall be recorded in the infant's medical record and the results reported to a parent(s) or guardian(s) prior to discharge from the hospital.

(B) All pulse oximetry screening results shall be recorded on the Newborn Screening Form Kit, along with the infant's name, date of birth, submitting facility, mother's name, and the infant's physician.

(C) If the newborn is not screened for CCHD prior to the Newborn Screening Form Kit being forwarded to the Newborn Screening Laboratory for testing, CCHD screen results shall be communicated to the Newborn Screening Program Coordinator utilizing the Pulse Oximetry Screening Result Form provided by the Program.

(D) The Pulse Oximetry Screening Result Form must be completed in its entirety.

(2) Abnormal pulse oximetry screen results.

(A) It is the responsibility of the authorized health care provider who conducted the pulse oximetry screening to communicate abnormal results to the attending physician or attending clinician immediately.

(B) The newborn shall be evaluated immediately by an attending physician in order to complete the recommended protocol.

(C) The newborn may not be discharged from care until:

(i) A cause for the abnormal pulse oximetry screen has been determined;

(ii) An echocardiogram has been performed, read, and determined not to indicate CCHD; and/or

(iii) A plan of care and follow-up has been established with the newborn's parent(s) or guardian(s).

(D) The birthing facility shall report pulse oximetry screening results to the Department as specified in this Chapter.

(E) It is the responsibility of the birthing facility to notify the newborn's parent(s) or guardian(s), the physician or clinician following the newborn in the hospital, and the infant's physician of abnormal pulse oximetry results.

(3) Newborns not screened for CCHD.

(A) If a newborn is not screened for CCHD secondary to discharge before 12 hours of life, the birthing facility shall:

- (i) Follow-up with the parent(s) or guardian(s) to schedule screening of the newborn at the birthing facility between twenty-four (24) and forty-eight (48) hours of life; or
- (ii) Follow-up with the parent(s) or guardian(s) to schedule referral of the newborn to an authorized facility for screening between twenty-four (24) and forty-eight (48) hours of life; and
- (iii) Report screening results to the Department utilizing the Pulse Oximetry Screening Result Form provided by the Program, and indicating the reason for not screening which may be "early discharge".

(B) If pulse oximetry screening is not indicated for the newborn, the birthing facility shall report the reason for not screening, which may be "screening not indicated due to," and provide other CCHD findings for the newborn to the Department utilizing the Pulse Oximetry Screening Result Form provided by the Program.

(C) If the newborn is not screened for CCHD because of parent or guardian refusal, the birthing facility shall send the Newborn Screening Program Refusal Form to the Department utilizing the form provided by the Program and indicate the reason for not screening, which may be "parent refusal".

[Source: Amended at 8 Ok Reg 3115, eff 7-12-91 (emergency); Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 12 Ok Reg 41, eff 10-5-94 (emergency); Amended at 12 Ok Reg 1685, eff 6-12-95 ; Amended at 15 Ok Reg 121, eff 10-15-97 (emergency); Amended at 15 Ok Reg 1979, eff 5-26-98 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 22 Ok Reg 392, eff 12-21-04 (emergency); Amended at 22 Ok Reg 794, eff 5-12-05 ; Amended at 25 Ok Reg 1153, eff 5-25-08 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21 ; Amended at 40 Ok Reg 1570, eff 9-11-23]

SUBCHAPTER 9. STANDARD FOR CERTIFIED LABORATORIES [REVOKED]

310:550-9-1. Standard for certified laboratories [REVOKED]

[Source: Amended at 8 Ok Reg 3115, eff 7-12-91 (emergency); Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 12 Ok Reg 41, eff 10-5-94 (emergency); Amended at 12 Ok Reg 1685, eff 6-12-95 ; Amended at 15 Ok Reg 121, eff 10-15-97 (emergency); Amended at 15 Ok Reg 1979, eff 5-26-98 ; Revoked at 21 Ok Reg 1286, eff 5-27-04]

SUBCHAPTER 11. ADVISORY COMMITTEE FOR NEWBORN SCREENING

310:550-11-1. Advisory committee

The Infant and Children's Health Advisory Council advises the Department on newborn screening issues.

[Source: Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21]

SUBCHAPTER 13. NEWBORN SCREENING PARENT AND HEALTH CARE PROVIDER EDUCATION

310:550-13-1. Parent/Guardian and health care provider education

- (a) The infant's physician or designee is responsible for ensuring that at least one parent or legal guardian of each newborn is notified about newborn screening and is provided information about the disorders and instructed how to obtain screen results from the planned health care provider or Newborn Screening Program.
- (b) The infant's physician or designee is responsible for ensuring that at least one parent or legal guardian of each newborn is notified and provided information about pulse oximetry screening and instructed how to obtain screen results from the birthing facility or the planned health care provider.
- (c) The birthing facility or designated party is responsible for distributing the Newborn Screening Program's written educational materials on newborn screening and pulse oximetry screening provided by the Department to at least one parent or legal guardian of each newborn.
- (d) Birthing facilities shall provide ongoing training programs for their employees involved with newborn screening and pulse oximetry screening procedures. These training programs include methods of collecting a satisfactory newborn screening blood specimen and proper pulse oximetry screening method.
- (e) Birthing facilities are responsible for ensuring that employees who collect, and/or handle newborn screening blood specimens or perform pulse oximetry screening are informed of their responsibilities with respect to screening procedures.

[Source: Amended at 12 Ok Reg 41, eff 10-5-94 (emergency); Amended at 12 Ok Reg 1685, eff 6-12-95 ; Amended at 15 Ok Reg 121, eff 10-15-97 (emergency); Amended at 15 Ok Reg 1979, eff 5-26-98 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 25 Ok Reg 105, eff 10-2-07 (emergency); Amended at 25 Ok Reg 1153, eff 5-25-08 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 38 Ok Reg 2040, eff 9-11-21]

SUBCHAPTER 15. FOLLOW-UP FOR CERTIFIED LABORATORIES [REVOKED]

310:550-15-1. Follow-up for certified laboratories [REVOKED]

[Source: Amended at 8 Ok Reg 3115, eff 7-12-91 (emergency); Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 9 Ok Reg 3121, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1637, eff 6-1-93 ; Amended at 12 Ok Reg 41, eff 10-5-94 (emergency); Amended at 12 Ok Reg 1685, eff 6-12-95 (emergency); Revoked at 21 Ok Reg 1286, eff 5-27-04]

SUBCHAPTER 17. NEWBORN SCREENING FOLLOW-UP FOR PHYSICIANS

310:550-17-1. Follow-up for physicians

(a) If a physician examines an infant in its first three months of life, the physician will verify that the infant has been screened, and document results in the infant's medical record. If the infant has not been screened or if results of screening are not available, the physician shall submit a satisfactory newborn screening blood specimen as soon as possible.

(b) On written notification by the Newborn Screening Program of follow-up requirements for a newborn screen result of abnormal, unsatisfactory, or for specimens collected from a newborn at or less than 24 hours of age; the infant's physician or designee will ensure that required repeat screening, confirmatory testing, or diagnostic studies are performed in the timeframe specified so that therapy, when indicated, can be initiated expeditiously.

(c) The infant's physician may selectively rescreen the infant as clinically indicated.

(d) Because patients may relocate without a forwarding address or contact information, physicians and birthing facilities have the burden to make a reasonable search and effort to locate and notify the parent(s) or guardian(s). If the parent(s) or guardian(s) are not contacted, then the Newborn Screening Program Coordinator will be notified of the inability to notify after efforts to contact the parent(s) or guardian(s) have been exhausted.

(e) For appropriate comprehensive medical care, all confirmed cases of a disorder on the newborn screening blood testing panel, should have a referral to a pediatric subspecialist, and the parent(s) or guardian(s) should be referred for enrollment in newborn screening long-term follow-up services as designated by the Newborn Screening Program. For referral information, contact the Newborn Screening Short-term Follow-up Program at (405) 426-8310 or 1-800-766-2223.

[Source: Amended at 8 Ok Reg 3115, eff 7-12-91 (emergency); Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 9 Ok Reg 3121, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1637, eff 6-1-93 ; Amended at 12 Ok Reg 41, eff 10-5-94 (emergency); Amended at 12 Ok Reg 1685, eff 6-12-95 ; Amended at 15 Ok Reg 121, eff 10-15-97 (emergency); Amended at 15 Ok Reg 1979, eff 5-26-98 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 25 Ok Reg 105, eff 10-2-07 (emergency); Amended at 25 Ok Reg 1153, eff 5-25-08 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21 ; Amended at 40 Ok Reg 1570, eff 9-11-23]

SUBCHAPTER 19. NEWBORN SCREENING REPORTING

310:550-19-1. Physician reporting and medical records

(a) If confirmatory or follow-up testing is not performed by the Newborn Screening Laboratory or by a contract laboratory designated by the Newborn Screening Program, the infant's physician is responsible for

reporting the results of confirmatory follow-up testing to the Newborn Screening Program Coordinator within seven (7) days after the completion of the medical evaluation of the infant.

(b) Final diagnosis will be conveyed using the Department's Newborn Screening Report Form, provided by the Program, which includes infant's name, date of birth, newborn screening laboratory number, mother's name, final diagnosis, notation of initiation of treatment and start date, notation of referral to pediatric subspecialist, notation if family was referred to other services, printed name and signature of physician determining diagnosis, telephone number and date form is completed. A copy of the confirmatory test results must accompany the report form.

(c) These newborn screening reports are confidential and may be utilized only for the purpose of ensuring service delivery, Program administration, data analysis, and evaluation.

(d) On request, a birthing facility or health care provider shall make available to the Newborn Screening Program or Oklahoma Birth Defects Registry:

- (1) Medical records;
- (2) Records of laboratory test; and
- (3) Any other medical information considered necessary to:
 - (A) Determine final outcomes of abnormal CCHD screening results; and
 - (B) Evaluate CCHD screening activities in the State; including:
 - (i) Performance of follow-up evaluations and diagnostic tests;
 - (ii) Initiation of treatment when necessary; and
 - (iii) Surveillance of the accuracy and efficacy of the screening.

(e) Information that the Department receives under this chapter is confidential and may only be used or disclosed:

- (1) To provide services to the infant and the infant's family;
- (2) To study the relationships of the various factors determining the frequency and distribution of CCHD;
- (3) For State or federally mandated statistical reports; and
- (4) To ensure that the information received by the Department is accurate and reliable.

[Source: Amended at 8 Ok Reg 3115, eff 7-12-91 (emergency); Amended at 9 Ok Reg 1475, eff 5-1-92 ; Amended at 12 Ok Reg 41, eff 10-5-94 (emergency); Amended at 12 Ok Reg 1685, eff 6-12-95 ; Amended at 15 Ok Reg 121, eff 10-15-97 (emergency); Amended at 15 Ok Reg 1979, eff 5-26-98 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 25 Ok Reg 105, eff 10-2-07 (emergency); Amended at 25 Ok Reg 1153, eff 5-25-08 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21]

SUBCHAPTER 21. NEWBORN SCREENING INFORMATION

310:550-21-1. Information

(a) For information regarding laboratory procedures, results of laboratory tests, or to order Form Kits, contact the Public Health Laboratory Service, Oklahoma State Department of Health, 4615 W Lakeview Dr, Stillwater, OK 74075, (405) 564-7750, FAX (405) 900-7611 or visit the website at <https://oklahoma.gov/health/locations/public-health-laboratory.html>.

(b) For general information or information regarding follow-up for newborn screening or pulse oximetry screening, contact Newborn Screening Short-term Follow-up Program, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102, (405)-426-8310, or 1-800-766-2223, option 2, FAX (405) 900-7556. General information about the Newborn Screening Program is available on the OSDH Newborn Screening website at <https://Oklahoma.gov/health/newbornscreening>.

[Source: Amended at 12 Ok Reg 41, eff 10-5-94 (emergency); Amended at 12 Ok Reg 1685, eff 6-12-95 ; Amended at 15 Ok Reg 121, eff 10-15-97 (emergency); Amended at 15 Ok Reg 1979, eff 5-26-98 ; Amended at 21 Ok Reg 1286, eff 5-27-04 ; Amended at 22 Ok Reg 794, eff 5-12-05 ; Amended at 25 Ok Reg 105, eff 10-2-07 (emergency); Amended at 25 Ok Reg 1153, eff 5-25-08 ; Amended at 31 Ok Reg 1596, eff 9-12-14 ; Amended at 36 Ok Reg 1688, eff 9-13-19 ; Amended at 38 Ok Reg 2040, eff 9-11-21 ; Amended at 40 Ok Reg 1570, eff 9-11-23]

SUBCHAPTER 23. NEWBORN SCREENING STANDARDS, PROCEDURES, AND FOLLOW-UP FOR CERTIFIED LABORATORIES

310:550-23-1. Procedures

(a) The Commissioner of Health shall establish procedures for newborn screening laboratories that include laboratory methodology, proficiency testing, quality assurance, sample collection, reporting, follow-up, handling, use, retention, storage and disposition of form kits.

(b) The Commissioner of Health shall establish procedures for the Department's newborn screening short-term follow-up program that include quality assurance, notification of providers and parent(s) or guardian(s), follow-up guidelines, and parent or guardian and provider education.

(c) Birthing facilities, physicians, and laboratories shall comply with procedures for the Newborn Screening Program established by the Commissioner of Health.

(d) Any laboratory performing newborn screening tests shall be certified by the Department as a Newborn Screening Laboratory. In order to be certified as a Newborn Screening Laboratory, a laboratory shall maintain technical proficiency and ensure that test reagents and equipment are properly standardized.

(e) A laboratory desiring certification as a Newborn Screening Laboratory shall make written application to the Public Health Laboratory of the Department. A certified laboratory shall meet the following minimum standards:

(1) **Eligibility for approval.** A laboratory in Oklahoma that meets the requirements of Section 353 of the Public Health Service Act

(42 U.S.C. 263a) as revised by the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88), Public Law 100-578. The Laboratory must have a CLIA certificate for tests of High Complexity and meet the criteria for those tests as specified in CLIA '88 and amendments. The laboratory must have the capacity to provide testing for the mandated newborn screening panel on a single satisfactory Newborn Screening Form Kit submitted by the birthing facility or provider.

(2) **Minimum tests.** A laboratory shall test, a minimum of 300 blood specimens from different Oklahoma infants for each disorder each week, to maintain technical proficiency and ensure that test reagents and equipment are properly standardized.

(3) **Record keeping.**

(A) The laboratory shall log each specimen received using at least two unique identifiers. All patient information and test results are linked to the identifier and maintained as a permanent record for a period of at least twenty-one (21) years.

(B) The laboratory shall maintain quality control, proficiency test records, and which will be available for inspection by the Department.

(C) If the laboratory should close, records must be maintained for the same time period. Records may be given to the Department for maintenance.

(4) **Standard laboratory screening assay methods.** All assay methods must be approved by the Commissioner of Health.

(5) **Follow-up for certified laboratories.**

(A) Within fifteen (15) days after specimen collection, the Certified Laboratory shall send a written report of the test results with repeat testing requirements, if indicated, to the submitter and physician listed on the Newborn Screening Form Kit.

(B) The Certified Laboratory will reject any unsatisfactory specimens for testing.

(C) The Certified Laboratory must maintain a secure database with the capacity to report abnormal test results to the Department's Newborn Screening Program Coordinator or designee.

(D) The Certified Laboratory must report abnormal test results that are possible disease conditions within eight (8) to twenty-four (24) hours to the Department's Newborn Screening Program Coordinator or designee.

(6) **Activity reports.** Certified Laboratories shall compile quarterly and annual reports of total screening tests, abnormal tests by disorder, unsatisfactory tests, and for specimens collected from newborns at or less than twenty-four (24) hours of age for submission to the Newborn Screening Program.

(7) **Certification of laboratories.**

(A) A Certificate of Approval will be issued upon satisfying the requirements of these standards and demonstrating proficiency in the presence of an authorized

representative from the Department. This Certificate of Approval will specify:

- (i) Name of laboratory
- (ii) Test of certification must be approved for all mandated tests.
- (iii) Date of issue and expiration: certificate issued for one (1) year and renewable annually.

(8) Revocation of certification.

(A) The laboratory shall be in compliance with all applicable Federal and State Laws, and regulations. The compliance with the requirements is the responsibility of the laboratory, without reliance on or direction by the Oklahoma State Department of Health. Following notice by the Department of its intent to revoke the laboratory's certification and completion of an individual proceeding pursuant to Article II of the Oklahoma Administrative Procedures Act (APA), the certification of a laboratory may be revoked, based upon proof by a preponderance of the evidence for any of the following reasons:

- (i) Failure to meet any requirements in these regulations; or
- (ii) Failure to use a standard laboratory assay approved by the Commissioner of Health; or
- (iii) Failure to participate in a recognized proficiency program and/or maintain proficiency; or
- (iv) Failure to keep adequate records of test results and quality control; or
- (v) Failure to give prompt notice of changes in personnel performing the tests or supervising testing.

(B) Upon notice of revocation the laboratory shall cease to perform newborn screening and return their certificate of approval.

(C) Reinstatement of laboratory certification is contingent upon the following:

- (i) A laboratory cannot apply for reinstatement until a minimum of three months has elapsed from date of revocation; and
- (ii) All factors that lead to revocation of certification are corrected; and
- (iii) A laboratory applying for reinstatement must meet the same requirements as for initial application.

(D) Revocation of certified laboratory status by the Department may be appealed pursuant to Article II of the Oklahoma APA.

SUBCHAPTER 24. RESOURCES FOR TRISOMY 13, 18, AND 21

310:550-24-1. Resources for Trisomy 13, 18, and 21 Purpose

The rules in this Subchapter implement Courtney's Law, as codified in 63 O.S. § 1-575.

[Source: Added at 40 Ok Reg 1570, eff 9-11-23]

310:550-24-2. Resources for Trisomy 13, 18, and 21 Definitions

The following words or terms, used in this Chapter, shall have the following meaning unless the context of the sentence requires another meaning:

"Chromosomal disorder" means:

- (A) Trisomy 13, otherwise known as Patau syndrome;
- (B) Trisomy 18, otherwise known as Edwards syndrome; or
- (C) Trisomy 21, otherwise known as Down syndrome.

"Department" means the Oklahoma State Department of Health.

"Genetic counselor" means any person who is licensed pursuant to the provisions of the Genetic Counseling Licensure Act or offers to or engages in genetic counseling. The term does not include those professions exempted by Section 1-566 of the Act.

"Health care facility" means a facility licensed or certified by the State Department of Health, but shall not include a nursing care facility, assisted living facility or home care agency.

"Health care provider" means a person who is licensed, certified or registered by this state to provide health care services or a medical group, independent practice association or professional corporation providing health care services.

[Source: Added at 40 Ok Reg 1570, eff 9-11-23]

310:550-24-3. Resources for Trisomy 13, 18, and 21 Duty to provide information

Any health care facility, health care provider, or genetic counselor, upon receipt of a positive test result from a test for a chromosomal disorder, shall provide the expectant or new parent with information provided by the Department if such information is made available by the Department for the specific disorder.

[Source: Added at 40 Ok Reg 1570, eff 9-11-23]

310:550-24-4. Resources for Trisomy 13, 18, and 21 Availability of information from the Department

To the extent the information is available, the Department shall maintain on its website:

- (1) Up-to-date, evidence-based written information about chromosomal disorders that has been reviewed by medical

experts and national advocacy organizations for people with intellectual and other developmental disorders. The written information will be compiled from credible sources and will include physical, developmental, educational and psychosocial outcomes, life expectancy, clinical course, and intellectual and functional development and treatment options; and
(2) Contact information for programs and support services including one or more hotlines specific to a chromosomal disorder, resource centers or clearinghouses, national and local organizations, and other education and support programs.

[Source: Added at 40 Ok Reg 1570, eff 9-11-23]

APPENDIX A. INSTRUCTIONS FOR FILTER PAPER SAMPLE COLLECTION [REVOKED]

[**Source:** Revoked and reenacted at 13 Ok Reg 345, eff 12-11-95 ; Revoked and reenacted at 15 Ok Reg 121, eff 10-15-97 (emergency); Revoked and reenacted at 15 Ok Reg 1979, eff 5-26-98 ; Revoked and reenacted at 21 Ok Reg 1286, eff 5-27-04 ; Revoked and reenacted at 22 Ok Reg 392, eff 12-21-04 (emergency); Revoked and reenacted at 22 Ok Reg 749, eff 5-12-05 ; Revoked and reenacted at 31 Ok Reg 1596, eff 9-12-14 ; Revoked at 36 Ok Reg 1688, eff 9-13-19]

APPENDIX B. REPORT FORM [REVOKED]

[Source: Revoked and reenacted at 12 Ok Reg 345, eff 12-11-95 ; Revoked and reenacted at 15 Ok Reg 121, eff 10-15-97 (emergency); Revoked and reenacted at 15 Ok Reg 1979, eff 5-26-98 ; Revoked and reenacted at 21 Ok Reg 1286, eff 5-27-04 ; Revoked and reenacted at 25 Ok Reg 105, eff 10-2-07 (emergency); Revoked and reenacted at 25 Ok Reg 1153, eff 5-25-08 ; Revoked and reenacted at 31 Ok Reg 1596, eff 9-12-14 ; Revoked at 36 Ok Reg 1688, eff 9-13-19]

APPENDIX C. REFUSAL FORM [REVOKED]

[**Source:** Added at 21 Ok Reg 1286, eff 5-27-04 ; Revoked and reenacted at 25 Ok Reg 105, eff 10-2-07 (emergency); Revoked and reenacted at 25 Ok Reg 1153, eff 5-25-08 ; Revoked and reenacted at 31 Ok Reg 1596, eff 9-12-14 ; Revoked at 36 Ok Reg 1688, eff 9-13-19]

APPENDIX D. RECOMMENDED PULSE OXIMETRY SCREENING PROTOCOL [REVOKED]

[Source: Added at 31 Ok Reg 1596, eff 9-12-14 ; Revoked at 36 Ok Reg 1688, eff 9-13-19]

APPENDIX E. PULSE OXIMETRY SCREENING RESULT FORM [REVOKED]

[**Source:** Added at 31 Ok Reg 1596, eff 9-12-14 ; Revoked at 36 Ok Reg 1688, eff 9-13-19]

CHAPTER 551. ADVANCEMENT IN STEM CELL CURES AND THERAPIES ACT

[Authority: 63 O. S. § 1-270.1]

[Source: Codified 6-25-09]

SUBCHAPTER 1. GENERAL PROVISIONS

310:551-1-1. Purpose

The rules in this chapter implement the Advancement in Stem Cell Cures and Therapies Act, 63 O.S. 270.1, *et seq.*, and are designed to provide a reporting system to capture and collect simple or basic identifying information regarding any work conducted in the State of Oklahoma related to, or associated with, stem cell research, in order to assist the State and those persons and entities engaged in stem cell research to identify, expand, encourage and otherwise enhance opportunities for greater research funding for such entities and persons involved in advancing knowledge about cell-based therapies to treat disease.

[Source: Added at 26 Ok Reg 2040, eff 6-25-09]

310:551-1-2. Definitions

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

"Adult stem cell" means undifferentiated cells, found throughout the body after embryonic development, that multiply by cell division to replenish dying cells and regenerate damaged tissues. These stem cell types include but are not limited to, Adipose stem cells (ASC), Connective Tissue Progenitors (CTP), Hematopoietic stem cells (HSC), Hemangioblast (AC133) from umbilical cell blood (HB1), Mesenchymal Stem Cells (MSC), Multi-potent adult stem cells (MAPC), Neural stem cells/oligodendrocyte progenitors (NSC), Skeletal myoblast (SKMS), and Umbilical cord blood derived stem cells (UCB).

"Board" means the Oklahoma State Board of Health.

"Classification" means the business form of the information provider.

"Commissioner" means the Commissioner of the Oklahoma State Department of Health or his designated representative.

"Completed report" means a submitted data file that has been reviewed by the Department and found to contain no observed errors.

"Data element" means a unit of specific information collected and recorded by the Department that identifies the persons and entities engaged in stem cell research in Oklahoma and the nature of the stem cell research being conducted.

"Data file" means an electronic file containing data elements.

"Data provider" means either an information provider or an IRB who agrees to provide information on behalf of an information provider.

"Department" means the Oklahoma State Department of Health.

"Donor" means the person or entity with legal custody of a fertilized egg or oocyte.

"Embryonic stem cell" means cells derived from embryos that develop from eggs that have been fertilized in vitro and then lawfully donated for research purposes with informed consent of the donor.

"Human Embryo" *refers to a living organism of the species Homo sapiens at the earliest stage of development, including the single-cell stage, that is not located in the body of a woman. [1-270.2 of Title 63]*

"Human tissue regeneration" means any cell-based therapy that involves the regeneration of human tissue using stem cells.

"Information provider" means a private or public institution or other entity, or a person who is not affiliated with an institution or entity, that has initiated or is conducting research.

"IRB" or "Institutional Review Board" means the body or committee that is established in accordance with federal law and charged with the responsibility to provide oversight functions within a private or public institution where biomedical research involving human subjects is being conducted or performed. An IRB may include a Stem Cell Research Oversight Committee.

"Research" means any work, labor or effort into discovering, discerning or advancing knowledge of the science of cell regeneration.

"Somatic cell nuclear transfer" means a laboratory technique for creating an ovum with a donor nucleus.

"Stem cell" means an adult stem cell or an embryonic stem cell.

[Source: Added at 26 Ok Reg 2040, eff 6-25-09]

SUBCHAPTER 3. REQUIRED INFORMATION FOR REPORTING

310:551-3-1. Required Information to be Collected from Information Providers

(a) The Department is required by law to collect the following types of information from information providers:

(1) Information relating to research performed or conducted on human tissue regeneration using human embryos or adult stem cells.

(2) Information relating to research performed or conducted on human disease using human embryos or adult stem cells.

(b) The data elements to be submitted by information providers include the following:

(1) Identifying name of the research project having unique or individual IRB approval;

(2) Information provider name;

(3) Information provider street address;

(4) Information provider city;

(5) Information provider state;

(6) Information provider address postal zip code;

(7) Information provider EIN or Tax Identification Number;

- (8) Information provider telephone number;
 - (9) Information provider facsimile number;
 - (10) Information provider electronic mail address;
 - (11) Information provider contact person name;
 - (12) Information provider contact person telephone number;
 - (13) Information provider contact person facsimile number;
 - (14) Information provider contact person electronic mail address;
 - (15) Project initiation date;
 - (16) Project suspension date, if applicable;
 - (17) Project restart date, if applicable;
 - (18) Project completion date, if applicable;
 - (19) An affirmative indication if the research involves human embryonic stem cells in vitro;
 - (20) An affirmative indication if the research involves human embryonic stem cells in vivo;
 - (21) An affirmative indication if the research involves the creation or derivation of human embryonic stem cells or cell lines;
 - (22) An affirmative indication if the research involves or requires consent for human participation in a research project using human embryonic stem cells or adult stem cells;
 - (23) An affirmative indication if the research involves or requires consent for donation of tissue to derive adult stem cells;
 - (24) An affirmative indication if the research involves the use of human oocytes for purposes other than assisting a person to achieve a successful childbirth;
 - (25) An affirmative indication if the research involves the use of human embryos for purposes other than assisting a person to achieve a successful childbirth;
 - (26) An affirmative indication if the research involves somatic cell nuclear transfer for purposes other than assisting a person to achieve a successful childbirth; and,
 - (27) The name of the IRB or Stem Cell Research Oversight Committee to which the research institution, entity or research individual makes periodic reports.
- (c) Data file formats that will be accepted include:
- (1) PDF Flat File Format, or,
 - (2) Other formats agreed upon by OSDH and the data provider prior to submission.
- (d) Information submitted containing the appropriate data elements but do not adhere to an acceptable file format shall be deemed to be unreadable and will be not be accepted by the Department.

[Source: Added at 26 Ok Reg 2040, eff 6-25-09]

310:551-3-2. Data files

- (a) When a data file is received from an information provider, the Department will notify the information provider acknowledging receipt of the data.
- (b) Every data file received by the Department will be processed and checked for errors. This process will include error checking for out of

range, or invalid data elements as specified in Section 310:551-3-1. Upon processing the submitted data file, the Department will send the information provider:

- (1) An acknowledgement that the report appears to be without any apparent error, or,
- (2) A list of errors in that information provider's data file along with a request to correct the listed errors within 30 days of receipt of the notice.

[Source: Added at 26 Ok Reg 3019, eff 7-21-09 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2533, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:551-3-2 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

310:551-3-3. Periodic schedule for submission of information

- (a) Information providers must submit their data files to the Department within thirty (30) days of beginning the research, thirty (30) days of completion of the research, or by October 1, whichever is soonest.
- (b) The Department may grant an extension of the reporting deadline upon written request from the information provider made at least ten (10) days prior to the deadline and supported by substantial cause.

[Source: Added at 26 Ok Reg 3019, eff 7-21-09 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2533, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:551-3-3 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

SUBCHAPTER 5. CONFIDENTIALITY OF INFORMATION AND RESPONSIBILITIES OF INFORMATION PROVIDERS

310:551-5-1. Confidentiality

- (a) All information collected from any source will remain confidential in accordance with 51 O.S. § 24A.19, and will not be deemed or treated as a public record as otherwise defined in the Open Records Act. Under no circumstances shall information submitted to the Department pursuant to this Chapter be used for any purpose other than the compilation of data to be transmitted to the Governor, Speaker of the Oklahoma House of

Representatives and the President Pro Tempore of the State Senate. The information collected pursuant to this Chapter may not be released voluntarily or in response to any legal process unless the Department is directed to release it by a court of competent jurisdiction, granted after application showing good cause.

(b) The Department will develop internal procedures to ensure that the collection, maintenance and dissemination of the information collected is in compliance with all provisions of state and federal laws and regulations, including this Chapter.

[Source: Added at 26 Ok Reg 3019, eff 7-21-09 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2533, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:551-5-1 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

310:551-5-2. Release and dissemination of information upon request

After approval by the Department, aggregate compilations prepared for release or dissemination from the data collected shall be public record. However, reports prepared at the request of an individual information provider containing information concerning only its transactions, shall not be public record.

[Source: Added at 26 Ok Reg 3019, eff 7-21-09 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2533, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:551-5-2 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

310:551-5-3. Responsibilities of information providers

Information providers shall be responsible to insure that the information required by this Chapter to be reported to the Department is timely collected and reported to the Department and that the data reported is accurate and complete. The obligation to report may be satisfied by the IRB or Stem Cell Research Oversight Committee of the person or entity conducting stem cell research.

[Source: Added at 26 Ok Reg 3019, eff 7-21-09 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2533, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:551-5-3 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

310:551-5-4. Reporting safety and ethical violations

It shall be the obligation of the IRB or Stem Cell Research Oversight Committee to report any violation of a safety or ethical standard that has not be corrected within thirty (30) days. The report of an uncorrected violation of a safety or ethical standard must be made to the Department within (60) days of occurrence or by October 1, whichever is sooner.

[Source: Added at 26 Ok Reg 3019, eff 7-21-09 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2533, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:551-5-4 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

CHAPTER 555. NOTIFICATION OF COMMUNICABLE DISEASE RISK EXPOSURE

[**Authority:** 63 O.S., §§ 1-104, 1-502, 1-502.1(B), 1-502.2, and 1-502.3]
[**Source:** Codified 12-31-91]

310:555-1-1. Purpose

The rules in this Chapter implement a system of notification for risk exposures which are capable of transmitting an occupational risk disease to health care workers, emergency responders, funeral workers, and Good Samaritans. The employers of those classes of workers (excluding Good Samaritans) are required by federal OSHA standards (29 CFR Part 1910.1030) to have management policies and systems to handle such exposures. Only workers at health care facilities have access to patient charts and laboratory results; further, these facilities have systems to handle such exposures. Therefore, in order to facilitate access to source patient information, the notification system established in this Chapter shall apply to risk exposures to health care workers, emergency responders, funeral workers, Good Samaritans rendering aid occurring outside of employment at a health care facility.

[**Source:** Amended at 10 Ok Reg 631, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1717, eff 6-1-93 ; Amended at 21 Ok Reg 1041, eff 5-13-04 ; Amended at 37 Ok Reg 1418, eff 9-11-20]

310:555-1-2. Definitions

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

"Designee providing post-exposure follow-up" means any person authorized by law and designated by the employer to be responsible for counseling the exposed health care worker, emergency responder or funeral worker regarding the potential risks, need for further evaluation, testing and treatment, and communicating source patient test results. Examples would be case managers, occupational health practitioners, infection control practitioners, etc. This person should be current with the latest issues regarding occupational exposures and are responsible to comply with 63 O.S. Supp. 2001, Section 1-502.1 et seq.

"Emergency responder" means fire fighters, certified or designated first responders, emergency medical technicians and peace officers.

"Funeral worker" means any person who prepares a corpse for burial or other disposition.

"Good Samaritan" means where no prior contractual relationship exists, any person who in good faith renders or attempts to render emergency care consisting of artificial respiration, restoration of breathing, or preventing or retarding the loss of blood, or aiding or restoring heart action or circulation of blood to the victim or victims of an accident or emergency, wherever required, shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care.

"Health care facility" means any hospital, medical center, clinic, medical examiner, ambulatory surgical center, home care agency, hospice, nursing facility, assisted living facility and residential care facility or other inpatient or outpatient health care supplier to which a source patient is transported after a risk exposure.

"Health care facility designated person" means the person authorized by law and designated by the health care facility to be responsible for following up reported risk exposures.

"Health care worker" means any health care facility employee, physician, nurse or other health care provider whose job activities involve contact with patients or with any blood or body fluids from patients in an inpatient or outpatient health care facility, including the patient's home.

"Licensed health care professional" means a physician, a registered nurse, or a physician assistant (PA).

"Occupational Risk disease" for the purpose of these rules, are those infectious diseases which are transmitted from person-to-person by close or intimate contact with blood or body secretions and which may pose an occupational risk to emergency responders, health care workers, and funeral workers. Such diseases include, but are not limited to, Hepatitis B (HBV), Hepatitis C (HCV), Human Immunodeficiency Virus (HIV), meningococcus, measles, pertussis and tuberculosis.

"Potentially infectious body fluids" means blood or blood products; semen or vaginal secretions; pleural, synovial, cerebrospinal, pericardial, peritoneal and amniotic fluids; any fluid visibly contaminated with blood; and all body fluids in situations where it is difficult or impossible to differentiate between body fluids.

"Risk exposure" means an exposure which has been epidemiologically demonstrated to pose a risk for transmission of an occupational risk disease. Such an exposure would include a parenteral (e.g. needle stick or cut), permucosal (e.g. mouth-to-mouth resuscitation or splash to the eye or mouth) exposure to blood or other body fluids, or contact with blood to skin which is chapped, abraded or afflicted with dermatitis or exposure to respiratory secretions.

"Source patient" means the person to whom the health care worker, emergency responder, or funeral worker has had a risk exposure.

[Source: Amended at 10 Ok Reg 631, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1717, eff 6-1-93 ; Amended at 21 Ok Reg 239, eff 11-6-03 (emergency); Amended at 21 Ok Reg 1041, eff 5-13-04 ; Amended at 37 Ok Reg 1418, eff 9-11-20]

310:555-1-3. Applicability

The notification system established in this Chapter shall apply to employers of health care workers, emergency responders, funeral workers, and Good Samaritans for risk exposures not occurring during employment at a health care facility.

[Source: Amended at 10 Ok Reg 631, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1717, eff 6-1-93 ; Amended at 21 Ok Reg 1041, eff 5-13-04 ; Amended at 37 Ok Reg 1418, eff 9-11-20]

310:555-1-4. Notification system

(a) Any health care worker, emergency responder, funeral worker or Good Samaritan who sustains a risk exposure, not occurring during employment at a health care facility, is responsible for immediately reporting that exposure. To initiate this notification system, the exposed person shall complete Part I of the OSDH Communicable Disease Risk Exposure Report Form (ODH #207) and submit it to their employer or employer's designated person. Good Samaritans submit the form directly to health care facility where the source patient was transferred.

(b) For exposures happening while on duty, the employer shall be responsible for having the circumstances of the exposure reviewed by a licensed health care professional to determine if a risk exposure occurred. The licensed health care professional should use guidelines of the Centers for Disease Control and Prevention to make this determination. The facility where the source patient was transported will determine if a risk exposure occurred for Good Samaritans.

(c) If the licensed health care professional determines that a valid risk exposure has occurred, then the employer /Good Samaritan shall be responsible to submit within 24 hours of exposure, if possible, the Risk Exposure Report to:

- (1) The health care facility's designated person at the institution to which the source patient was transported, or
- (2) The source patient's attending physician, if the source patient was being cared for outside of a health care facility, or
- (3) The health care facility that last had responsibility for a deceased source patient, such as hospital of death, medical examiner or attending physician.

(d) The health care facility or the source patient's attending physician, if the source patient was being cared for outside of a health care facility, shall be responsible for designating an appropriate person authorized by law (and at least one back-up person) to provide confidential follow-up of the Risk Exposure Report. Follow-up should include:

- (1) Review of the source patient's medical record and consultation with the patient's attending physician to determine if the patient is known to have an occupational risk disease or if the source patient has risk factors for HBV, HCV, and/or HIV infection.
- (2) Testing of the source patient for HBV, HCV and/or HIV should be pursued upon request of the exposed worker's employer or Good Samaritan under the following conditions:

- (A) the health care facility has been provided with a completed written report of occupational or Good Samaritan exposure utilizing ODH Form 207, and
- (B) ODH Form 207 has been signed by a licensed health care professional verifying that a risk exposure to the source patient's blood or other potentially infectious body fluid has occurred. In accordance with 63 O.S. 2001, Section 1-502.3(A), testing of a source patient's blood may be performed:

- (i) with their written consent,
- (ii) without consent when ODH Form 207 is presented to the health care facility as noted above, or

(iii) upon court order.

(3) The source patient's blood, whenever available, shall be submitted for testing within 24 hours after ODH Form 207 has been received. When Rapid HIV Testing of the source patient is available and appropriate, efforts shall be made to have these results communicated to the health care facility's designated person immediately. All other test results shall be communicated to the health care facility's designated person within the next 5 days. In some instances, special arrangements (e.g., telephone call) may need to be made in order to have results within 5 days.

(4) Positive test results for HIV, HBV, and HCV from source patients should be made available by the health care facility designee immediately, and not more than 24 hours of receipt of the results to the physician or designee providing post-exposure follow-up to the exposed worker /Good Samaritan named on ODH Form 207. In addition, the health care facility designated person may (without consent) release the results of the source patient's HIV, HBV and HCV tests to:

(A) the source patient (and his/her physician);

(B) the exposed worker / Good Samaritan named on ODH Form 207; and/or

(C) Oklahoma State Department of Health.

(e) The health care facility designated person shall complete Part II of the Risk Exposure Report and mail it to the Oklahoma State Department of Health within six (6) working days.

(f) The physician or designee providing post-exposure follow-up to the exposed worker /Good Samaritan shall be responsible for ensuring the exposed worker/Good Samaritan has been informed whether or not he or she has been exposed to an occupational risk disease and make recommendations for appropriate follow-up.

(g) All reasonable costs associated with follow-up and testing of the source patient or exposed worker(s) as directed by these rules shall be paid by the exposed worker's employer, with the exception of a Good Samaritan who is responsible for all costs themselves, unless such costs to the source patient are borne by other payment sources.

(h) All information on the OSDH Risk Exposure Report shall be strictly confidential in accordance with applicable state laws.

[Source: Amended at 10 Ok Reg 631, eff 1-1-93 (emergency); Amended at 10 Ok Reg 1717, eff 6-1-93 ; Amended at 21 Ok Reg 239, eff 11-6-03 (emergency); Amended at 21 Ok Reg 1041, eff 5-13-04 ; Amended at 37 Ok Reg 1418, eff 9-11-20]

CHAPTER 560. RABIES REGULATIONS [REVOKED]

[Authority: 63 O.S., § 1-508]

[Source: Codified 12-31-91]

310:560-1-1. Purpose [REVOKED]

[Source: Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-2. Owner's responsibility [REVOKED]

[Source: Amended at 10 Ok Reg 4219, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-3. Veterinarian's responsibility [REVOKED]

[Source: Amended at 10 Ok Reg 4219, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-4. Costs incurred [REVOKED]

[Source: Amended at 10 Ok Reg 4219, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-5. Absence of licensed veterinarian [REVOKED]

[Source: Amended at 10 Ok Reg 4219, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-6. County sheriff's responsibility [REVOKED]

[Source: Amended at 10 Ok Reg 4219, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-7. Domestic dogs and cats not effectively immunized [REVOKED]

[Source: Amended at 10 Ok Reg 4219, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-8. Other domestic animals not effectively immunized [REVOKED]

[Source: Amended at 10 Ok Reg 4219, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-9. Unimmunized domestic animals and skunks [REVOKED]

[Source: Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

**310:560-1-10. Domestic animals effectively immunized
[REVOKED]**

[Source: Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-11. Sale of rabies vaccine [REVOKED]

[Source: Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-12. Administering rabies vaccine [REVOKED]

[Source: Amended at 10 Ok Reg 4219, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-13. Skunks [REVOKED]

[Source: Added at 10 Ok Reg 4219, eff 8-1-93 (emergency); Added at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

**310:560-1-14. Animals other than domestic dogs and cats
[REVOKED]**

[Source: Added at 10 Ok Reg 4219, eff 8-1-93 (emergency); Added at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

310:560-1-15. Payment of fees [REVOKED]

[Source: Added at 10 Ok Reg 4219, eff 8-1-93 (emergency); Added at 11 Ok Reg 3839, eff 7-11-94 ; Revoked at 14 Ok Reg 3579, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 2364, eff 6-11-98]

**APPENDIX A. COMPENDIUM OF ANIMAL RABIES
CONTROL, 1991, PART II: VACCINES MARKETING IN
U.S. AND NASPHV RECOMMENDATION [REVOKED]**

[Source: Revoked at 10 Ok Reg 4219, eff 8-1-93 (emergency); Revoked at 11 Ok Reg 3839, eff 7-11-94]

CHAPTER 564. SEX CRIMES VICTIMS AND SUSPECTS

[Authority: 63 O.S.1991, §§ 1-524 and 1-525]

[Source: Codified 7-27-95]

SUBCHAPTER 1. GENERAL PROVISIONS

310:564-1-1. Purpose

The purpose of this chapter is to:

- (1) Provide direction for the HIV/STD examination, testing, and treatment of persons arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy, or the intentional infection or attempt to intentionally infect a person with the human immunodeficiency virus, and
- (2) Provide a manner of notification of the victim of the suspect's HIV/STD test results, in order that the victim may receive appropriate treatment as indicated.

[Source: Added at 12 Ok Reg 3063, eff 7-27-95]

310:564-1-2. Definitions

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

"Adolescent/adult" means persons age 12 years or greater.

"County health department HIV counseling and test site" means a local county health department which has an agreement with the Oklahoma State Department of Health (OSDH) to provide HIV counseling and testing on site, according to protocols developed by the OSDH HIV/STD Service.

"Disclosing facility" means either a licensed physician or a local county health department HIV counseling and test site designated by the victim of a sex crime to receive a suspect's HIV/STD test results for disclosure to the victim.

"HIV" means human immunodeficiency virus, the virus that causes AIDS.

"Out-patient clinic" means any medical facility which provides diagnostic medical and laboratory services to the public on an outpatient basis. This definition excludes local county health departments.

"Prophylactic STD treatment" means treatment offered soon after an exposure which serves to prevent infection with an STD.

"STDs" means sexually transmitted diseases, including but not necessarily limited to HIV, hepatitis B, syphilis, gonorrhea, chlamydia, genital herpes, and genital warts.

"Suspect" means a person arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy, or the intentional infection or attempt to intentionally infect a person with human immunodeficiency virus.

"Victim" means the person upon whom the offense of first or second degree rape, forcible sodomy, or intentional infection or attempt

to intentionally infect with human immunodeficiency virus was committed.

[Source: Added at 12 Ok Reg 3063, eff 7-27-95]

310:564-1-3. Applicability

This Chapter shall apply to all persons arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy, or the intentional infection or attempt to intentionally infect a person with human immunodeficiency virus, and to the victim of such offenses. The rules of this Chapter also apply to Local District Attorney's, Judges, Sheriffs, Chiefs of Police, and Victim Witness Coordinators as they implement the requirements of the Chapter, and to local physicians and county health departments as they support implementation of the rules.

[Source: Added at 12 Ok Reg 3063, eff 7-27-95]

SUBCHAPTER 3. SUSPECT EXAMINATION, TESTING, AND TREATMENT

310:564-3-1. Suspect examination and testing for HIV/STDs

(a) **Court order for suspect examination and testing.** A motion for a court order for the examination and testing of suspects for HIV/STDs shall be filed automatically at the time charges are filed. It is not necessary that the victim request such examination and testing. The court order shall contain the following:

(1) A list of the specific examinations and tests ordered by the court. The list shall include, but not necessarily be limited to blood tests for HIV, hepatitis B, and syphilis, cultures or smears for gonorrhea and chlamydia, and visual examination for evidence of genital herpes and genital warts.

(2) A provision that the physician's office, out-patient clinic, or hospital which provided the suspect's examination and testing notify the District Attorney's office, through the Victim Witness Coordinator, when the suspect's test results are ready, and

(3) A provision that copies of the results of court-ordered examinations and testing be forwarded by the physician's office, out-patient clinic, or hospital to either a licensed physician or, in the case of adolescent/adult victims only, to the nearest county health department HIV counseling and test site, according to the choice of the victim, as made known to the Victim Witness Coordinator, for disclosure of suspect results to the victim.

(b) **Sources for obtaining suspect examination and testing.** Court-ordered HIV/STD examination and testing of suspects should be performed by a licensed physician. Local physician's offices, hospitals, and out-patient clinics all have access to the resources needed to perform such examinations and testing.

(c) **Suspect identification on test records.** The suspect should be identified on test forms by the case number assigned by the court. In

order to assure proper handling of results by the disclosing facility, the test form should specify "sex crimes" testing adjacent to the court case number.

[Source: Added at 12 Ok Reg 3063, eff 7-27-95]

310:564-3-2. Suspect treatment for positive HIV/STD test results

- (a) Suspects who test positive for HIV and/or STDs shall be provided treatment as appropriate.
- (b) Licensed physicians can provide treatment for STDs. County health departments have the ability to treat some, but not all STDs for which adolescent/adult suspects may test positive. County health departments do not provide STD treatment to children under the age of 12 years. Prior to presenting adolescent/adult suspects for STD treatment at county health departments, the county health department administrator or designee shall be contacted.
- (c) Suspects who test positive for HIV must be evaluated by a licensed physician. County health departments do not have the resources to manage the primary care of persons who are HIV positive.

[Source: Added at 12 Ok Reg 3063, eff 7-27-95]

**SUBCHAPTER 5. VICTIM NOTIFICATION, TESTING,
AND TREATMENT**

310:564-5-1. Victim notification

- (a) Upon notification that results of the suspect's examination and testing are ready, the Victim Witness Coordinator shall instruct the physician, out-patient clinic, or hospital which performed such examination and testing to forward copies of the results according to the choice of the victim [OAR 310:564-3-1(a)(3)].
- (b) The Victim Witness Coordinator shall notify the physician or county health department HIV counseling and test site chosen by the victim that results are being forwarded, and shall provide the physician or county health department counseling and test site counselor with a physical description of the victim and the suspect's court case number.
- (c) The Victim Witness Coordinator shall notify the victim that results are ready and shall instruct the victim to contact the physician or county health department counseling and test site to make an appointment for disclosure of suspect's results. The victim shall be instructed that he/she must have the suspect's court case number and a self-photo identification in hand when presenting for disclosure of suspect's results.

[Source: Added at 12 Ok Reg 3063, eff 7-27-95]

310:564-5-2. Victim HIV/STD testing and treatment

- (a) Licensed physicians can provide for appropriate testing and treatment for HIV and STDs in any patient.

(b) County health departments are limited in their ability to test for and treat certain STD's, and do not provide STD services to children under the age of 12 years.

(c) HIV testing is available at some, but not all, county health departments. Local county health departments and Victim Witness Coordinators can refer adolescent/adult victims to the nearest county health department HIV counseling and test site. These sites do not provide HIV counseling and testing to children under the age of 12 years.

[Source: Added at 12 Ok Reg 3063, eff 7-27-95]

CHAPTER 565. SEXUALLY TRANSMITTED DISEASE CONTROL REGULATIONS

[Authority: 63 O.S.1971, § 1-526]

[Source: Codified 12-31-91]

310:565-1-1. Purpose

The rules in this Chapter implement the Sexually Transmitted Disease Control Regulations, 63 O.S. 1971, Section 1-526.

310:565-1-2. Criteria and techniques for the diagnosis of gonorrhea

The Oklahoma State Board of Health adopts DHEW Publication No. (CDC) 96-552 entitled "Criteria and Techniques for the Diagnosis of Gonorrhea" as rules and regulations governing the diagnosis of gonorrhea. The State Department of Health shall make such criteria and techniques available to Oklahoma physicians and to clinical laboratories upon request.

310:565-1-3. Criteria and techniques for the diagnosis of early syphilis

The Oklahoma State Board of Health adopts DHEW Publication No. (CDC) 98-376 entitled "Criteria and Techniques for the Diagnosis of Early Syphilis" as rules and regulations governing the diagnosis of early syphilis. The State Department of Health shall make such criteria and techniques available to Oklahoma physicians and to clinical laboratories upon request.

310:565-1-4. Criteria and techniques for the diagnosis of chancroid, donovanosis (granuloma inguinale), and lymphogranuloma venereum

The Oklahoma State Board of Health adopts DHEW Publication No. (CDC) 758-8302 entitled "Chancroid, Donovanosis (Granuloma Inguinale), and Lymphogranuloma Venereum" as rules and regulations governing the diagnosis of these three venereal diseases. The State Department of Health shall make such criteria and techniques available to Oklahoma physicians and to clinical laboratories upon request.

310:565-1-5. Reporting of tests by laboratories

Any superintendent or manager of a laboratory performing tests for gonorrhea, syphilis, chancroid, Donovanosis (granuloma inguinale), lymphogranuloma venereum, or any other sexually transmissible disease which the State Commissioner of Health deems amenable to control, shall report testing activity to the State Venereal Disease Control Program or the local health officer according to the specifications in this section.

(1) Method and Time Requirements.

(a) A report will be completed in writing and submitted in sealed envelope on forms provided by the Commissioner at the end of each testing week at a minimum. Any positive

or reactive tests will be reported as in 2.E-G contained in this section.

(b) Quantative reagin tests for syphilis with a reactive titer of 1:8 or more on persons aged 0-40 years, and microscopic identification of *Treponema pallidum* (darkfield test) will be reported by collect telephone call in addition to entry on the written report.

(2) **Information Requirements.** Report forms (ODH 235) are to be completed with the information contained in this section.

(a) Laboratory identification (name, address, telephone number).

(b) Signature of laboratory manager or designate.

(c) Date of report and period covered.

(d) Indication that no tests were positive when this is the fact.

(e) Type of test, date performed, and complete result.

(f) Name and telephone number of physician or health provider. (In those testing situations where no responsible physician or health provider can be identified, enter the address and telephone number of the person tested.)

(3) **Confidentiality of Reports.** All reports of positive or reactive tests shall be considered confidential by the Oklahoma State Department of Health as described in Title 63, Article 5, Section 532 of the Public Health Code.

(4) **Consultation with Physicians.** The State Commissioner of Health, the local health officer, or authorized agents under their supervision, shall consult with the physician or health provider requesting the test before instituting measures to prevent the spread of disease. All positive or reactive serologic test reports will be considered as suggestive of the presence of disease only and will not be considered as representing a diagnosis or a report of morbidity.

CHAPTER 566. COMPREHENSIVE BREAST AND CERVICAL CANCER DETECTION AND TREATMENT

[**Authority:** 56 O.S., §§1010.1 et seq.; and 63 O.S., §§1-502 and 1-554et seq.;]
[**Source:** Codified 7-11-05]

SUBCHAPTER 1. GENERAL PROVISIONS

310:566-1-1. Purpose

This Chapter implements O.S.L. Chapter 210 "Oklahoma Breast Cancer Prevention and Treatment" and Public Law 101-354, Title XV, Public Service Act, "Breast and Cervical Cancer Mortality Prevention" authorized by Congress in 1990 and amended in 2000. State statutes established a breast and cervical cancer prevention, treatment and research program advised by a group of predetermined individuals. The federal law established a comprehensive population based statewide breast and cervical cancer early detection program with an additional amendment establishing the treatment program. The purpose of both laws is to reduce the mortality of breast and cervical cancer by providing statewide early detection, diagnosis and treatment of breast and cervical cancer.

[**Source:** Added at 22 Ok Reg 400, eff 12-21-04 (emergency); Added at 22 Ok Reg 2409, eff 7-11-05]

310:566-1-2. Definitions

"Abnormal screen" means a suspicion of breast or cervical cancer. A suspicion of breast cancer includes clinical breast exam findings of: palpable breast mass, breast dimpling, nipple retraction, bloody nipple discharge, palpable lymph nodes around clavicle or axilla, nipple erythema and scaliness, a mammography result of BiRads 4 (Suspicious Abnormality suggesting need for biopsy) or 5 (Highly Suggestive of Malignancy) (ICD 793.8), breast biopsy result of Ductal Cancer in situ, Lobular Cancer in situ (ICD 233.0), or breast or lymph node (or other) biopsy result of breast cancer. Suspicion of cervical cancer is a Pap test result of Atypical Squamous Cells (ASC), Atypical glandular cells (AGC), Low-grade squamous intraepithelial lesions (LSIL), or High-grade squamous intraepithelial lesions (HSIL) (ICD 622.1), leukoplakia of the cervix, (ICD 622.2), or cervical biopsy result of Cervical intraepithelial neoplasia II or III, or Cancer in situ (ICD 233.1).

"ACR" means American College of Radiology. The ACR is the FDA recognized approved accreditation body for minimum quality standards for personnel, equipment, and record keeping in facilities that provide mammography.

"Benign" means a non-cancerous condition that does not spread to other parts of the body.

"Bethesda System" means a specified system of reporting cervical cytology findings.

"Biopsy" means removal of an entire abnormality (excisional biopsy) or a sampling or portion of abnormality (core and incisional

biopsy) for microscopic examination in order to diagnose a problem.

"BiRads" means Breast Image Reporting and Data System.

"Breast and Cervical Cancer Program Treatment Act (BCCPTA)" means a Medicaid plan amendment creating a new categorically needy group consisting of women screened for breast and/or cervical cancer under the BCCEDP and found to be in need of treatment.

"Breast carcinoma in situ" means breast changes in which malignant cells are localized and confined to breast ducts or lobules and may press against adjoining breast tissue but have not penetrated or spread beyond the breast.

"BSE" means breast self-examination. This is inspection and palpation of a woman's breasts by the woman herself.

"Cancer" means a general term for more than 100 diseases characterized by abnormal and uncontrolled growth of cells.

"CBE" means clinical breast examination. A complete examination of the breast and axilla with palpation by a health professional, including examination of the breast in both the upright and supine positions.

"Case management" means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves establishing, brokering, and sustaining a system of available clinical and essential support services for all women enrolled in the program.

"Certified provider" means a healthcare professional who has signed a memorandum of understanding with the Oklahoma Breast and Cervical Cancer Early Detection Program certifying that the woman received breast or cervix screening, was found to be in need of treatment, and meets eligibility criteria for referral to the Medicaid Breast and Cervical Cancer Treatment Program.

"CLIA" means the Clinical Laboratory Improvement Act which establishes minimum quality standards for personnel and quality assurance methods which monitor patient test management and assess quality control, proficiency testing and personnel handling of laboratory and pathology specimens.

"Colposcopy" means examination of the cervix with a high-powered microscope.

"Creditable coverage" means any insurance that pays for medical bills incurred for the screening, diagnosis, or treatment of breast and cervical cancer. Creditable coverage includes, but is not limited to, group health plans, health insurance coverage consisting of medical care under any hospital or medical service policy, or health maintenance organization, Medicare Part A and B, Medicaid, Armed Forces Insurance, and/or state health risk pool. A woman having credible coverage will not be eligible to apply for Medicaid coverage of breast and cervical cancer screening or treatment.

"Creditable coverage circumstances" means there are some circumstances where a woman has credible coverage but is not actually covered for treatment of breast or cervical cancer. In an instance such as pre-existing condition exclusions, or when the annual or lifetime limit on benefits has been exhausted, a woman is not considered to have credible coverage for this treatment. If the woman has limited

coverage, such as limited drug coverage or limits on number of outpatient visits or high deductibles, the woman is still considered to have creditable coverage and is not eligible to apply for Medicaid coverage of breast and cervical cancer treatment. If the woman has a policy with limited scope of coverage such as only dental, vision, or long term care, or a policy that covers only a specific disease or illness, she is not considered having creditable coverage, unless the policy provides full coverage for breast and cervical cancer treatment. For the purposes of this program eligibility for IHS or Tribal health care is not considered creditable coverage.

"Diagnostic mammography" means radiologic examination used to evaluate a patient with a breast mass(es), other breast signs or symptoms (spontaneous nipple discharge, skin changes, of special cases such as a history of breast cancer with breast conservation or augmented breasts).

"FDA" means the United States Food and Drug Administration. The FDA certifies that a mammography facility meets minimum quality standards for personnel, equipment, and record keeping.

"Follow-up" means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves a system for seeking information or reviewing an abnormal condition, rescreeing, and/or recall for annual visits.

"Infrastructure" means sufficient staff and adequate supporting systems to plan, implement, and evaluate the program components of the Oklahoma Breast and Cervical Cancer Early Detection Program.

"In need of treatment" means an abnormal screen determined as a result of a screening for breast and/or cervical cancer under the Oklahoma Breast and Cervical Cancer Early Detection Program.

"Medicaid" means a combined federal and state payment source for health care benefits for certain eligible women who are disabled or who have dependent children. Health care benefits must be a part of the state plan for health services.

"Medicare" means a federal payment source for health benefits for certain eligible women.

"Minimum data elements" means a set of standardized data elements developed by the Centers for Disease Prevention and Control, Division of Cancer Prevention and Control, to ensure that consistent and complete information on screening location, demographic characteristics, screening results, diagnostic procedures, tracking and follow-up, and treatment information are collected on women screened and/or diagnosed with federal funding.

"Never screened" means women who have never been screened for breast and/or cervical cancer or who do not utilize preventive health services.

"Oklahoma Breast and Cervical Cancer Early Detection Program (BCCEDP)" means a comprehensive breast and cervical cancer program established and funded under Title XV of the federal Public Health Service Act with delegated responsibility of implementation and evaluation to the Centers for Disease Control and Prevention, Division of Cancer Prevention and Control, and administered by the Oklahoma State Department of Health.

"Oncologist" means a specialist who treats or studies the physical, chemical, and biologic properties and features of neoplasms, including causation, pathogenesis, and treatment.

"Outreach" means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves recruiting high-risk populations, targeted populations or persons who never or rarely utilize preventive health services.

"Pap smear" means a screening test for the detection of abnormal cells from the cervix. The Pap smear can detect abnormal cells or pre-cancerous cells before cancer develops.

"Pathologist" means a specialist in pathology; a physician who practices, evaluates, or supervises diagnostic tests, using materials removed from living or dead patients, and functions as a laboratory consultant to clinicians, or who conducts experiments or other investigations to determine the causes or nature of disease changes.

"Physician" means any person who has completed a course of medical training, has received a medical degree and is licensed by the Oklahoma State Board of Medical Licensure or the Oklahoma Osteopathic Board of Examiners to practice medicine.

"Pre-cancerous lesions" means poorly differentiated cells that could progress to cancer.

"Program and fiscal management" means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that conducts planning, organizing, directing, coordinating, managing, budgeting, and evaluating program activities.

"Radiologist" means a physician skilled in the diagnostic and/or therapeutic use of x-rays and other forms of radiant energy.

"Rarely screened" means women who have not had breast and/or cervical cancer screening within the last five (5) years.

"Referral" means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves directing women with abnormal screens to appropriate resources for action.

"Screening mammography" means x-ray of the breasts of asymptomatic women in an attempt to detect abnormal lesions of the breast when they are small, non-palpable, and confined to the breast.

"Service delivery" means providing either directly or through contractual arrangements for comprehensive breast and cervical cancer services of screening, diagnosis, and treatment through client tracking of screening intervals, timeliness of diagnosis and timeliness of treatment.

"Surgeon" means a physician who treats disease, injury, and deformity by operation or manipulation.

"Surveillance" means a program component of the Oklahoma Breast and Cervical Cancer Early Detection Program that involves the systematic collection, analysis, and interpretation of health data.

"Ultrasound of the breast" means the use of sonic energy to produce a pictorial representation of the internal structure of the breast. The image is produced by pulse-echo techniques with detection and display of tissue interfaces rather than densities.

310:566-1-3. Agreement with Oklahoma Health Care Authority

The Oklahoma State Department of Health, the Oklahoma Health Care Authority, and the Department of Human Services have coordinated to develop procedures for women who are residents of Oklahoma, are in need of treatment, meet eligibility criteria. (BCCPTA)

[Source: Added at 22 Ok Reg 400, eff 12-21-04 (emergency); Added at 22 Ok Reg 2409, eff 7-11-05]

310:566-1-4. Eligibility for Breast and/or Cervical Cancer Treatment (BCCPTA)

A woman who is an Oklahoma resident is able to apply for Medicaid coverage for treatment of breast or cervical cancer including breast carcinoma in situ or precancerous conditions of the cervix if:

- (1) She is currently enrolled in the Oklahoma Breast and Cervical Cancer Early Detection Program (OKBCCEDP). To be considered enrolled in OKBCCEDP she must meet program age guidelines and have at least one of the basic screening services (pap test or CBE) paid by the OKBCCEDP and be in need of treatment due to an abnormal screen which is suspicious for breast or cervical cancer, and/or breast and cervical pre-cancerous conditions; or
- (2) She is referred by an OKBCCEDP certified provider and is documented to be in need of treatment due to an abnormal screen which is suspicious for either breast or cervical cancer, and/or breast or cervical pre-cancerous condition.
- (3) Have a family income that is at or below one hundred eighty-five percent (185%) of the federal poverty income level.
- (4) Have not attained the age of sixty-five (65) years.
- (5) Have no or have inadequate creditable health insurance or health benefit coverage.
- (6) Is an Oklahoma and US Citizen or qualified alien.
- (7) Has an abnormal breast or cervical cancer screening test result, or has been diagnosed with breast or cervical cancer and is still in need of treatment.

[Source: Added at 22 Ok Reg 400, eff 12-21-04 (emergency); Added at 22 Ok Reg 2409, eff 7-11-05]

310:566-1-5. Coverage for treatment (BCCPTA)

Medicaid shall provide full payment coverage throughout the period of time required for treatment of the individual's breast or cervical cancer. Reimbursement rates for the treatment of breast and cervical cancer will be consistent with established Medicaid rates.

[Source: Added at 22 Ok Reg 400, eff 12-21-04 (emergency); Added at 22 Ok Reg 2409, eff 7-11-05]

310:566-1-6. Loss of eligibility (BCCPTA)

A woman will no longer meet eligibility criteria for this program when her health care provider deems she is cancer free and will not require continued cancer treatment and/or therapy.

[Source: Added at 22 Ok Reg 400, eff 12-21-04 (emergency); Added at 22 Ok Reg 2409, eff 7-11-05]

310:566-1-7. Criteria for certified screening provider

Physicians (M.D., D.O.), advanced practice nurses, physician assistants, and Certified Nurse Midwives who have signed a memorandum of understanding with the Oklahoma Breast and Cervical Cancer Early Detection Program can be a certified provider. The provider in signing the memorandum of understanding certifies that the woman received breast or cervix screening, was found to be in need of treatment, and meets eligibility criteria for referral to the Medicaid Breast and Cervical Cancer Treatment Program. Eligibility criteria includes that the woman is between the ages of 19 and 64, is a US Citizen or qualified alien and a resident of Oklahoma, has an income at or below 185% of the current Federal Poverty Level, has provided a social security number, does not have creditable coverage for breast or cervical cancer treatment, and has an abnormal finding following a breast or cervical cancer screening service. Suspicious findings for breast includes clinical breast exam findings of: palpable breast mass, breast dimpling, nipple retraction, bloody nipple discharge, palpable lymph nodes around clavicle or axilla, nipple erythema and scaliness, a mammography result of BiRads 4 (Suspicious Abnormality suggesting need for biopsy) or 5 (Highly Suggestive of Malignancy) (ICD 793.8), breast biopsy result of Ductal Cancer in situ, Lobular Cancer in situ (ICD 233.0), or breast or lymph node (or other) biopsy result of breast cancer. Suspicion of cervical cancer is a Pap test result of Atypical Squamous Cells (ASC), Atypical glandular cells (AGC), Low-grade squamous intraepithelial lesions (LSIL), or High-grade squamous intraepithelial lesions (HSIL) (ICD 622.1), leukoplakia of the cervix, (ICD 622.2), or cervical biopsy result of Cervical intraepithelial neoplasia II or III, or Cancer in situ (ICD 233.1). Certified screening providers need not be BCCEDP contractors, and will not be reimbursed by the BCCEDP nor by Medicaid for the screening services provided to the woman.

[Source: Added at 22 Ok Reg 400, eff 12-21-04 (emergency); Added at 22 Ok Reg 2409, eff 7-11-05]

SUBCHAPTER 3. SCREENING SERVICE PROVISION

310:566-3-1. Service provision of the Oklahoma Comprehensive Breast and Cervical Cancer Early Detection Program

The Oklahoma Comprehensive Breast and Cervical Cancer Early Detection Program shall include the following key components:

- (1) Program and Fiscal Management will be conducted by ensuring strategic planning, implementation, coordination, integration, and evaluation of all programmatic activities and administrative systems, as well as the development of key communication channels and oversight mechanisms to aid in these processes. Program Management will ensure that infrastructure adequately supports service delivery.

(2) Service Delivery directly provided or provided through contractual arrangements of specific and appropriate clinical procedures to detect breast and/or cervical abnormalities for women enrolled in the Oklahoma Breast and Cervical Cancer Early Detection Program. In the Oklahoma Breast and Cervical Cancer Early Detection Program appropriate clinical screening procedures include clinical breast examinations (CBE), mammograms, screening pelvic exams and pap tests. Appropriate clinical diagnostic procedures include diagnostic mammography, ultrasound of the breast, surgical consultation, biopsy of the cervical or breast, colposcopy of the cervix, and electrical loop excisional biopsies of the cervix. Women should receive patient education directed toward breast self-examination (BSE) and risk reduction.

(3) Referral, Tracking and Follow-up will be conducted utilizing a data system to monitor an enrolled woman's receipt of screening/re-screening, diagnostic, and treatment procedures. The enrolled woman will be notified of the results of the service delivery whether the results are normal, benign, or abnormal. The data system will provide tracking of appropriate and timely clinical services following an abnormal test result and/or diagnosis of cancer. Enrolled women with abnormal Pap smears or breast screening procedures will be provided comprehensive referral directing the woman to appropriate additional diagnostic or treatment services. The comprehensive referral will be written. Follow-up will be conducted to seek information about whether services were timely, completed, or met.

(4) Case Management will be provided and involve establishing, brokering, and sustaining a system of available clinical (screening, diagnostic, and treatment) and essential support services for all Oklahoma Breast and Cervical Cancer Early Detection Program enrolled women, and assisting clients diagnosed with cancer through the Program to obtain needed diagnostic and treatment services.

(5) Quality Assurance and Improvement will be conducted utilizing established standards, systems, policies and procedures to monitor, assess and identify practical methods for improvement of the program and its components. Quality assurance tools will include utilizing FDA and ACR minimum standards for mammography facilities and CLIA minimum standards for cytopathology and pathology laboratories. Quality assurance contributes to the identification of corrective actions to be taken to remedy problems found as a result of investigating quality of care.

(6) Professional Education will be provided through a variety of channels and activities that enable professionals to perform their jobs competently, identify needs and resources, and contribute to ensuring that health care delivery systems provide positive clinical outcomes.

(7) Population Based Public Education and Outreach will be provided that involves the systematic design and delivery of clear

and consistent messages about breast and cervical cancer and the benefits of early detection, using a variety of methods and strategies to reach priority populations. Outreach activities should focus on women who have never been screened or rarely been screened and work toward the removal of barriers to care, i.e.: the need for childcare, respite care, interpreter services and transportation through collaborative activities with other community organizations.

(8) Coalitions and Partnerships will be developed to bring together groups and individuals who establish a reciprocal agreement for sharing resources and responsibilities to achieve the common goal of reducing breast and cervical cancer mortality.

(9) Surveillance will be conducted utilizing continuous, proactive, timely and systematic collection, analysis, interpretation and dissemination of breast and cervical cancer screening behaviors, incidence, prevalence, survival, and mortality of breast and/or cervical cancer. Epidemiological studies will be conducted utilizing Minimum Data Elements and other data sources to establish trends of disease, diagnosis, treatment, and research needs. Program planning, implementation, and evaluation shall be based on the epidemiological evidence.

(10) Evaluation will be conducted through systematic documentation of the operations and outcomes of a program, compared to a set of explicit or implicit standards or objectives. The Oklahoma Breast and Cervical Cancer Prevention and Treatment Advisory Committee shall review the service delivery contractual agreements as to their outcomes. The Oklahoma Breast and Cervical Cancer Prevention and Treatment Advisory Committee shall make recommendations based on the evaluation in its annual report.

[Source: Added at 22 Ok Reg 400, eff 12-21-04 (emergency); Added at 22 Ok Reg 2409, eff 7-11-05]

310:566-3-2. Eligibility criteria for the early detection program

(a) Women who are Oklahoma residents and who meet the following criteria are eligible for breast and cervical cancer early detection services:

(1) Women 19-65 years of age whose incomes are less than 185% of poverty and lack creditable health insurance coverage are eligible with the following criteria.

(2) Women 50-65 years of age will be the priority population to receive annual breast and cervical cancer screening.

(3) Women 40-49 years of age who are symptomatic of breast cancer will receive breast cancer diagnostic work-up and cervical cancer screening if appropriate.

(4) Women 35-65 years of age with an intact cervix who have not had a pap test in 5 or more years will be the priority population to receive cervical cancer screening.

(5) Women 35-65 years of age who have had a hysterectomy due to cervical cancer or pre-cancerous conditions of the cervix may

receive Pap smears.

(6) Women 19-35 years of age will be eligible for cervical cancer screening depending on appointment availability.

(b) All enrolled women will receive annual recall for screening.

(c) Women who have creditable medical insurance, including Medicare Part B and Medicaid shall be referred to their primary care provider or facility for services.

[Source: Added at 22 Ok Reg 400, eff 12-21-04 (emergency); Added at 22 Ok Reg 2409, eff 7-11-05]

310:566-3-3. Criteria for screening services contractors

Criteria for contractors to provide services include the following:

(1) Contractors shall ensure approved services are performed by board certified radiologists, pathologists, GYN physicians, surgeons, and oncologists.

(2) Contractors agree that procedures and services provided shall not exceed the amount that would be paid under Medicare Part B rates of Title XVIII of the Social Security Act.

(3) Mammography contractors shall ensure current FDA certification and ACR accreditation; be Medicare and Medicaid approved facilities; their participating physicians/providers be Medicare and Medicaid approved providers; and their services must be delivered with personnel and equipment in accordance with the Mammography Quality Standards Act.

(4) Mammography facilities shall utilize the Breast Image Reporting and Data System (BIRADS) and follow the ACR guidelines for mammography report content.

(5) A board certified radiologist must be immediately available to determine selection of views, and readings when a diagnostic mammogram is performed.

(6) Cytology and pathology specimens obtained shall be submitted to a CLIA approved laboratory for processing. The laboratory will provide cytological reading and analysis of cervical and vaginal Pap smears by Certified/Registered Cytotechnologists. And cytology (Pap) smears will be reported using the current Bethesda classification system. The laboratory will provide board certified pathologists or experienced certified cytotechnologists to re-screen all Pap smears with specified abnormal diagnosis. The Laboratory will provide surgical pathology analyses and readings of cervical and breast biopsies.

(7) Contract physicians shall practice according to the current standards of medical care for breast and cervical cancer early detection, diagnosis and treatment.

(8) Service delivery can be provided by a variety of settings.

Service delivery must include:

(A) Providing screening services for a specific geographic area.

(B) Providing a point of contact for scheduling appointments.

(C) Providing age and income eligibility screening.

- (D) Providing comprehensive breast and cervical cancer screening to eligible women.
- (E) Providing referral and follow-up for women with abnormal screening results.
- (F) Providing required reporting system for screening and follow-up activities.
- (G) Providing population based education, out-reach, and recruitment activities.

[**Source:** Added at 22 Ok Reg 400, eff 12-21-04 (emergency); Added at 22 Ok Reg 2409, eff 7-11-05]

CHAPTER 567. STATE CENTRAL CANCER REGISTRY

[Authority: 63 O.S., §§ 1-104, 1-551.1, 1-552, and 550.5]

[Source: Codified 6-12-95]

SUBCHAPTER 1. GENERAL PROVISIONS

310:567-1-1. Purpose

This Chapter implements 63 O.S. 1991 §1-551.1 and 1-552 by establishing the State Central Cancer Registry and rules which govern the maintenance of an up-to-date, population based cancer registry. In addition, this Chapter provides rules which ensure an accurate, timely, complete and continuing source of data concerning cancerous, precancerous and tumorous diseases and protects the identity of patients and physicians.

[Source: Added at 11 Ok Reg 3959, eff 6-21-94 (emergency); Added at 12 Ok Reg 1691, eff 6-12-95 ; Amended at 14 Ok Reg 250, eff 11-5-96 through 7-14-97 (emergency); Amended at 14 Ok Reg 3138, eff 7-25-97]

310:567-1-2. Definitions

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

"Cancer diseases" means a general term frequently used to indicate any of various types of malignant neoplasms, most of which invade surrounding tissues, may metastasize to several sites, and are likely to recur after attempted removal and to cause death of the patient unless adequately treated; especially, any such carcinoma or sarcoma, but in ordinary usage, especially the former.

"Clinic" means any licensed facility serving persons on an out-patient basis which provides diagnostic and/or treatment of cancerous diseases and precancerous conditions.

"Commissioner" means the Oklahoma Commissioner of Health.

"Department" means the Oklahoma State Department of Health.

"Dentist" means a person trained in the diagnosis, treatment and prevention of diseases of the teeth and related structures of the oral cavity who is licensed by the Board of Governors Registered Dentists State of Oklahoma and qualified to practice dentistry.

"Diagnostic services" means any service which entails the diagnosis of a cancerous disease or precancerous condition, including such services as those provided by Oncologists, Pathologists, Radiologists, and surgeons.

"Facility" means any licensed or certified medical facility or establishment which provides diagnostic and/or treatment services for cancerous diseases and precancerous conditions.

"Histology" means the microscopic description of the type of cells in the specimen examined pathologically. The components of the histology include but are not limited to: Morphology, Behavior, and Grade.

"Hospital" means any medical facility licensed by the state to provide medical care on an in-patient or out-patient basis for the diseases of cancer, for precancerous conditions, or for early detection services related to the detection and treatment of cancerous and precancerous conditions.

"Hospital identifier" means a unique code assigned to each hospital in the state which serves to uniquely identify each hospital in the State Central Cancer Registry, to assure the proper assignment of cancer data to the correct hospital.

"In situ" means local within the original place, or a growth of abnormal cells which is detected in its anatomic site of origin.

"Laboratory" means any accredited or certified laboratory which provides cytopathology services for defining the degree of abnormality of cells related to both cancerous and precancerous conditions.

"Pathologist" means any person who is licensed by the State and has board certification to perform pathology and performs the scientific study of the nature of disease, its causes, processes, development, and consequences. This includes the study of the anatomic or functional manifestations of cancerous disease and precancerous conditions.

"Pathology laboratory identifier" means a unique code assigned to an approved medical laboratory which provides cytopathology services for defining the behavior and degree of abnormality of a patient's laboratory specimen.

"Physician" means any person who has completed a course of medical training, has received a degree and is licensed by the Oklahoma State Board of Medical Licensure or the Oklahoma Osteopathic Board of Examiners to practice medicine.

"Precancerous condition" means exhibiting a likelihood of becoming cancerous.

"Registry" means a computerized system for collecting and compiling cancer data in a standard format, with the functional ability to merge data from various sources and perform correlations between a variety of data elements within the system. The Registry is also designed to produce summary reports and statistical analysis reports of the data contained in the Registry.

"Stage of disease" means terms frequently used to describe stage of disease: localized (if limited to the primary site), regional (if the disease has spread to adjacent organs or tissues and/or regional lymph nodes), and distant (if the cancer has spread to distant organs or nodes.)

"TNM" means the summary stage of a tumor, "T" meaning tumor, "N" meaning nodes and "M" meaning metastasis.

"Treatment services" means any type of treatment delivery for cancerous disease or precancerous conditions, performed in a medical facility on an out-patient or in-patient basis.

"Tumorous" means a circumscribed, non-inflammatory growth arising from existing tissue but growing independently of the normal rate or structural development of such tissue and serving no physiological function.

SUBCHAPTER 3. REPORTING

310:567-3-1. Reporting requirements

All hospitals, clinics, laboratories, pathologists, physicians, or dentists, or facilities providing diagnostic or treatment services in relation to cancer disease or precancerous conditions, shall report in an approved electronic format to the Oklahoma Central Cancer Registry the twenty-two cancer minimum data elements for the purpose of maintaining a statewide, population-based cancer data base. Such information shall include, at a minimum, the following elements:

- (1) Patient's name, address, age, race, sex, social security number, hospital identifier or pathology laboratory identifier, or any other identifier for facilities providing diagnostic or treatment services for cancerous and precancerous conditions.
- (2) Patient's residential, family, environmental, occupational, lifestyle risk factors, exposure to Agent Orange and medical histories.
- (3) Physician's name, diagnosis, stage of disease, histology TNM, method of treatment, and name and address of any facility providing diagnostic or treatment services.
- (4) Cancer identification of tumor site, laterality, type and behavior, grade, and diagnostic confirmation
- (5) First course and subsequent courses of treatment, recurrence, continuous follow-up and death.

[Source: Added at 11 Ok Reg 3959, eff 6-21-94 (emergency); Added at 12 Ok Reg 1691, eff 6-12-95 ; Amended at 14 Ok Reg 250, eff 11-5-96 through 7-14-97 (emergency); Amended at 14 Ok Reg 3138, eff 7-25-97 ; Amended at 36 Ok Reg 1709, eff 9-13-19]

310:567-3-2. Diseases to be reported

All types of cancer will be considered as reportable disease. This will include all in situ, nonmalignant central nervous system tumors and the following precancerous cases:

- (1) Intraepithelial neoplasia III of vulva, vagina, anus and larynx;
- (2) Squamous intraepithelial neoplasia III except of cervix and skin.

[Source: Added at 11 Ok Reg 3959, eff 6-21-94 (emergency); Added at 12 Ok Reg 1691, eff 6-12-95 ; Amended at 24 Ok Reg 1990, eff 6-25-07 ; Amended at 36 Ok Reg 1709, eff 9-13-19]

310:567-3-3. Methods of reporting

- (a) The reporting of cancer may be done through automated hospital tumor registries.
- (b) If the hospital does not have an automated cancer registry, cancer cases are to be reported manually in the form of case abstracts.
- (c) If a biopsy was performed as an out-patient procedure, the pathology laboratory shall report any cases of cancer, or conditions defined in 310:567-3-2.

(d) By January 1, 1997, all Oklahoma reporting sources shall be initiated. The Oklahoma Central Cancer Registry reference date is January 1, 1997.

(e) All hospitals, clinics, laboratories, pathologists, physicians or dentists, or all facilities providing diagnostic or treatment services in relation to cancer diseases or precancerous conditions, shall report:

(1) all cancer within 180 days of diagnosis or treatment

(2) and all cancers occurring in patients under 20 years of age within 30 days of diagnosis or treatment.

(f) All hospitals, clinics, laboratories, pathologists, physicians or dentists, or all facilities providing diagnostic or treatment services in relation to cancer diseases or precancerous conditions, shall have capability to perform quality edits so that all cancer data reported to the Oklahoma Central Cancer Registry meets the 100% accuracy standard.

[Source: Added at 11 Ok Reg 3959, eff 6-21-94 (emergency); Added at 12 Ok Reg 1691, eff 6-12-95 ; Amended at 14 Ok Reg 250, eff 11-5-96 through 7-14-97 (emergency); Amended at 14 Ok Reg 3138, eff 7-25-97 ; Amended at 36 Ok Reg 1709, eff 9-13-19 ; Amended at 38 Ok Reg 2049, eff 9-11-21]

SUBCHAPTER 5. CONFIDENTIALITY AND USE OF DATA

310:567-5-1. Confidentiality of registry data

In accordance with 63 O.S. Section 1-551.1(D), the Commissioner has a duty to protect the identity of patients and physicians involved in any report for the State Cancer Registry. The Commissioner also has the authority to determine if a legitimate research activity allows for access to confidential patient information by satisfying 63 O.S. Section 1-551.1(D)(1).

[Source: Added at 11 Ok Reg 3959, eff 6-21-94 (emergency); Added at 12 Ok Reg 1691, eff 6-12-95 ; Amended at 38 Ok Reg 2049, eff 9-11-21]

310:567-5-3. Reciprocity agreements with other registries

(a) In accordance with 63 O.S. Section 1-551.1(D)(3), the Commissioner may enter into reciprocity agreements with other governmental cancer registries for the purpose of sharing of cancer data.

(b) Shared cancer data cannot be used for any purpose other than non-confidential summary statistics of cancer, or related purposes, without a separate agreement of confidentiality.

[Source: Added at 11 Ok Reg 3959, eff 6-21-94 (emergency); Added at 12 Ok Reg 1691, eff 6-12-95 ; Amended at 38 Ok Reg 2049, eff 9-11-21]

310:567-5-4. Cancer control, intervention, and special studies

(a) The Department may make such investigations concerning cancer, the treatment of this disease or impairments and the mortality resulting from them. The results of these investigations may be utilized in concert with communities, counties, or statewide groups to assist in planning, implementation, or evaluation efforts to reduce cancer morbidity or

mortality.

(b) The Department may utilize central cancer registry data of non-confidential nature to conduct epidemiological surveys, correlation's between relative survival rates and stage of disease at diagnosis, efficacy of treatment modalities for various types of cancer at various stages of disease, lifestyle factors and other known risks of exposure to chemical agents and physical factors which may initiate or promote the uncontrolled growth of abnormal cells.

[**Source:** Added at 11 Ok Reg 3959, eff 6-21-94 (emergency); Added at 12 Ok Reg 1691, eff 6-12-95 ; Amended at 14 Ok Reg 3138, eff 7-25-97]

CHAPTER 570. TRAUMA FACILITY RULES [REVOKED]

[Authority: 63 O.S., §§ 1-104 and 330.90 et seq.]
[Source: Codified 7-13-98]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:570-1-1. Purpose [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-2. Definitions [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-3. Prohibition of the use of terms [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-4. Trauma facility levels [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-5. Application for recognition [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-6. Facility recognition fees [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-7. Application requirements [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-8. Description of application forms [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-9. Application evaluation [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-10. On-site review for initial recognition [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-11. Site survey teams [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-12. Site survey team duties [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-13. Trauma facility recognition [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-14. Authorization [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-15. Complaints [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-16. Denial, revocation or suspension of recognition [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-17. Change in trauma facility recognition status [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-1-18. Trauma registry [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

SUBCHAPTER 3. LEVEL I TRAUMA FACILITIES [REVOKED]

310:570-3-1. Level I trauma facility [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-2. Trauma service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-3. Clinical services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-4. Emergency department [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-5. Operating suite [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-6. Recovery room [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-7. Intensive care unit [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-8. Support services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-9. Burn care [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-10. Spinal cord and head injury services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-11. Radiology [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-12. Rehabilitation service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-13. Clinical laboratory service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-14. Quality improvement [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-15. Outreach program [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-16. Prevention and education programs [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-17. Continuing education [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-18. Transfer capacity [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-3-19. Research program [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

SUBCHAPTER 5. LEVEL II TRAUMA FACILITY [REVOKED]

310:570-5-1. Level II trauma facility [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-5-2. Exceptions [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

SUBCHAPTER 7. LEVEL III TRAUMA FACILITY [REVOKED]

310:570-7-1. Level III trauma facility [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-2. Trauma service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-3. Clinical services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-4. Emergency department [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-5. Operating suite [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-6. Recovery room [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-7. Intensive care unit [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-8. Support services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-9. Burn care [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-10. Spinal cord and head injury services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-11. Radiology [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-12. Rehabilitation service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-13. Clinical Laboratory [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-14. Quality improvement [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-15. Outreach program [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-16. Prevention and education programs [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-17. Continuing education [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-18. Transfer capacity [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-7-19. Research program [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

SUBCHAPTER 9. LEVEL IV TRAUMA FACILITIES [REVOKED]

310:570-9-1. Level IV trauma facilities [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-2. Trauma service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-3. Clinical services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-4. Emergency department [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-5. Operating suite [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-6. Recovery room [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-7. Intensive care unit [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-8. Support services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-9. Burn care [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-10. Spinal cord and head injury services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-11. Radiology [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-12. Rehabilitation services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-13. Clinical laboratory services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-14. Quality improvement [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-15. Outreach program [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-16. Prevention and education programs [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-17. Continuing education [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-18. Transfer capacity [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-19. Research program [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-9-20. Physician extenders [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

SUBCHAPTER 11. ADULT AND PEDIATRIC TRAUMA FACILITY [REVOKED]

310:570-11-1. Adult and pediatric trauma facility [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-2. Pediatric trauma service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-3. Clinical services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-4. Emergency department [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-5. Operating suite [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-6. Recovery room [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-7. Intensive care [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-8. Support services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-9. Burn care [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-10. Spinal cord and head injury services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-11. Radiology [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-12. Rehabilitation services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-13. Clinical laboratory service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-14. Quality improvement [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-15. Outreach program [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-16. Prevention and education programs [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-17. Continuing education [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-11-18. Transfer capacity [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

SUBCHAPTER 13. PEDIATRIC TRAUMA FACILITY [REVOKED]

310:570-13-1. Pediatric trauma facility [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-2. Pediatric trauma service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-3. Clinical services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-4. Emergency department [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-5. Operating suite [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-6. Recovery room [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-7. Intensive care unit [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-8. Support services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-9. Burn care [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-10. Spinal cord and head injury services [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-11. Radiology [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-12. Rehabilitation service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-13. Clinical laboratory service [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-14. Quality improvement [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-15. Outreach program [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-16. Prevention and education programs [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-17. Continuing education [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

310:570-13-18. Transfer capacity [REVOKED]

[Source: Added at 15 Ok Reg 3158, eff 7-13-98 ; Revoked at 18 Ok Reg 2479, eff 6-25-01]

CHAPTER 590. DIABETES SUPPLIES, EQUIPMENT, AND EDUCATION COVERED BY INSURANCE

[Authority: 36 O.S., § 6060.2]

[Source: Codified 7-25-97]

SUBCHAPTER 1. GENERAL PROVISIONS

310:590-1-1. Purpose

This Chapter implements O.S.L. 1996, Chapter 125 that establishes that certain equipment, supplies, services, and self-management skills training as treatment for type I, type II, and gestational diabetes shall, subject to the terms of policy, contract, or agreement (ie, "approved HMO physicians, approved medical equipment and supplies providers, etc" subject to the terms of the policy, contract, or agreement" does not mean that an individual or group health insurance policy defined in the enabling statute can escape the requirements of the statute or these rules by resort to the terms of the policy, contract or agreement), be covered by any individual or group health insurance policy as defined by statute.

[Source: Added at 14 Ok Reg 943, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3140, eff 7-25-97]

310:590-1-2. Definitions

When used in this Chapter the following words or terms shall have the following meaning unless the context of the sentence requires another meaning.

"Board" means the Oklahoma State Board of Health.

"Certified health professional" means a certified diabetes educator or a certified health education specialist who has 1.) completed a course of education and training 2.) passed a national examination; and, 3.) achieved certification from a national certifying organization recognized by the United States Department of Health and Human Services. The certified diabetes educator has mastered a core of knowledge and skill in the biological and social sciences, communication, counseling, and education, and has experience in the education of patients with diabetes.

"Commissioner" means the Oklahoma Commissioner of Health.

"Eye physician" means licensed ophthalmologist or optometrist.

"Diabetes" means diabetes mellitus a common chronic, serious systemic disorder of energy metabolism that includes a heterogeneous group of metabolic disorders that can be characterized by an elevated blood glucose level. The terms diabetes and diabetes mellitus are considered synonymous and defined to include persons using insulin, persons not using insulin, individuals with elevated blood glucose levels induced by pregnancy, or persons with other medical conditions or medical therapies which wholly or partially consist of elevated blood glucose levels.

"Diabetes self-management training" means *instruction provided in an inpatient or outpatient setting which enables diabetic patients to understand the diabetic management process and daily management of diabetic therapy as a method of avoiding frequent hospitalizations and complications* (O.S.L. 1996, Chapter 125, Section 1 (A)(3)(b)). The diabetes self-management process includes daily and life-long skills, problem-solving strategies, and lifestyle changes to effectively delay or prevent both acute and chronic complications.

"FDA" means the United States Food and Drug Administration.

"Licensed health care provider who can prescribe" means *any person authorized by the state law to so prescribe and who is currently licensed by the respective state licensing authority.* (59 O.S. 1991, § 353.1)

"Licensed health care provider" means any person who is the holder of a current license or certification issued pursuant to the laws of this state authorizing such person to practice as a:

- (A) licensed medical doctor, osteopathic physician, podiatric physician or physician assistant pursuant to the Oklahoma Medical Practice Act, Oklahoma Osteopathic Practice Act, or the Oklahoma Podiatry Act;
- (B) registered nurse licensed pursuant to the Oklahoma Nursing Practice Act;
- (C) registered dietitian licensed pursuant to the provisions of the Licensed Dietitian Act;
- (D) registered pharmacist licensed pursuant to the Oklahoma Pharmacy Act;

"Medical equipment" means non-disposable/durable equipment used to treat diabetes.

"Medical nutrition therapy" means the assessment of patient nutritional status followed by therapy including diet modification, planning and counseling services which are furnished by a registered licensed dietitian.

"Medical supplies" means disposable supplies used to treat diabetes.

"Prescription" means and includes *any order for drug or medical supplies written or signed or transmitted by word of mouth, telephone or other means of communication by a legally competent practitioner with prescribing authority, licensed by law to prescribe such drugs and medical supplies intended to be filled, compounded, or dispensed by a registered pharmacist.* (59 O.S. 1991, § 353.1)

"Prescription drug" means a *drug which, under federal law, is required prior to being dispensed or delivered, to be labeled with the following statement, "Caution: Federal law prohibits dispensing without prescription," or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.* (59 O.S. 1991, § 353.1)

[Source: Added at 14 Ok Reg 943, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3140, eff 7-25-97]

310:590-1-3. Qualifications

A licensed health care provider qualified for conducting diabetes self-management training shall have recent didactic and clinical continuing education on diabetes management and shall be able to demonstrate expertise in diabetes education principles and behavioral strategies. Certified Diabetes Educator status meets all of these standards.

[Source: Added at 14 Ok Reg 943, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3140, eff 7-25-97]

310:590-1-4. Enforcement

Any complaints against a health maintenance organization shall be submitted to the Oklahoma State Department of Health. Any complaints against other insurance plans shall be submitted to the Oklahoma Insurance Commissioner.

[Source: Added at 14 Ok Reg 943, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3140, eff 7-25-97]

SUBCHAPTER 3. SERVICE PROVISIONS

310:590-3-1. Equipment, supplies, and appliances to treat diabetes

When deemed medically necessary and upon prescription or diagnosis by a physician or health care provider with prescribing authority working under the supervision of a physician, all individual or group health insurance defined by statute and or governed by the Oklahoma Insurance Commissioner or other appropriate statutory state agency as defined by statute must reimburse/cover the following equipment, appliances, insulin, prescriptions, drugs, and supplies:

- (1) Blood glucose monitors, which includes all commercially available blood glucose monitors designed for patient use and for persons who have been diagnosed with diabetes.
- (2) Blood glucose monitors to the legally blind which includes all commercially available blood glucose monitors designed for patient use with adaptive devices and for persons who are legally blind and have been diagnosed with diabetes.
- (3) Test strips for glucose monitors, which includes test strips whose performance shall achieve the standards of the American College of Pathology, glucose control solutions, lancet devices and lancets for monitoring glycemic control.
- (4) Visual reading and urine testing strips, which includes visual reading strips for glucose, urine testing strips for ketones, or urine test strips for both glucose and ketone. Urine test strips for glucose only are not acceptable as the sole method of monitoring.
- (5) Insulin, which includes all commercially available insulin preparations including insulin analog preparations available in either vial or cartridge.

- (6) Injection aids, which includes devices used to assist with insulin injection.
- (7) Syringes, which includes insulin syringes, pens-like insulin injection devices, pen needles for pen-like insulin injection devices and other disposable parts required for insulin injection aids.
- (8) Insulin pumps as prescribed by the physician and appurtenances thereto, which includes insulin infusion pumps and supplies such as skin preparations, adhesive supplies, infusion sets, cartridges, batteries and other disposable supplies needed to maintain insulin pump therapy. Includes durable and disposable devices used to assist in the injection of insulin.
- (9) Oral agents for controlling the blood sugar level which are prescription drugs.
- (10) Podiatric appliances for prevention of complications associated with diabetes, which includes therapeutic molded or depth-inlay shoes, replacement inserts, preventive devices, and shoe modifications for prevention and treatment.
- (11) Glucagon Emergency Kits or injectable glucagon.

[Source: Added at 14 Ok Reg 943, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3140, eff 7-25-97]

310:590-3-2. Related provider services

When deemed medically necessary and upon prescription or diagnosis by a physician or health care provider with prescribing authority working under the supervision of a physician, all individual or group health insurance defined by statute and or governed by the Oklahoma Insurance Commissioner or other appropriate statutory state agency as defined by statute shall reimburse/cover the following related provider services:

- (1) insulin and prescription drugs including oral-glucose lowering agents, antihypertensive and lipid lowering agents and other medications for delaying or preventing both acute and chronic complications;
- (2) medical nutrition therapy recommendations and instructions by a registered, licensed dietitian;
- (3) self-glucose monitoring instruction by a licensed, registered health care professional;
- (4) foot examination annually;
- (5) annual screening dilated eye examinations by an eye physician for persons with diabetes;
- (6) glycohemoglobin determination done as frequently as necessary to assess and achieve near normal glycemia;
- (7) recommendations for appropriate life-style changes including smoking cessation, exercise, and stress management;
- (8) lipid profile upon diagnosis for adults and annually thereafter. If lipid profile is abnormal and the person with diabetes is on a lipid lowering therapy, a lipid profile shall be done as frequently as necessary to assess and achieve the desired lipid level. Children shall have a lipid profile once glucose control has been

established; and
(9) screening microalbumin annually.

[Source: Added at 14 Ok Reg 943, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3140, eff 7-25-97]

310:590-3-3. Podiatric health care provider services

When determined as medically necessary for the prevention of lower extremity complications and upon referral by a physician, all individual or group health insurance defined by statute shall reimburse/cover as defined by statute the following, but not limited to, podiatric health care provider services:

- (1) fitting of therapeutic molded or depth-inlay shoes, replacement inserts, preventive devices, and shoe modifications;
- (2) callus and nail trimming;
- (3) complex evaluation of sensory loss; and
- (4) treatment of ulcer with total contact casting.

[Source: Added at 14 Ok Reg 943, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3140, eff 7-25-97]

310:590-3-4. Diabetes self-management training

(a) When deemed medically necessary and prescribed by a physician or health care provider with prescribing authority working under the supervision of a physician diabetes self-management training shall be covered by individual and group health insurance policies as defined by statute.

(b) The diabetes self-management training process shall comply with the standards as defined in this chapter and documentation shall be issued upon successful completion of the training by the licensed health care provider/diabetes educator.

(c) Individual and group insurance policies as defined by statute shall provide coverage for medical nutrition therapy relating to diet, caloric intake, and diabetes management, but shall exclude programs whose only purpose is weight reduction.

(d) The diabetes self-management training process may be conducted, but not limited to settings such as in-patient, out-patient, office, community, or home and as individual or group sessions.

(e) Diabetes self-management training visits shall include, but not limited to:

- (1) the diagnosis of diabetes;
- (2) a significant change in the patient's diabetes symptoms or condition; or
- (3) re-education or refresher training.

[Source: Added at 14 Ok Reg 943, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3140, eff 7-25-97]

310:590-3-5. Standards for diabetes self-management training

When deemed medically necessary and prescribed by a physician or health care provider with prescribing authority working under the

supervision of a physician diabetes self-management training shall be covered by individual and group health insurance policies as defined by statute. The diabetes education process for self-management training shall include the following standards.

(1) **Needs assessment.** The licensed health care provider/diabetes educator shall conduct an individualized educational needs assessment with the participation of the patient, family or support systems to be used in the development of the educational plan and interventions. The educational needs assessment shall include, but is not limited to the following:

- (A) Health history;
- (B) Medical history;
- (C) Previous use of medication;
- (D) Diet history;
- (E) Current mental health status;
- (F) Use of health care delivery system;
- (G) Life-style practices such as occupation, education, financial status, social, cultural, religious practices, preventive behaviors;
- (H) Physical and psychological factors including age, mobility, visual acuity, hearing acuity, manual dexterity, alertness, attention span, and ability to concentrate;
- (I) Barriers to learning such as education, literacy level, perceived learning needs, motivation to learn, and attitude;
- (J) Family and social support; and
- (K) Previous diabetes education, including actual knowledge and skills.

(2) **Education plan.** The licensed health care provider/diabetes educator shall develop a written education plan from information obtained in the needs assessment and that includes the following:

- (A) Desired patient outcomes;
- (B) Measurable, behaviorally stated learner objectives; and
- (C) Instructional methods.

(3) **Education intervention.** The licensed health care provider/diabetes educator shall create an educational setting conducive to learning with adequate resources such as space, teaching and audio-visual aids to facilitate the educational process and use a planned content outline. The content outline shall be provided based on the needs assessment:

- (A) Diabetes pathophysiology;
- (B) Stress and psychological adjustment;
- (C) Family involvement in disease management;
- (D) Medical nutrition therapy;
- (E) Exercise and physical activity;
- (F) Medications;
- (G) Blood glucose monitoring and use of results;
- (H) Diabetes management which is the relationship between nutrition, exercise, medication, and blood glucose levels;

- (I) Prevention, detection and treatment of acute complications;
- (J) Prevention, detection and treatment of chronic complications;
- (K) Foot, skin, and dental care;
- (L) Behavior change strategies, goal setting, risk factor reduction, and problem solving;
- (M) Benefits, risks, and management options for improving glucose control;
- (N) Uses of health care systems and community resources; and
- (O) Preconception care, pregnancy and gestational diabetes.

(4) **Evaluation of learner outcomes.** The licensed health care provider/diabetes educator shall review and evaluate the degree to which the person with diabetes is able to demonstrate diabetes self-management skills as identified by behavioral objectives.

(5) **Plan for follow-up for continuing learning needs.** The licensed health care provider/diabetes educator shall review the educational plan and recommend any additional educational interventions to meet continuing learning needs.

(6) **Documentation.** The licensed health care provider/diabetes educator shall completely and accurately document the educational experiences provided.

[Source: Added at 14 Ok Reg 943, eff 1-8-97 through 7-14-97 (emergency); Added at 14 Ok Reg 3140, eff 7-25-97]

CHAPTER 599. ZOONOTIC DISEASE CONTROL

[Authority: 63 O.S., § 1-508]

[Source: Codified 6-11-98]

SUBCHAPTER 1. GENERAL PROVISIONS

310:599-1-1. Purpose

Pursuant to the authority contained in 63 O.S. 1991, Section 1-508 et seq., the purpose of these sections is to protect the public health by establishing uniform rules for the prevention and control of zoonotic diseases in the state of Oklahoma.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98]

310:599-1-2. Definitions

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

"**10 day**" means a minimum of 240 hours.

"**30 day**" means a minimum of 720 hours.

"**Animal**" means any warm-blooded mammal.

"**Booster Vaccination**" means for the purposes of rabies control, a booster vaccine is a United States Department of Agriculture (USDA)-licensed rabies vaccine for a designated species that follows a primary dose of a USDA-licensed rabies vaccine given by or under the supervision of a licensed veterinarian.

"**Cat**" means any *Felis catus*.

"**Currently vaccinated**" means properly immunized by or under the supervision of a licensed veterinarian with an antirabies vaccine licensed and approved by the USDA for use in that animal species, or meeting conditions specified in OAC 310:599-3-8. Vaccine must have been given at appropriate time interval(s) for the age of the animal and type of vaccine administered. Within 28 days after initial vaccination, a peak rabies antibody titer is expected, and the animal is considered immunized. Regardless of the age of the animal at initial vaccination, a booster vaccination should be administered one year later, then at appropriate time intervals based on the type of vaccine administered.

"**Department**" means the Oklahoma State Department of Health.

"**Department designee**" means an employee of the Oklahoma State Department of Health, or a county health department, who is acting within their scope of rabies control authority designated through the Commissioner of Health.

"**Dog**" means any *Canis familiaris*, excluding hybrids.

"**Domestic animal**" means a companion animal including dogs, cats, and ferrets; an equine animal; or a livestock animal.

"**Euthanize**" means the humane killing of an animal generally performed by a veterinarian, or personnel at an animal control facility under the indirect supervision of a veterinarian.

"Exposure to rabies" means a bite or introduction of saliva or neural tissue into open cuts in skin, or onto mucous membranes by an animal confirmed or suspected of being infected with rabies.

"Ferret" means any *Mustela putorius furo*.

"First party ownership" means a situation where the owner of a biting animal is directly related to the bite victim, that is parent-child, sibling-sibling, grandparent-child; or when the legal residence of the animal owner and the bite victim are the same.

"Home quarantine" means confinement and observation of an animal allowed at the animal owner's property for a specified time period, where one of the following acceptable methods of confinement for a dog are used: (a) complete indoor housing, (b) caging or kenneling in an enclosure with a securely latched door, or (c) yard confinement with perimeter fencing that the dog is unable to climb over or dig under. Acceptable methods of confinement for a cat or ferret are: (a) complete indoor housing, or (b) caging in an enclosure that prevents escape. The animal's needs for ambient temperature control, water, nutrition, elimination, and space to comfortably stand up and lie down must be adequately provided by the selected confinement method. Should the animal exhibit neurologic signs, die, or disappear during the specified period, an Oklahoma licensed veterinarian and the Department shall be immediately notified.

"Hybrid" means an offspring of wild animals crossbred to domestic dogs or cats; considered to be wild animals in the enforcement of OAC 310:599.

"Quarantine" means physical confinement of an animal during a specified time period when the animal is monitored for the development of disease. During this time period, the animal is prevented from having contact with other animals, and human contact is limited to as few caretakers as possible.

"Rabies" means an acute disease of humans and warm-blooded mammals caused by the rabies virus (genus *Lyssavirus*) that affects the central nervous system and is almost always fatal.

"Recognized animal control facility" means any facility operating for the purpose of stray animal control and/or animal welfare that is under contract or letter of agreement which identifies a licensed veterinarian responsible for animal quarantines.

"Recognized zoological park" means any member of the American Association of Zoological Parks.

"Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery. [4 O.S. Supp. 1991, § 44 (3)]

"Wild animal" means an animal considered as wildlife; any animal not normally adapted to live in intimate association with humans nor raised for consumption by humans.

"Zoonotic disease" means a disease that is transmissible from animals to humans under natural conditions.

310:599-1-3. Disposal of remains of a disease suspect animal

When a veterinarian provides the service of head removal and preparation of any animal specimen for testing of a zoonotic disease regulated under this chapter, it shall be the responsibility of the veterinarian to properly dispose of the body remains of the disease suspect animal in a manner that will prevent any potential future exposure by any person or other animal to that animal's tissues. The veterinarian is entitled to charge and collect the usual and customary fees for the disposal service.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98]

310:599-1-4. Responsibility for costs incurred

Payment of fees incurred for daily boarding, euthanasia, preparation and transport of specimens for laboratory testing, or any other costs incurred to comply with Chapter 310:599 shall be the responsibility of the person or entity owning, keeping, or harboring the animal. If the animal is a stray or wild animal without a custodian, the bite victim or their legal guardian, shall be responsible for payment.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98]

310:599-1-5. Verifiable rabies vaccination

The following are methods of confirmation for verifiable rabies vaccination. A verifiable rabies vaccination means that the custodian has one of the following to confirm that the animal(s) in question has been administered a rabies vaccination as specified in OAC 310:599-3-8.

(1) Provide a NASPHV Form 51 or equivalent issued for each animal rabies vaccine by the veterinarian responsible for administration of the vaccine and which contains the following information:

- (A) Animal custodian's name, address and telephone number;
- (B) Animal identification: species, sex (including neutered status, if applicable), approximate age, size (pounds), predominate breed and colors;
- (C) Vaccine used-product name, manufacturer, and serial number;
- (D) Date vaccinated;
- (E) Revaccination due date;
- (F) Rabies tag number (if a tag is issued);
- (G) Veterinarian's signature, signature stamp or computerized signature, including address, contact number, and license number.
- (H) The custodian shall retain each rabies vaccination certificate until the animal receives a subsequent booster and shall produce the certificate upon request by any public health official, animal control, law enforcement, or peace officer when the request is part of the requester's official duty.

(2) Animal custodian provides direct contact information for the licensed veterinarian administering the rabies vaccination including, but not limited to, veterinarian's telephone contact information. The licensed veterinarian must be able to provide the NASPHV Form 51 or equivalent for each animal in question.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 3. RABIES CONTROL

310:599-3-1. Management of dogs, cats, or ferrets that bite a person

(a) Any person or entity owning, harboring, or keeping a dog, cat or ferret which in the preceding ten (10) days has bitten any person, shall upon receipt of written notice by the local animal control authority or Department designee, place such animal in quarantine under the supervision of a licensed veterinarian for a period of ten (10) days from the date the person was bitten. The impoundment and observation of the dog, cat, or ferret shall be conducted at the veterinarian's facility, or a recognized animal control facility. Unvaccinated animals shall be vaccinated against rabies on the final day of the ten (10) day observation period prior to discharge from the veterinarian's supervision.

(b) Exceptions to this rule include the following circumstances:

(1) Dogs, cats, or ferrets involved in a first party ownership may be allowed to be placed in a home quarantine for a ten (10) day period immediately following the bite.

(2) Dogs, cats, and ferrets meeting the criteria of currently vaccinated against rabies, and not inflicting a severe injury, shall be placed in a home quarantine until the end of a ten (10) day period from the bite. In some instances, a certification of animal health obtained after examination by a licensed veterinarian on the tenth day may be required by the Department or local animal control authority.

(3) Animals in service to the blind or hearing-impaired, and search and rescue dogs or other animals used for police enforcement duties shall be exempt from the quarantine when a bite exposure occurs and verifiable rabies vaccination is presented. A certification of animal health obtained after examination by a licensed veterinarian at the end of ten (10) days may be required by the Department.

(4) Stray or unwanted dogs, cats, or ferrets that have bitten any person may either be quarantined for ten (10) days at a veterinary facility or a recognized animal control facility; or immediately euthanized and the brain, including brainstem, submitted to the Oklahoma State Department of Health designated rabies testing facility for rabies testing. If the animal is quarantined and not euthanized, upon successful completion of the ten (10) day period a stray animal may be placed for adoption at the discretion of the animal control authority.

- (5) Dogs, cats, and ferrets that bite a veterinarian or staff member under their supervision during a routine examination or elective procedure may be considered eligible for home quarantine if the bite victim and owner agree the animal will be examined by a licensed veterinarian at the end of the ten (10) day period from the bite to confirm the animal's health status.
- (6) In rare instances, other good and valid health reasons of the owner or animal may be considered for justification to home quarantine (e.g., a bitch with a litter of very young puppies, an animal with a contagious disease, etc.). Approval for home quarantine will be determined by the Department or its designee.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98 ; Amended at 17 Ok Reg 2945, eff 7-13-00 ; Amended at 34 Ok Reg 1290, eff 10-1-17 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:599-3-2. Supervising veterinarian's responsibility

It shall be the duty of the veterinarian in whose supervision the dog, cat, or ferret is placed to keep the animal isolated and secured in a separate cage or kennel and under observation for any symptoms of rabies. The veterinarian shall report immediately to the Department designee any changes occurring in the condition of the dog, cat, or ferret. In the event the animal being observed dies, or develops rabies-like symptoms within the specified period of confinement, the head of the animal shall be removed immediately to preserve the brain, including brainstem, for rabies testing and packed in a shipping container in accordance with instructions published on the rabies laboratory form and submitted to the Oklahoma State Department of Health designated rabies testing facility.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98 ; Amended at 34 Ok Reg 1290, eff 10-1-17 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:599-3-3. Severe bite wounds inflicted

In special circumstances involving a bite to any person, the Commissioner of Health, or a specifically designated representative, may require the immediate euthanasia of a specified animal for the performance of rabies diagnostics. "Special circumstances" refers to multiple and severe bite wounds, or deep punctures or lacerations to the face, head, or neck. Such requirement for euthanasia will be made following investigation of the bite report by the Department designee.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98]

310:599-3-4. Management of other animals that bite a human

(a) The final decision for animal destruction, quarantine, or other disposition of any animal other than a dog, cat, or ferret that bites a person, or otherwise potentially exposes a person to rabies shall be determined through the Department. The decision will consider, but not be limited to:

- (1) The epidemiology and risk of rabies in the species of animal in question;
 - (2) Possible prior exposure to a rabies vector;
 - (3) Behavior of the animal at the time of the bite;
 - (4) Prior rabies vaccinations; and
 - (5) Other circumstances that may exist.
- (b) In some situations, the Department will consider the initiative and willingness of the individual so exposed to submit to postexposure anti-rabies immunization after being adequately informed of all potential risks.
- (c) Any biting animal determined to be at significant risk for the transmission of rabies shall upon written order by the Commissioner of Health, or a specifically designated representative, be humanely killed and the brain, including brainstem, submitted to the Oklahoma State Department of Health designated rabies testing facility. .
- (d) If the animal is a not known to be a rabies reservoir in Oklahoma, the Department may order the quarantine of an animal, determined to be at very low risk for the transmission of rabies, for a thirty (30) day observation period as an alternate method to euthanasia and testing.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:599-3-5. Vaccinated domestic animals exposed to a rabid animal

Any domestic animal which is currently vaccinated against rabies and is exposed to a rabid animal shall be re-vaccinated within three (3) days of notification and isolated, by leashing or confinement under the owner's supervision, for a period of at least forty-five (45) days from exposure date.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98 ; Amended at 34 Ok Reg 1290, eff 10-1-17]

310:599-3-6. Unvaccinated domestic animals exposed to a rabid animal

- (a) Any dog, cat, or ferret that has never been vaccinated against rabies and is exposed to a rabid animal shall be:
- (1) Euthanized immediately either by a veterinarian of the owner's choice, or the local animal control officer; or
 - (2) Placed in strict quarantine and observed for a period of four (4) months for dogs and cats or six (6) months for ferrets under the supervision of a licensed veterinarian, either at a veterinary facility or a recognized animal control facility. The exposed animal shall be immediately vaccinated against rabies upon entry into quarantine and then given booster vaccinations at the third and eighth week of the quarantine period. For animals less than 16 weeks of age at the time of entry into rabies exposure quarantine, additional vaccinations may be necessary to ensure that the animal receives at least two vaccinations at or after the age prescribed by the USDA for the vaccine administered.

(b) Any dog or cat that is overdue for a booster vaccination, and has verifiable rabies vaccination documentation of receiving a USDA-licensed rabies vaccine at least once previously by or under the supervision of a licensed veterinarian, shall be re-vaccinated and isolated, by leashing or confinement under the owner's supervision, for a period of at least 45 days from exposure date. Ferrets that are overdue for rabies booster vaccination shall be evaluated on a case-by-case basis by the Department, taking into consideration factors such as the severity of exposure, time elapsed since last vaccination, number of previous vaccinations, and current health status to determine the need for euthanasia or immediate booster vaccination and isolation for a period of at least 45 days from exposure date.

(c) Any dog or cat that is overdue for a booster vaccination and without appropriate verifiable rabies vaccination documentation of having received a USDA-licensed rabies vaccine at least once by or under the supervision of a licensed veterinarian shall be:

(1) Treated as unvaccinated by the Department and either euthanized as described in (a) of this section; or

(2) Immediately given a booster vaccination and placed in strict quarantine for a period of four (4) months under the supervision of a licensed veterinarian and follow the vaccine scheduled described in (a) this section; or

(3) Alternatively, prior to rabies booster vaccination, the attending veterinarian may request guidance from the state public health authority in the possible use of prospective serologic monitoring. Such monitoring would entail collecting paired blood samples to document prior vaccination by providing evidence of an anamnestic response to booster vaccination. If an adequate anamnestic response is documented the animal can be considered to be overdue for booster vaccination and observed for forty-five (45) days from the time from exposure. If there is inadequate evidence of an anamnestic response the animal is considered unvaccinated and should be placed in strict quarantine and follow 310:599-3-6 for unvaccinated domestic animals.

(A) Dogs or cats eligible for serologic confirmation must remain in quarantine at the attending veterinarian's facility until results of the prospective serologic monitoring protocol have been verified and approved by the state public health authority.

(B) Dogs or cats eligible for serologic confirmation should receive a booster vaccination in accordance with the prospective serologic monitoring protocol.

(d) Any livestock or equine animal which is not currently vaccinated and is exposed to a rabid animal will be managed according to the most current Compendium of Animal Rabies Control published by the National Association of State Public Health Veterinarians, Inc. and any State Department of Agriculture guidelines that may apply.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98 ; Amended at 17 Ok Reg 2945, eff 7-13-00 ; Amended at 34 Ok Reg 1290, eff 10-1-17 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:599-3-7. Unvaccinated domestic animals exposed to a potentially rabid animal [EXPIRED]

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 through 7-14-98 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-98 (after the 7-14-98 expiration of the emergency action), Section 310:599-3-7 was no longer effective. For the official text of the emergency rule that was in effect from 7-18-97 through 7-14-98, see 14 Ok Reg 3581.*

310:599-3-8. Record of recognized rabies vaccination

- (a) Record of vaccination by a veterinarian must be provided to determine the animal to be currently vaccinated against rabies. Veterinarians shall be required to keep a record of a rabies vaccination for a minimum period of five (5) years. This record must include: name, address, and telephone number of the owner of the animal; date of vaccination; animal identification; brand name of vaccine used, vaccine expiration date, and producer of vaccine.
- (b) Three year immunity conferred by the second or subsequent boosters with a three year rabies vaccine will be recognized in the enforcement of OAC 310:599.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:599-3-9. Administration of rabies vaccine

- (a) It is prohibited for anyone to administer rabies vaccine to any animal unless said vaccine is licensed for use in the particular animal species in question. Exceptions to this include:
- (1) The vaccination of wolf-dog hybrids with a rabies vaccine approved for dogs; or
 - (2) Use at recognized nonprofit zoological parks, or research institutions; or
 - (3) Special approval by the Commissioner of Health permitting the vaccination in a particular species where the preponderance of scientific literature suggests vaccine efficacy, and vaccine usage is determined to protect public health and safety.
- (b) Animals vaccinated per these exceptions will still be considered as a wild animal species if involved in a bite to a person, and will be handled according to OAC 310:599-3-4.
- (c) Rabies vaccines presently licensed are listed in the most current Compendium of Animal Rabies Control published annually by the National Association of State Public Health Veterinarians.

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98 ; Amended at 34 Ok Reg 1290, eff 10-1-17]

310:599-3-9.1. Required immunization of dogs, cats, and ferrets

(a) The owner or custodian of a domestic dog, cat, or ferret shall cause the animal to be vaccinated against rabies by the time the animal is four (4) months of age and at regular intervals thereafter according to the label directions of an approved rabies vaccine for use in that species, or as prescribed by ordinances or rules adopted by a municipality within whose jurisdiction the animal owner resides.

(b) A veterinarian who administers or supervises the rabies vaccination of a dog, cat, or ferret shall issue to the animal's owner/custodian a vaccination certificate that meets the minimum standards set forth in OAC 310:599-1-5. Animal identification including, but not limited to species, gender, age, and predominant breed and coloring must be indicated on the vaccination certificate.

[Source: Added at 15 Ok Reg 2367, eff 6-11-98 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

**310:599-3-10. Disposal of remains of a rabies suspect animal
[SUPERSEDED]**

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98 (emergency)]

310:599-3-11. Responsibility for costs incurred [SUPERSEDED]

[Source: Added at 14 Ok Reg 3581, eff 7-18-97 (emergency); Added at 15 Ok Reg 2367, eff 6-11-98]

310:599-3-12. Consumer notification required for over-the-counter rabies vaccine sales

Each supplier or retailer of over-the-counter (OTC) animal rabies vaccine for administration by any person other than a licensed veterinarian shall post notification to the consumer that only the records of a licensed veterinarian will be acceptable documentation of a rabies vaccination in the application of requirements in OAC Chapter 310:599. The standard written notice shall be obtained from the Department and posted directly over, or near the retail location of the OTC rabies vaccine in a manner that the text of the notice is easily visualized by consumers.

[Source: Added at 17 Ok Reg 2945, eff 7-13-00]

CHAPTER 600. ABORTION FACILITY REGULATIONS

Editor's Note: *From 7-10-98 through 12-15-98, the Oklahoma State Department of Health was enjoined from enforcing the rules in this Chapter. On 12-16-98, "Reproductive Services vs. Keating, et al.," Docket no. 98-CV-447-H (US. Dist. Ct., N. Dist. OK) was dismissed with prejudice against all defendants.*

[**Authority:** 63 O.S., § 737]
[**Source:** Codified 7-13-98]

SUBCHAPTER 1. GENERAL PROVISIONS

310:600-1-1. Purpose

The Chapter provides standards for abortions facilities under authority of the following laws: 63 O.S. Supp. 1997, Sections 1-705 and 1-737; and 75 O.S. Supp. 1997, Sections 250.1 through 323, (Administrative Procedures Act).

[**Source:** Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-1-2. Definitions

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

"Abortion" means the purposeful termination of a human pregnancy, by any person with an intention other than to produce a live birth or to remove a dead unborn child {63 O.S. 1991 § 1-730}.

"Abortion facility" means a specialized hospital that provides abortions on an out-patient basis during the first trimester of pregnancy. The term abortion facility does not include licensed general medical surgical hospitals that provide abortions in addition to other procedures provided in the facility.

"Bed" means each procedure table, gurney, or recovery bed that may be occupied by patients undergoing or recovering from abortions.

"Department" means the Oklahoma State Department of Health.

"First trimester" means a period of a pregnancy measured from the first day of the last normal menses through the end of the fourteenth week or the first twelve (12) weeks of pregnancy as determined by physician examination.

"Governing body" means that person, persons, or legal entity legally responsible for the conduct of the abortion facility that carries out the functions of ownership and governance.

"Licensed practical nurse" means a person currently licensed to practice practical nursing in Oklahoma.

"Registered nurse" means a person currently licensed to practice registered nursing in Oklahoma.

[**Source:** Added at 15 Ok Reg 3172, eff 7-13-98]

SUBCHAPTER 3. LICENSES

310:600-3-1. Application for license

- (a) No person or entity shall operate an abortion facility without first obtaining a license from the Department.
- (b) The legal entity responsible for operation of the abortion facility shall be the applicant for the license.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-3-2. Fee for license

- (a) The fee for initial license shall be ten dollars (\$10.00) for each bed in the facility. No such fee shall be refunded unless the abortion facility is refused a license. The term of the initial license shall be twelve (12) months.
- (b) The fee for a renewal license shall be ten dollars (\$10.00) for each bed in the facility. The term of a renewal license shall be twelve (12) months.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-3-3. Deadlines for filing

The license application shall be filed in accordance with the following deadlines:

- (1) The application for an initial license of an abortion facility in operation upon the effective date of this Chapter shall be filed within ninety (90) days of the effective date.
- (2) The application for an initial license of a new abortion facility shall be filed at least sixty (60) days before the facility begins operations.
- (3) The application for a renewal license shall be filed at least thirty (30) days before the expiration date of the current license.
- (4) No application shall be considered filed unless it is accompanied by the appropriate fee.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-3-4. Where to file

The application and the license fee shall be delivered or sent to the Department. The effective date shall be the date the application and fee are received.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-3-5. Forms

The applicant for a license shall file application forms as follows:

- (1) For an initial license the applicant shall file these forms:
Application for License to Operate an Abortion Facility and an

Operational Program Narrative.

(2) For renewal of an abortion facility license, the applicant shall file the Application for License to Operate an Abortion Facility and an Operational Program Narrative Update.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-3-6. Description of forms

The forms used to apply for an abortion facility license are the following:

- (1) The Application For License to Operate an Abortion Facility requests: The name and address of the facility; name, address, and type of the operating entity; number of beds; the administrator's name; and an affidavit attesting the signature of the applicant.
- (2) The Operational Program Narrative requests: A descriptive outlined narrative of facility operations.
- (3) The Operational Program Narrative Update requests: An update of the facility operation program narrative previously filed.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-3-7. Transfer or change of ownership

- (a) The license is not transferable or assignable.
- (b) If an abortion facility undergoes a change in the legal operating entity, the new entity that will operate the facility shall file an application for initial license sixty (60) days in advance of the change.
- (c) A sale of stock in an operating corporation or a sale of membership shares in a limited liability company operating entity shall not be considered a change in ownership if these sales do not result in a change in facility operations.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

SUBCHAPTER 5. APPROVAL OR DENIAL OF APPLICATION

310:600-5-1. Eligibility for license

An abortion facility filing an accepted application that has been determined to comply with this Chapter is eligible for a license.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-5-2. Application review

- (a) Within thirty (30) days after the application is filed, the Department shall notify the applicant if the abortion facility application is incomplete, accepted or denied.

- (b) If the application is incomplete, the applicant shall have thirty (30) days to file the requested clarifying or additional information. If the applicant fails to complete the application within thirty (30) days after notification of an incomplete application, the application shall be summarily dismissed by the Department.
- (c) If the application is denied, the applicant shall have thirty (30) days to respond to the Department's decision to deny the application. If the applicant adequately responds to the basis for the Department's denial within thirty (30) days, the Department will reconsider and may approve the application.
- (d) If the Department denies an application, the applicant may request a hearing pursuant to the Administrative Procedures Act and OAC 310:002.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

SUBCHAPTER 7. ENFORCEMENT

310:600-7-1. Inspections

Each abortion facility is subject to inspection by the Department. These inspections may be routine or conducted as a result of a complaint. Department staff shall have access to any facility or patient record. However, the Department shall not disclose the name of any patient treated in the facility or create a public record that identifies patients. During inspections, Department staff shall respect the privacy of patients and ensure patient confidentiality is maintained.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-7-2. Complaints

The Department shall investigate complaints that allege violations of this Chapter or statutory license provisions. The Department shall accept signed, written complaints from a patient, another treating physician, or an immediate family member.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-7-3. Adverse actions

The State Commissioner of Health may suspend or revoke any abortion facility license based on any of the following:

- (1) violation of any provisions of 63 O.S. 1991, § 1-701 et seq. or this Chapter;
- (2) permitting, aiding or abetting the commission of any illegal act in the licensed abortion facility; or
- (3) conduct or practices deemed by the Commissioner to be detrimental to the welfare of patients of the abortion facility.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-7-4. Hearings

Hearings shall be conducted in compliance with the Administrative Procedures Act and OAC 310:002.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-7-5. Appeals

A final order of the Commissioner of Health may be appealed as provided in the Administrative Procedures Act.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

SUBCHAPTER 9. OPERATIONAL PROGRAM NARRATIVE

310:600-9-1. Governance and administration

(a) Each abortion facility shall have an operational program narrative that has been approved by the governing body and accepted by the Department. The facility shall provide services as outlined by the narrative. If facility operations specified in the narrative are modified, the governing body and this Department shall approve the modifications before facility practices are modified.

(b) The narrative shall describe the following:

- (1) how the governing body is established by the legal operating entity;
- (2) the organizational structure of the body;
- (3) how member(s) are appointed and replaced;
- (4) the frequency of meetings; and
- (5) procedures for the governing body to approve, reapprove, delineate, restrict and deny privileges for physicians and other practitioners providing services in the facility.

(c) The narrative shall describe the process of appointing an administrator who shall be the governing body's on-site designee responsible for the conduct of all affairs of the abortion facility and who is answerable to the governing body for the day-to-day facility operation.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-9-2. Patient rights

The abortion facility shall protect and promote each patient's rights as specified in this section. Policies describing mechanisms by which patient rights are protected shall be formulated, approved by the governing body and followed by all staff. Policies shall include but not be limited to the following:

- (1) The right to receive confidential treatment in a safe environment from considerate professionals;
- (2) The right to be informed of the customary charges and acceptable method of payment for the procedure in advance;

- (3) The right to be fully advised in understandable terms of the nature of the procedure and possible complications in advance;
- (4) The right to receive professional counseling either in the facility or by referral before and after the abortion. Available counseling shall include information on alternatives to abortion and the availability of agencies or services to assist the patient; and
- (5) The right to be informed whether or not the attending physician has malpractice insurance coverage.
- (6) The right to file a grievance regarding care received and notification of who the patient shall contact at the facility to lodge a complaint.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-9-3. Staffing and personnel

- (a) The narrative shall specify facility staffing and stipulate staff approved to assist with procedures and to recover patients. Staffing for services provided shall be based on the volume of procedures performed and acuity level of the patients. Staffing shall ensure desired outcomes of care are achieved and negative outcomes are avoided. Registered nurses and licensed practical nurses providing services shall be identified in the narrative.
- (b) Training, continuing education, health examinations, job descriptions and performance appraisal requirements for staff providing patient care shall be stipulated.
- (c) The organization of physicians and practitioners with delineated privileges shall be described. The narrative shall explain methods used to recommend appointments and review clinical practice.
- (d) Security provisions and practices that ensure patient and staff safety shall be described. The narrative shall stipulate facility protocols and practices for any anticipated external or internal emergency. An evacuation plan and protocol shall be provided or described.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-9-4. Clinical services

- (a) The narrative shall describe all abortion procedures performed, equipment and supplies used for each procedure, and staff required to assist the physician. The narrative shall demonstrate the quantities of supplies, instruments, and equipment available in the facility are sufficient to provide emergency care and support the number of abortions performed on a daily basis.
- (b) Drugs and biologicals maintained and administered in the facility shall be specified in the narrative. The narrative shall describe how the facility complies with federal and state laws regarding drug storage, administration and accountability.
- (c) If the physician performing the abortion is not certified by the American Board of Obstetrics and Gynecology or the American Osteopathic Board of Obstetrics and Gynecology or an active board

eligible candidate for certification in one (1) of the above, the narrative shall stipulate the facility protocols in place to assure consultation from a physician with these qualifications when required.

(d) Anesthesia services provided in the facility shall be fully described. The narrative shall stipulate the qualifications of the staff administering the anesthesia, if these individuals are supervised, and the level of service they are approved to deliver. The narrative shall demonstrate required services are provided by competent individuals in compliance with federal and state law as follows:

(1) An orderly preoperative anesthetic risk evaluation is to be done by the responsible physician and recorded on the chart in all elective cases, and in urgent emergency cases, the anesthetic evaluations will be recorded as soon as feasible.

(2) Every patient receiving general anesthesia, spinal anesthesia, or managed intravenous anesthesia (i.e. local standby, monitored anesthesia or conscious sedation), shall have arterial blood pressure and heart rate measured and recorded at least every five (5) minutes where not clinically impractical, in which case the responsible physician may waive this requirement stating the clinical circumstances and reasons in writing in the patient's chart.

(3) Every patient shall have the electrocardiogram continuously displayed from the induction and during maintenance of general anesthesia. In patients receiving managed intravenous anesthesia, electrocardiographic monitoring should be used in patients with significant cardiovascular disease as well as during procedures where dysrhythmias are anticipated.

(4) During all anesthetics, patient oxygenation will be continuously monitored with a pulse oximeter, and, whenever an endotracheal tube is inserted, correct positioning in the trachea and function will be monitored by end-tidal CO₂ analysis (capnography) throughout the time of placement.

(A) Additional monitoring for ventilation will include palpation or observation of the reservoir breathing bag, and auscultation of breath sounds.

(B) Additional monitoring for circulation will include at least one of the following: Palpation of the pulse, auscultation of heart sounds, monitoring of a tracing of intra-arterial pressure, pulse plethysmography, or ultrasound peripheral pulse monitoring.

(5) When ventilation is controlled by an automatic mechanical ventilator, there shall be in continuous use a device that is capable of detecting disconnection of any component of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.

(6) During every administration of general anesthesia using an anesthesia machine, the concentration of oxygen in the patient's breathing system will be measured by a functioning oxygen analyzer with low concentration audible limit alarm in use.

(7) During every administration of general anesthesia, there shall be readily available a means to measure the patient's

temperature.

(8) Availability of qualified trained personnel dedicated solely to patient monitoring.

(9) These desiderata apply for any administration of anesthesia, including general, spinal, and managed intravenous anesthetics (i.e. local standby, monitored anesthesia or conscious sedation), administered in designated anesthetizing locations and any location where conscious sedation is performed. "Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

(10) In emergency circumstances in any situation, immediate life support measures can be started with attention returning to these monitoring criteria as soon as possible and practical.

(e) The maintenance of adequate sterile supplies and linens shall be described. If the facility sterilizes instruments and supplies, the narrative shall indicate how sterilization is achieved, maintained, and documented. The procedure for linen procurement, storage, and processing shall be defined.

(f) The narrative shall describe how informative, timely, confidential, and complete medical records are documented, filed, and maintained for each patient as required by state law. The composition of a complete record shall be described.

(g) The availability of clinical laboratory services required by physicians performing abortions shall be indicated. The narrative shall stipulate clinical laboratory services, including tissue examinations, are provided by laboratories possessing a current certificate appropriate for the extent of testing required issued by the Department of Health and Human Services.

(h) The narrative shall ensure that patients are informed of birth control methods that may be used after the procedure, advised of diseases that are sexually transmitted, and provided instructions regarding possible complications and activities to be avoided. The instructions shall include information on how to contact the attending physician or abortion facility should a complication arise. The instructions shall also specify when the patient shall return for follow-up care.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-9-5. Quality assessment and performance improvement

(a) The narrative shall indicate the abortion facility has developed a quality assessment and performance improvement program that is effective, data-driven, and implements actions that result in improvements in patient care. The program shall assess patient care, staff performance, complaints and grievances, diagnostic and therapeutic services, medication and anesthesia administration, emergencies, safety issues, clinical records, complications, infection control, errors in

diagnosis, and problems complying with this Chapter or other federal, state or local laws. The program shall measure, analyze, and track quality indicators or other measures of performance and recommend actions that improve care to the governing body.

(b) Facility infection control shall be an integral part of the quality assessment and performance improvement program described in the narrative. Infection control procedures shall indicate a sanitary environment is maintained, transmission of infections and communicable diseases is avoided, and post procedure infections are tracked.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-9-6. Examinations, tests and procedures

In addition to the provisions specified individually in each facility's operational program narrative, each abortion facility shall comply with the following:

- (1) Each patient shall have a medical history and physical including pelvic examination recorded by the physician performing the abortion prior to the procedure. The physician shall determine and document the duration of gestation, identify preexisting medical or other complications, and observe any factors which may influence the choice of the procedure, anesthesia, or care provided.
- (2) Not more than seventy-two (72) hours prior to the procedure, each patient shall receive clinical laboratory testing which shall include a hemoglobin and/or hematocrit, Rh type, and pregnancy test.
- (3) All tissue removed during the abortion shall be examined by a physician and stored in ten (10) percent formalin for thirty (30) days or until after the follow-up examination. If the attending physician orders a pathological examination, the tissue shall be examined by a physician who is certified in anatomical pathology by the American Board of Pathology or American Osteopathic Board of Pathology or by a physician who is an active candidate for certification by these boards.
- (4) After the follow-up examination or thirty (30) days, tissue not maintained for additional microscopic examination removed during the abortion shall be disposed of in an incinerator designed and approved for the disposal of pathological specimens. The abortion facility may accept a written statement from the pathologist attesting the tissue has been properly incinerated.
- (5) Anti-Rh immune globulin therapy shall be given to Rh negative patients that are candidates for the therapy upon completion of the abortion procedure. If the patient refuses this therapy, the physician shall document the refusal in the medical record and if possible obtain the signature of the patient on an appropriate release.
- (6) All patients recovering from an abortion shall be released from the facility by order of a physician. A physician or licensed nurse shall remain in the facility until all patients are recovered and

released.

(7) Each facility shall maintain supplies and equipment for initial emergency medical care of problems that may arise in the facility (e.g. bleeding, shock, disseminated intravascular coagulations, seizures, and respiratory and cardiac arrest). The equipment and supplies shall be immediately available to the procedure and recovery room.

(8) Emergency drugs, oxygen, and intravenous fluids shall be available in the procedure and recovery room. A manual breathing bag, suction machine, and endotracheal equipment shall be located for immediate access.

(9) Each facility shall establish a written protocol for the transfer of patients requiring emergency treatment that can not be provided on-site. The protocol shall include procedures to contact the local ambulance service and expedite the transfer to the receiving hospital. Appropriate clinical patient information shall be provided to the receiving facility. If the attending physician does not have admitting privileges at a local general hospital, the physician shall attest arrangements have been made with a physician having hospital privileges to receive emergency cases.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

SUBCHAPTER 11. PHYSICAL PLANT

310:600-11-1. Facility design and construction

(a) The operational program narrative shall include scaled drawings of facility construction. The drawings shall locate and identify the following:

- (1) An entrance, located at grade level, able to accommodate wheelchairs.
- (2) A reception and waiting area, and information counter or desk.
- (3) Conveniently accessible public toilet.
- (4) Conveniently accessible public telephone.
- (5) Interview space(s) for private interviews related to social service, credit, and counseling.
- (6) Secure general or individual office(s) for business transactions, records, administrative, and professional staff.
- (7) Clerical space or rooms separated from public areas for confidentiality.
- (8) Storage space for staff personal effects with locking drawers, cabinets or desks near individual work-stations that are staff controlled.
- (9) General storage facilities for supplies and equipment needed for continuing operation.
- (10) General purpose examination room(s) equipped to perform pelvic and medical examinations. Rooms shall have a minimum floor area of eighty (80) square feet, excluding vestibules, toilets, and closets. Room arrangement shall permit at least two (2) feet

and eight (8) inches clearance at each side and at the foot of the examination table. A handwashing fixture and counter or shelf for writing shall be provided.

(11) Nurses station(s) with work counter, communication system, space for supplies, and provisions for charting.

(12) Drug distribution station which may be part of the nurse station but shall include a work counter, sink, refrigerator, and locked storage for biologicals and drugs.

(13) A separate clean storage room or closet for storing clean and sterile supplies. This area shall be in addition to cabinets and shelves.

(14) A soiled holding area for separate collection, storage, and disposal of soiled materials.

(15) A sterilizing room or area if instruments and supplies are sterilized on-site. If sterilizing is accomplished off-site or if disposable sterile supplies are used, the facility shall provide a system for processing and storage.

(16) Wheelchair storage space out of the direct line of traffic.

(17) Procedure room(s) with a minimum area of one hundred forty-four (144) square feet, exclusive of vestibule, toilets, or closets. The minimum room dimension shall be twelve (12) feet. A handwashing fixture and counter or shelf for writing shall be provided. The sink may be within the procedure room or immediately outside. An emergency communication system connected to the nurse station shall be provided.

(18) A designated supervised recovery patient lounge. This lounge shall contain a control station, space for family members, and provisions for privacy. It shall have convenient patient access to toilets large enough to accommodate a patient and an assistant. Handwashing and nourishment facilities shall be included.

(19) Clothing change areas for staff which shall contain lockers, toilets, lavatories for handwashing.

(20) A housekeeping room containing a floor receptor or service sink and storage space for housekeeping supplies and equipment.

(b) The Department shall review the scaled drawings for compliance and return the drawings to the facility upon licensure.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-11-2. Construction drawings

(a) The construction drawings submitted with the operational program narrative shall indicate the following:

(1) Separation and access to the abortion facility is maintained as described by National Fire Protection Association code 101,1997 edition, if the facility is part of another building. Building entrances used to reach the abortion facility shall be at grade level, clearly marked, and located so that patients need not go through other activity areas. Lobbies of multi-occupancy buildings maybe shared. Design shall preclude unrelated traffic within the abortion facility.

- (2) Facility design ensures patient audible and visual privacy and dignity during interviews, examinations, procedures and recovery.
 - (3) Provisions for convenient access to and use of emergency equipment.
 - (4) Ceilings and walls in the procedure room are readily washable.
 - (5) Toilet rooms in recovery areas for patient use are equipped with doors and hardware that permit access from the outside in emergencies. When such rooms have only one opening or are small, the doors shall open outward or be otherwise designed to open without pressing against a patient who may have collapsed within the room.
 - (6) The building has an elevator with a minimum car inside floor dimension of not less than five (5) feet, if the abortion facility is located above or below the ground floor level of a multi-story building.
 - (7) Airflow and exhaust are controlled to ensure movement of air from clean to less clean areas to maintain asepsis control.
- (b) An abortion facility built after the effective date of this Chapter shall comply with National Fire Protection Association code 101, 1997 edition, Chapter 26, "New Business Occupancies," which is incorporated by reference. (c) An abortion facility existing at the time of the effective date of this Chapter shall comply with National Fire Protection Association code 101, 1997 edition, Chapter 27 "Existing Business Occupancies," which is incorporated by reference. (d) The Department shall return construction drawings to the facility upon licensure.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

SUBCHAPTER 13. FEDERAL, STATE AND LOCAL LAWS

310:600-13-1. Licensure or registration of personnel

Staff of the facility shall be licensed or registered in accordance with applicable federal, state and local laws.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-13-2. Conformity with other laws

The facility shall conform with all applicable federal, state, and local laws including but not limited to the following:

- (1) fire safety or building codes;
- (2) communicable and reportable diseases;
- (3) occupational health and safety matters for employees and staff; and
- (4) hazardous and infectious waste disposal.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

310:600-13-3. Reporting of procedures

Each attending physician performing an abortion shall complete a form documenting all medical facts pertinent to the procedure and other personal facts volunteered by the patient or the physician, pursuant to 63 O.S. Supp. 1997, Section 1-738. The facility shall forward all such reports to the Department monthly. The report shall be confidential and shall not contain the name of the patient.

[Source: Added at 15 Ok Reg 3172, eff 7-13-98]

CHAPTER 605. ADULT DAY CARE CENTERS

[Authority: 63 O.S., §§ 1-104 et seq. and 1-870 et seq.]

[Source: Codified 6-11-92]

SUBCHAPTER 1. GENERAL PROVISIONS

310:605-1-1. Purpose

The standards in this Chapter are promulgated, as provided for by the Adult Day Care Act (Title 63 O.S. Section 1-870 et seq.) to establish criteria for issuance or renewal of an adult day care center license. These standards also provide the criteria which will be used in enforcing the provisions of the Act as deemed necessary, and to carry out its purpose which is to:

- (1) Provide a protective social environment which may include health remedial, restorative, and social services designed to maintain maximum independence and to prevent premature or inappropriate institutionalization of functionally impaired elderly or disabled adults.
- (2) Provide periods of relief for family caregivers, sometimes called respite care, to enable them to continue caring for an impaired person at home.
- (3) Enable family caregivers to continue gainful employment.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 18 Ok Reg 2492, eff 6-25-01]

310:605-1-2. Definitions

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

"Adult Day Care Aide" means an individual who has met the state qualifications for certification and who assists the professional staff members in the implementation of the programs and services of the center, and has completed an orientation program provided by the center.

"Adult Day Care Center" or **"center"** *means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers [63:1-872].*

"Adult Day Care Provider" means the person, corporation (for profit or not for profit), partnership, association, or organization legally responsible for the overall operation of the adult day care center, who has a current license.

"Associated day care program" is an adult day care center which is physically attached with another organization established primarily to offer other services (such as medical care or long term care) but has

distinctly designated space and staff for an adult day care program which is in addition to the existing space and staffing requirements for the residents, patients, or clients.

"Basic Day Care Services" means supervised health, social supportive, and recreational services in a structured daytime program which serves functionally impaired adults who cannot take care of themselves who continues to live in their own homes, usually with the aid of family caregivers.

"Caregiver" means a person who is responsible for the care of the participant in the home.

"Case Manager" means an individual who is responsible for providing and/or coordinating individual and group counseling to participants and family or caregiver, and who assists the participant in obtaining needed resources within the community.

"Department" means the State Department of Health.

"Dietary or Food Service Supervisor" means an individual qualified by training or experience who is responsible for food service in the center.

"Direct Care Staff" means those staff (paid and volunteer) assigned to take care of the direct needs of participant.

"Free-Standing Adult Day Care Center" means a center which does not share staffing or licensed space or any physical components of space, equipment, furnishings, dietary, security, maintenance or utilities used in the provision of services with any other organization, or service.

"Functionally impaired adult" means an individual aged eighteen years or older who requires care and/or supervision.

"Medication Aide" means an individual who has received certification to administer medications from a program approved by the Department.

"Nurse" means a licensed practical nurse or registered nurse currently licensed in the State of Oklahoma.

"Participant" means a person who attends an adult day care center.

"Participant's Guardian" means a court appointed guardian.

"Participant's Representative" means an individual designated in writing by the participant to act as responsible party to act in his/her stead.

"Qualified Dietitian" means an individual who is registered as a dietitian by the American Dietetic Association, or has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, has one year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 18 Ok Reg 2492, eff 6-25-01 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 3. RIGHTS

310:605-3-1. Participant rights

Each participant of the adult day care program shall be assured of the following rights:

- (1) To be treated as an adult, with respect and dignity regardless of race, color, or creed.
- (2) To participate in a program of services and activities which promote positive attitudes regarding ones usefulness and capabilities.
- (3) To participate in a program of services designed to encourage learning, growth, and awareness of constructive ways to develop ones interests and talents.
- (4) To maintain ones independence to the extent that conditions and circumstances permit, and to be involved in a program of services designed to promote personal independence.
- (5) To be encouraged to attain self-determination within the adult day care setting, including the opportunity to participate in developing ones care plan for services; to decide whether or not to participate in any given activity; and to be involved in the extent possible in program planning and operation.
- (6) To be cared for in an atmosphere of sincere interest and concern in which needed support and services are provided.
- (7) To have privacy and confidentiality.
- (8) To be free of mental and physical abuse.
- (9) To be free of restraint unless under physician's order as indicated in individual care plan.
- (10) To have access to telephone to make or receive calls, unless necessary restrictions are indicated in the individual care plan.
- (11) To be free of interference, coercion, discrimination or reprisal.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

SUBCHAPTER 5. LICENSURE REQUIREMENTS

310:605-5-1. License required

(a) It shall be unlawful to operate an adult day care center without possessing a current, valid license issued pursuant to the Adult Day Care Act. It shall be unlawful for any holder of a license issued pursuant to the Adult Day Care Act to advertise or hold out to the public that it holds a license for a center other than that for which it actually holds a license.

(b) *Centers to be licensed shall include all adult day care centers. Sheltered workshops and senior recreational centers which do not receive participant fees for services are not required to be licensed. It shall be unlawful to operate a center without first obtaining a license for such operation as required by the Adult Day Care Act, regardless of other licenses held by the operator. Organizations operating more than one center shall obtain a license for each site. [63:1-873.B]*

(c) *The license for operation of a center shall be issued by the State Department of Health. The license shall:*

- (1) Not be transferable or assignable;*
- (2) Be posted in a conspicuous place on the licensed premises;*
- (3) Be issued only for the premises named in the application; and*
- (4) Expire thirty-six (36) months from the date of issuance, provided an initial license shall expire one hundred eighty (180) days after the date of issuance. Licenses may be issued for a period of more than twelve (12) months, but not more than thirty-six (36) months, for the licensing period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates to all months of the year.[63:1-873.C(4)]*

(d) *The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State Department of Health of its power to subsequently revoke the license or take other enforcement action for any violations of the Adult Day Care Act committed prior to issuance or renewal of the license. [63:1-873.F]*

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 18 Ok Reg 2492, eff 6-25-01 ; Amended at 39 Ok Reg 1337, eff 9-11-22]

310:605-5-2. Application for license or renewal

(a) An applicant for a license to operate an adult day care center must file an application on a form provided by the State Department of Health and pay an initial license fee of seventy-five dollars (\$75.00).

(b) Application for license renewal must be filed at least forty-five (45) days before the expiration date of the current license on a form approved by the Department and a license fee of seventy-five dollars (\$75.00) per year of licensure must be paid.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 18 Ok Reg 2492, eff 6-25-01 ; Amended at 39 Ok Reg 1337, eff 9-11-22]

310:605-5-3. Inspections

(a) The Department shall at least annually, and whenever it deems necessary, inspect each adult day care center to determine compliance with the Adult Day Care Act and rules and regulations promulgated thereto.

(b) Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to inspect and enter the center in accordance with the Adult Day Care Act or rules promulgated thereto. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension or revocation of a license.

(c) A notice of violation shall be sent to any adult day care center when violations are cited as a result of an inspection. The center shall have ten (10) days after receipt of the notice of violation in which to prepare and submit a plan of correction. The plan of correction shall include a fixed time period not in excess of thirty (30) calendar days, within which the violations are to be corrected.

310:605-5-4. Sanctions

(a) The Department may deny, suspend, deny renewal, or revoke the license of an applicant or a licensed adult day care center which fails to comply with the licensing requirements and rules and regulations specified by the provisions of the Adult Day Care Act.

(1) The Department shall give a center thirty (30) days written notice that its license is to be suspended or revoked, and shall take action at the end of that time if the center is still out of compliance. However, if the health and safety of participants are threatened, the suspension or revocation shall be effective immediately, and the center closed.

(2) Holders of suspended or revoked licenses shall be entitled to a hearing before Department licensure officials if requested within ten (10) days of their notification. The hearing shall be held at least ten (10) days before final action is taken and conducted pursuant to the Administrative Procedures Act.

(3) Suspended licenses may be reinstated if deficiencies are corrected within a time frame established by the Department.

(b) Any person who has been determined to have violated any provision of the Adult Day Care Act or any rules, regulations, or order issued pursuant thereto may be liable for an administrative penalty of not more than five hundred dollars (\$500.00) for each day that said violation continues. The amount of the penalty shall be assessed by the Department, after notice and hearing. In determining the amount of the penalty, the Department shall include but not be limited to consideration of:

(1) the nature, circumstances, and gravity of the violation and, with respect to the persons found to have committed the violation, the degree of culpability.

(2) the effect on ability of the person to continue to do business.

(3) any show of good faith in attempting to achieve compliance with the provisions of the Adult Day Care Act.

(c) Any license holder may elect to surrender his/her license in lieu of said fine but shall be forever barred from obtaining a reissuance of said license.

(d) Any person who violates any of the provisions of the Adult Day Care Act, upon conviction shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

(e) The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Adult Day Care Act or any rule, regulation, or order issued pursuant thereto.

(f) Enforcement of any action for equitable relief or redress or restrain a violation by any person of a provision of the Adult Day Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Adult Day Care Act may be brought by:

- (1) the district attorney of the appropriate district court of the State of Oklahoma.
 - (2) the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma.
 - (3) the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma or as otherwise authorized by law.
- (g) The court has jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunction relief, interim equitable relief, and punitive damages.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

SUBCHAPTER 7. ORGANIZATION AND ADMINISTRATION

310:605-7-1. Governing body and functions

- (a) The adult day care center shall have a governing body that has full authority and responsibility for operation of the center.
- (b) Centers owned and operated by a sole proprietor may be governed by a single person who assumes all the responsibilities of the governing body.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

310:605-7-2. Responsibilities

The governing body of an adult day care shall:

- (1) Ensure continual compliance and conformity with all relevant local, state, and federal laws and regulations.
- (2) Designate a center director who manages the center.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ;
Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-7-3. Lines of responsibility

- (a) There shall be a clear division of responsibility between the governing body and the adult day care director.
- (b) The director shall be given full authority and responsibility to plan, staff, direct, and implement the program for day to day operation of the center.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

310:605-7-4. Development of written policies and procedures

Written policies and procedures shall be developed by the center which include the following:

- (1) **Enrollment criteria.**
 - (A) Each center shall have enrollment policies.

(B) The written enrollment policies shall contain specific admission criteria to define the participants who can be served by the center.

(C) The center's enrollment policies shall prohibit enrollment of persons whose needs exceed the capability of the center's program, and persons excluded by the Adult Day Care Center Act.

(2) **Hours and days of operation.** The center shall establish policies and procedures covering the hours and days of operation.

(3) **Rates and payments.** The center shall establish policies and procedures governing rates and payments which include the following:

(A) Charges for basic services.

(B) Services that may be obtained on a fee basis, but are not included in the basic services.

(C) Public disclosure of the above.

(4) **Types of services provided.** The center shall have written policies and procedures which contain the range of services provided by the center, including specialized services, i.e., speech therapy, physical therapy, counseling, transportation, etc., and other services that may be arranged through the center with other resources within the community.

(5) **Medication storage and administration.** The center shall have written policies and procedures governing the storage, maintenance, and administration of medications as stated in section 310:605-13-2(2).

(6) **Admission and discharge.**

(A) **Admission.** The center's policies and procedures for admission and discharge of participants shall include, but not be limited to the following:

(i) An application for enrollment to be completed prior to or upon admission to the center.

(ii) The requirement for a current medical report and medical assessment by the participant's physician to be obtained within 5 working days of admission.

(B) **Discharges.** The written policies and procedures regarding discharge from the center shall include but not be limited to the following:

(i) Provision for emergency discharge of participant to other health care facilities or to caregiver when the health or safety of the participant or other participants is endangered.

(ii) Notice requirements and causes for involuntary termination of services to a participant.

(iii) Discharge planning in accordance with all requirements at 310:605-9-2.

(7) **Personnel policies and practices.** The center shall have written policies and procedures pertaining to personnel practices.

(8) **Personnel records system.** A personnel record shall be established for each employee and each volunteer counted in the

staffing ratio.

(9) **General record system.** Each center shall establish a general record system.

(A) Records of any incident or accident involving a participant shall be kept and maintained.

(B) Participant records for social services and medical information shall be maintained.

(C) All records may be kept and maintained electronically in a computer system and in a central storage location, accessible on site. A backup of the computer system shall be maintained.

(D) The employee and participant records shall be retained for not less than five years after the participant's discharge or employee's termination.

(10) **Emergency services.**

(A) Each center shall have written policies for handling emergencies involving participants or staff.

(B) The policies and procedures shall provide instruction on obtaining outside emergency services.

(C) The policies and procedures shall be designed to insure that the family member, caregiver, or responsible party designated in the participant's record is notified when an emergency occurs.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-7-5. Residential and visiting pets

Each center that permits residential or visiting pets shall have written policies and procedures regarding those pets. The center shall not allow any pet to reside in the center unless all of the following requirements are met:

(1) The pet is a dog, cat, fish, or bird. A center may establish a program which includes animals other than dogs, cats, fish, or birds if the center submits its policies, procedures, and program guidelines to the Department and receives written approval from the Department prior to implementation of the program.

(2) The center has no more than two (2) dogs or cats as residential pets unless the center has received prior approval from the Department as a stated special program pursuant to 310:605-7-5-(a) (1).

(3) The center's policy ensures non-disruption of the center.

(4) For each pet, the center has or provides the following:

(A) Proof of current rabies immunization and leptospirosis immunizations for dogs and cats administered by a veterinarian licensed to practice in Oklahoma;

(B) A statement from a veterinarian licensed to practice in Oklahoma certifying the pet is free from disease communicable to humans;

(C) Proof of evaluation by a veterinarian licensed in Oklahoma for presence of internal parasites on a semi-

annual basis and for the presence of external parasites as needed; and,

(D) A statement from a veterinarian licensed in Oklahoma certifying that each bird has been proven free of psittacosis.

(5) The pet's skin appears normal, and its coat is free of ectoparasites, matted hair, feces, and other debris.

(6) The center adopts a policy for control of pets to ensure that neither the pet nor the participants are in danger. If necessary, a pet shall be on a leash or harness, muzzled, caged, or in a container. A pet cage or container must not obstruct an exit or encroach on the required corridor width.

(7) Residential pets shall be the responsibility of the director's designated attendant.

(8) The center provides for the cleaning and disinfection of any area(s) contaminated by urination or excrement, and the center provides for the cleansing of aviaries, aquariums and fish bowls. The aquariums and fish bowls shall be monitored to prevent bacterial growth in the water.

(9) Residential dogs and cats shall not be allowed in the participants' areas after the hours of operation. Pets shall not be allowed in the kitchen, dining room or in areas used for food storage or preparation, dining, medication preparation or administration, or clean supply storage.

(10) The center shall arrange for care of the pet during periods outside of the center's normal operational hours, such as evenings, weekends, and holidays.

(A) The center may allow pets to visit the center. A visiting pet shall be under the control of the person who brought the pet into the center. The visiting pet's attendant shall adhere to the center's policies for residential pets.

(B) Section 310:605-7-5 does not supersede any local or state requirements regulating animals or pets.

[Source: Added at 14 Ok Reg 3144, eff 7-25-97 ; Amended at 16 Ok Reg 2513, eff 6-25-99 ; Amended at 18 Ok Reg 2492, eff 6-25-01 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 9. ADMISSIONS AND DISCHARGES

310:605-9-1. Admission

(a) A signed application for participation and current medical information shall be obtained. The medical information shall be obtained from or verified by the participant's physician and shall include the following:

- (1) Physician's name and telephone number.
- (2) Date of last visit.
- (3) Current illnesses or health problems.
- (4) Current medication.
- (5) Dietary restrictions, if any.

(b) A current medical report and a medical assessment by the participant's physician of the participant's medical condition shall be obtained within five (5) days of the participant's entry into the adult day care program.

(c) Each participant shall have an individualized written plan of care developed within ten (10) days following participant's entry into the adult day care program. The plan of care shall be reviewed at least every six (6) months and updated as warranted by changes in the participant's condition.

(d) If a participant is not under a physician's care nor is taking any medications, the center may substitute a nursing assessment by a registered nurse for the medical assessment required in subsection (b) of this Section. In this case, the center may also verify the medical information with family or friends of the participant. If the nursing assessment reveals medical problems, the participant shall not be admitted to the center without the medical assessment.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 11 Ok Reg 901, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2635, eff 6-25-94 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-9-2. Discharge

(a) A participant, his or her family member, guardian, and/or representative shall be given a minimum of two weeks notice of the center's intent to terminate services to the participant unless continued attendance would infringe on the safety or well being of other participants or staff.

(b) There shall be a detailed report of circumstances leading to each unplanned discharge.

(c) Prior to a planned discharge of a participant, the staff shall develop an aftercare plan of supports and resources provided to the participant.

(d) A discharge summary to accompany a participant going to another center of health care shall include the needs of the participant, his/her medication history, social needs, and other data that will assist in his/her care at the new location.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 11. STAFFING REQUIREMENTS

310:605-11-1. Staffing requirements

Each adult day care center shall have a staff adequate in number, and appropriately qualified and trained to provide the essential services of the center.

(1) Each adult day care center shall have the following positions:

(A) A director who shall have the authority and responsibility for managing and implementing the day care program.

(B) An activity director.

- (C) A social services coordinator or case manager.
- (D) A dietary supervisor. Centers that are a part of larger organization which provides food service to the center, or centers that contract with an outside service for food service may employ a part time dietary supervisor.
- (2) Each center shall employ additional staff, such as nurses, therapists, consultants, drivers, etc., as needed.
- (3) Staff who serve in more than one staff position shall meet the minimum qualifications for each position served.
- (4) Centers that administer medication shall have a registered nurse (R.N.), licensed practical nurse (LP.N.), certified medication aide (CMA), or a medication administration technician (MAT) who has successfully completed a course of training in administration of medications approved by the Department. Monthly consultation by an R.N. or LP.N. shall be required for centers where medications are administered by a certified medication aide (CMA), or a medication administration technician.
- (5) Staff who have direct contact with participants shall be free of communicable disease.
- (6) Each center shall be in compliance with the criminal arrest check, training, examination, application, registration and certification requirements in 63 O.S. Section 1-1950.1, 1-1950.3, 1-1950.4, and 1-1951.
- (7) Each paid day care center staff person (professional or non-professional) shall arrange for an employment examination within 72 hours of employment which shall include but not be limited to a test for tuberculosis. All tests and examinations shall be in conformance with the 2019 Guidelines for preventing the transmission of *mycobacterium tuberculosis* in healthcare settings as published by the Centers for Disease Control and Prevention.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03 ; Amended at 37 Ok Reg 1420, eff 9-11-20]

310:605-11-2. Staff ratios

- (a) There shall be provided a sufficient number of direct care staff on duty at all times to meet the needs of each participant. There shall be a minimum of one full time equivalent direct care staff person for every eight (8) participants who are present and one (1) additional direct care staff person for a major portion of eight (8) additional participants present.
- (b) There shall be at least two (2) responsible persons at the center when participants are present; one shall be a staff member.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 11 Ok Reg 901, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2635, eff 6-25-94 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-11-3. Staff qualifications

(a) **Director.** The Director shall have at a minimum a Bachelor's degree and one year supervisory experience in a social or health services setting, or a minimum of a high school diploma plus five consecutive years supervisory work experience (full-time or equivalent) in a long term care or geriatric setting.

(b) **Social Services Coordinator or Case Manager.** The social services coordinator or case manager shall have a minimum of a bachelor's degree, or a minimum of a high school diploma plus five consecutive years of work experience in a long term care or geriatric setting.

(c) **Nurse.** A nurse shall be a registered or a licensed vocation/practical nurse who is currently licensed by the State of Oklahoma and has experience working with the aging and chronically impaired adult.

(d) **Activities Director.** The activities director shall be qualified by training or experience in recreation or related area.

(e) **Dietary Supervisor.** A food service supervisor shall be qualified by training or experience.

(f) **Adult day Care Aide.** An Adult Day Care Aide who provides direct personal care services shall be Certified at least to the Adult Day Care level of nursing aide training.

(1) Each certified adult day care aide employed by the Center shall be in compliance with the criminal arrest check, training, examination, application, registration and certification requirements in 63 O.S. Section 1-1950.1, 1-1950.3, 1-1950.4, and 1-1951.

(2) The Center shall contact the Department's nurse aide registry prior to employing a nurse aide to determine whether the person is listed on the registry, and if there is a confirmed finding of abuse, neglect, or misappropriation of property.

(3) The Center shall ensure that the certification for each nurse aide is current.

(g) **Therapist.** Physical therapists, occupational therapists, recreational therapists, and speech therapists who provide services to the Center and/or its participants shall have valid state credentials. Staff may work independently under directions of the licensed therapist.

(h) **Consultant.** The individual consultant shall be available to provide services to the participant as prescribed by the physician in order to supplement professional staff. Consulting services may be done on an individual basis or by contract or written agreement with a community group source or individual.

(i) **Volunteers.** Volunteer staff who are counted in the staffing ratio shall be qualified by training and/or experience to perform duties and responsibilities required by the written job description.

(j) **Direct care.** Direct care paid staff shall be at least eighteen (18) years of age and qualified for the position held.

(k) **Driver.** Each driver shall have a valid and current state driver's license appropriate for the position, a safe driving record, and training in first aid and CPR.

310:605-11-4. Orientation and training

- (a) All staff, prior to performing job responsibilities, including non-direct care, direct care, and volunteers, shall be given a general orientation to the program, its policies, fire, safety, and emergency procedures.
- (b) In-service training for each staff person shall be provided quarterly.
- (c) Each staff member shall be competent, ethical, shall hold personal information regarding participants in confidence, and treat all participants with respect and dignity.
- (d) Documentation of attendance and content for all orientation and training shall be maintained by the center.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-11-5. Personnel records

Individual personnel records for both paid and volunteer staff counted in the staffing ratio shall include:

- (1) A valid form of photo identification;
- (2) Position title;
- (3) Job description;
- (4) Copies of license(s) or certification(s) of professional qualification(s) applicable to the position;
- (5) Education background;
- (6) Employment history and references;
- (7) Results of criminal background check, if applicable.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 18 Ok Reg 2492, eff 6-25-01 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 13. SERVICES

310:605-13-1. Required services

Each adult day care center shall provide supervision of participants, assistance with activities of daily living, planned activities, social services, nutritious meals, and emergency and first aid services.

- (1) **Supervision of participants.** Supervision and monitoring of participants shall include, but not be limited to, the following:
 - (A) Knowledge of participant's whereabouts while attending the program.
 - (B) Assistance as needed in interaction with other participants and staff.
 - (C) Observing functional status to determine if a change in the participant's plan of care is needed.
- (2) **Activities of daily living.** Provisions shall be made for assistance and training in walking, feeding, toileting, personal care, and other activities of daily living according to each participant's plan of care. Assistance shall be provided by those qualified by licensure or certification.
- (3) **Planned activities.**

- (A) The adult day care center shall provide planned activities during at least one-half (1/2) of daily operations, with a minimum of four (4) hours of planned activities.
- (B) Activities shall be planned to meet the needs, interests and abilities of participants.
- (C) Participants shall be encouraged but may refuse to participate in any given activity.
- (D) All activities shall be adequately supervised by program staff.
- (E) A monthly schedule of activities shall be planned and shall be displayed prior to the first day of the month.
- (F) Daily activities shall be posted in a visible location.

(4) Social services.

- (A) The center may, upon request by a participant or his or her legal guardian, recommend to participants and their family available counseling services, if needed and desired, either within the center or by arrangement with resources in the community.
- (B) Social services shall be directed toward the following:
 - (i) Maintaining the maximum social functions of the participant.
 - (ii) Assisting with personal, family, and adjustment problems.
 - (iii) Safeguarding and fostering the human and civil rights, human dignity and personal worth of each participant.

(5) Nutrition and food service.

- (A) The adult day care center shall provide or make arrangements for a minimum of one meal daily which is of suitable quality and quantity for participants who are in the center for four (4) or more hours. The meal shall meet at least one-third (1/3) of an adult's current recommended dietary allowance (RDA) of the Food and Nutrition Board, National Academy of Sciences-National Research Council.
- (B) Food shall be stored, prepared, and served in accordance with the Rules and Regulations for Food Service Establishments adopted by the State Board of Health.
- (C) Food that is not prepared on site shall be prepared in a facility which meets the local and state health regulations.
- (D) Poisons and other dangerous materials shall be stored in a non-food preparation and/or storage area.
- (E) Potable water shall be available to all participants as needed.
- (F) Menus shall be planned and written for a minimum of a two-week cycle, if meals are prepared on site.
- (G) The menu shall be dated for the week of service and posted in a prominent area for the availability to the participant, family, or participant's designated representative.

- (H) A therapeutic diet shall be provided for a participant when prescribed in writing by a physician.
- (I) A qualified dietitian/nutritionist shall be provided for consultation with staff on basic and special nutritional needs and proper food handling techniques.
- (J) Appropriate food containers and utensils shall be available as needed for use by handicapped participants.
- (K) Dining areas shall be sufficiently equipped with tables and chairs to meet the needs of each participant including participants using wheelchairs.
- (L) Garbage shall be stored, bagged, and disposed of in accordance to local and state health regulations.

(6) Emergencies and first aid.

- (A) Written detailed plans for handling emergencies shall be established and shall be displayed in a conspicuous place within the facility.
- (B) The plan shall relate to non-medical and medical emergencies and the responsibilities of each staff position shall be specified.
- (C) All staff shall be knowledgeable about the plan.
- (D) Each participant shall provide an emergency information sheet, medical history, and a signed liability release form for use in an emergency.
- (E) The name and telephone number of participant's family member, caregiver, or responsible party shall be on file and retrievable by the staff.
- (F) Emergency phone numbers shall be conspicuously posted to include ambulance, hospital, fire, and police when 911 is not available.
- (G) There shall be at least one staff person on duty at all times who is trained in CPR.
- (H) There shall be conducted regular drills for all staff in handling different kinds of emergencies and documented as to date, kind of emergency, and individual receiving training. Emergency drills shall be conducted at least once every three months.
- (I) Any sickness, or accidents involving a participant, resulting in physical injury or suspected physical injury to the participant shall be reported to the director who shall arrange for appropriate action.
- (J) Any participant who shows symptoms of illness or infectious disease shall be given the necessary attention and/or removed from the group.
- (K) The provider shall have available a room for participants who require removal from the group due to temporary illness.

310:605-13-2. Additional Services

Adult day care centers shall provide the following as indicated by the center's program goals and the individual needs of the participants served:

(1) Health Monitoring.

(A) The health, functional, and psychosocial status of each participant shall be observed for significant changes and documented in the participant's record at least monthly by the designated professional staff. Each family and/or physician shall be notified of such changes.

(B) The staff shall arrange for contacts with health professionals as needed by each participant.

(C) There shall be proper administration of medications as prescribed by the physician.

(D) Written policies and procedures shall be developed and implemented for participants self-medication administration and staff medication administration.

(2) Medications.

(A) Participants shall be encouraged to retain and administer their own medications while attending the adult day care program.

(B) When a participant has been determined to be unable to be responsible for his medication, the following procedures shall be followed:

(i) The medication shall be retained in a safe, secure, locked area for storing medications or drugs until prescribed time.

(ii) Medications maintained by the center shall be retained in containers in which they were dispensed from the pharmacy. The containers shall be labeled with the participant's full name, the name and strength of the medication, and the dosage and administration instructions.

(iii) Medications may not be administered without an order from a physician.

(iv) Physician's phone orders may be taken only by a licensed nurse.

(v) The phone orders shall be signed and dated by the physician within three (3) working days after giving the phone order. Orders by facsimile are acceptable as original signatures.

(vi) Phone orders shall be written into the participant's record and date noted by the licensed nurse who received them.

(vii) Orders regarding medications and treatments shall be in effect as indicated by the physician for a specified number of days.

(viii) Changes in health status, including reaction to medication and/or treatments, shall be communicated immediately to the participant's

physician by the licensed nurse. If the facility is unable to contact the participant's personal physician, emergency medical procedure shall be followed.

(ix) All medications shall be packaged and labeled in accordance with professional pharmacy standards, state and federal drug laws and regulations, and the United States Pharmacopeia (USP). Labeling shall include cautionary instructions, as well as expiration date, when applicable, and name of medication specified by the physician.

(x) Over the counter drugs for individual participants shall be labeled with at least the participant's name.

(xi) Schedule II drugs shall be kept in a locked box.

(xii) Medications requiring refrigeration shall be kept refrigerated in a locked refrigerator or in a locked box within the refrigerator or in a refrigerator within a locked room.

(xiii) The temperature range of the medication refrigerator shall be 36o F. (2o C) to 48o F. (8o C).

(xiv) No food shall be stored with refrigerated medication except for food used for medication and administration.

(xv) The administration and storage medication system shall be reviewed by a licensed nurse not less than every three (3) months.

(xvi) A written medication administration record shall be maintained for medications administered.

(xvii) Documentation of medications administered shall be done within one hour after administration of medication.

(xviii) Records of all Schedule II drugs shall be maintained.

(3) Specialized services.

(A) A planned program of activities shall be available to all participants in accordance to participant's plan of care.

(B) The following services which are designed to improve or maintain participant's independent functional ability may be arranged and secured through qualified community resources: physical therapy, occupational therapy, recreational therapy, and speech therapy.

(4) Transportation. The following requirements must be met if transportation is provided by the adult day care center to ensure the health and safety of the participants:

(A) The number of participants allowed in a car, station wagon, van, bus, or whatever the type of transportation used shall not exceed the number for which the vehicle is designed. Each person transported must have a seat.

- (B) There shall be provisions made to accommodate participants who use assistive devices for ambulation.
- (C) Participants shall be offered an opportunity to have a rest stop when being transported for more than one hour.
- (D) The center shall be sufficiently staffed to ensure the safety of participants being transported by facility vehicles.
- (E) The provider shall conform to all state laws regarding regulations, drivers, vehicles, and insurance.
- (F) The center shall maintain the vehicle in good repair.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 11 Ok Reg 901, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2635, eff 6-25-94 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-13-3. Participant records

All adult day care centers shall maintain an individual folder for each participant. Each record shall include but not be limited to the following:

- (1) Admission information including medical and social history and identification.
- (2) Physician's orders for medications, treatments, diet, rehabilitation, and special medical procedures.
- (3) Current health evaluations.
- (4) A chart of medications administered and any reactions, if applicable.
- (5) A written plan of care.
- (6) Copies of initial and periodic examinations, evaluations, and progress notes.
- (7) An authorization statement for emergency medical assistance including the name of a designated physician.
- (8) Name, address, and phone number of at least two (2) family members, guardians, and/or other persons designated to be contacted in an emergency.
- (9) Discharge plan and summary, when appropriate.

[Source: Added at 11 Ok Reg 901, eff 12-17-93 (emergency); Added at 11 Ok Reg 2635, eff 6-25-94 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 15. PHYSICAL FACILITY

310:605-15-1. General criteria

The facility and grounds shall be safe, clean, and designed with consideration for the special needs and interests for the aging, disabled, and handicapped adult participants.

- (1) The center shall comply, when applicable, with all local and state laws and codes and ordinances as pertain with this occupancy.
- (2) A telephone shall be available to participants to make and receive calls.

- (3) A cooling, heating, and ventilation system shall provide comfort and shall accommodate all participants.
- (4) Room temperature shall be maintained between sixty-eight degrees Fahrenheit (68° F.) and eighty-five degrees Fahrenheit (85° F.).
- (5) Lighting shall be adequate in all areas.
- (6) A method shall be provided to control excessive noises.
- (7) Equipment and supplies shall be adequate to meet the needs of participants.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-2. Buildings and grounds

- (a) The building must meet the approval of local building and fire inspectors or the state fire marshal's office.
- (b) On and after the effective date of this subsection, each center that undergoes design changes or construction and each newly licensed center shall be designed and constructed in conformity with requirements for accessibility to physically disabled persons as specified in Chapter 11 of the International Building Code, 2003 Edition, published by the International Code Council.
- (c) The building shall be designed or adapted to meet heating, air conditioning, and water supply approved by the Department according to rules and design standards of the Board of Health.
- (d) There shall be at least two (2) exits from the center which can be used as disaster escape routes.
- (e) The heating system shall comply with local and state codes. Heating pipes, radiators or hot water pipes in rooms and areas used by participants shall be covered or protected.
- (f) Portable space heaters shall not be used.
- (g) Plumbing and plumbing fixtures shall conform to local and state codes. There shall be no cross-connection between the potable water supply and any pollution source through which the potable water might become contaminated.
- (h) An adequate supply of water under sufficient pressure shall be provided to properly serve the participants.
- (i) At least one toilet and hand washing facility shall be provided for each 12 participants.
- (j) The lavatory shall have hot and cold running water. Hot water shall not exceed one hundred fifteen degrees Fahrenheit (115 F.).
- (k) A trash receptacle, soap, toilet paper, and individual paper towels shall be provided at all times and shall be within reach of the participants.
- (l) The toilet room shall be within easy access to the activity areas and shall provide privacy for the participant.
- (m) Each toilet room shall be equipped for approved ventilation.
- (n) There shall be a separate room or partitioned area for temporarily isolating participants in case of illness.
- (o) Grounds shall be maintained in a clean, orderly, and safe manner.

- (p) Outside lighting shall be provided at the center's entrances and grounds.
- (q) There shall be parking available for delivery and pickup of participants.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03 ; Amended at 21 Ok Reg 2754, eff 7-12-04]

310:605-15-3. Space requirements

- (a) A minimum of forty (40) square feet of space shall be provided for each participant, excluding hallways, storage areas, offices, rest rooms, and kitchens.
- (b) Office space shall be provided.
- (c) Space shall be provided for special therapies and designated areas to permit privacy.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-4. Location

- (a) The site or location of an adult day care center shall be chosen for the accommodation to the program and the participants served.
- (b) Adult day care centers located in conjunction with another program that is also licensed by the Department shall meet the specific requirements of the adult day care center. The facility or program with which it is located shall meet its own license requirements.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

310:605-15-5. Furnishings and equipment

- (a) The center shall be furnished adequately to meet the needs of the participants.
- (b) There shall be at least one bed located in a quiet space separate from other program activities.
- (c) Equipment and supplies shall be adequately provided to meet the needs of all participants.
- (d) All furnishings and equipment shall be in safe condition and properly maintained.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-6. Sanitation and housekeeping

- (a) Housekeeping and maintenance services shall be sufficiently provided to maintain the center in a clean, orderly, sanitary, and safe manner. The center shall be free of offensive odors.
- (b) Handwashing facilities in bathrooms and kitchens shall at all times be supplied with soap and disposable towels.
- (c) An insect, rodent, and pest control program shall be maintained and conducted regularly in a manner which continually protects the health and well-being of the participant. There shall be documented evidence of

routine efforts of an existing pest control program. Opened windows shall be screened.

(d) Soiled clothing shall immediately be placed in airtight containers. Clean clothing and linen shall at no time be stored in the same room with soiled clothing and linen.

(e) There shall be procedures used by the kitchen and laundry which prevent cross-contamination between clean and soiled utensils and clean and soiled linens.

(f) Waste, trash, and garbage shall be disposed of from the center's premises regularly in accordance to local and state regulations. Refuse containers, inside and outside, shall have tightly fitted lids and left in closed position.

(g) The center's waste water and sewage shall be discharged into a municipal sewerage system approved by local and state regulations. Where such a system is not available, a facility providing sewage treatment must conform to applicable local and state regulations.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-7. Fire safety

(a) Fire safety shall be observed at all times. The center shall have an agreement with the local fire service to respond to the facility in the event of an emergency or have access to a 911 emergency service.

(b) Electrical, heating, and cooling systems shall be kept in good repair and safely maintained.

(c) Use of extension cords or temporary wiring shall be prohibited.

(d) All fires shall be reported to the licensing agency within 72 hours. Fires causing injury or death shall be reported immediately. A written report to the Department shall follow a telephone report.

(e) Draperies or other window dressings, upholstery, and other fabrics and decorations shall be fire-resistant.

(f) At least one telephone within the center shall be available to staff in case of an emergency. Emergency telephone numbers shall be posted on the designated emergency telephone to include fire, police, ambulance, and hospital if 911 emergency is not available.

(g) All facilities shall at a minimum have smoke detectors placed appropriately throughout the facility and maintained in good operation.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-8. General safety

(a) General safety requirements should meet ADA standards and the state minimum standards adopted by the state fire marshal's office.

(b) The center's exterior site conditions shall be designed, constructed, and maintained with consideration for participants' safety.

(c) Stairways and hallways shall be well lighted at all times. All stairways shall have non-slip surface.

(d) All rugs and floor coverings shall be secured to floor. Throw rugs shall not be used.

- (e) Elevators for participants' use shall be maintained in safe condition.
- (f) The hot water system connected to fixtures used by participants shall deliver warm water at a temperature not to exceed 115° F.
- (g) Drugs, cleaning agents, pesticides, and poisonous products shall be stored out of reach of the participants and used in a manner which assures the safety of the participants.
- (h) There shall be no activities adversely affecting the safety of the participant on the premises.

[**Source:** Added at 8 Ok Reg 2983, eff 5-25-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92 ; Amended at 20 Ok Reg 1182, eff 5-27-03]

CHAPTER 610. ALCOHOLISM TREATMENT CENTERS REGULATIONS [REVOKED]

[**Authority:** 43A O.S., §§ 3-419 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:610-1-1. Purpose [REVOKED]

[**Source:** Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-1-2. Definition [REVOKED]

[**Source:** Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-1-3. Certification [REVOKED]

[**Source:** Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-1-4. Licensure [REVOKED]

[**Source:** Revoked at 22 Ok Reg 759, eff 5-12-05]

SUBCHAPTER 3. CONSTRUCTION [REVOKED]

310:610-3-1. Preconstruction plans [REVOKED]

[**Source:** Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-3-2. Scope of plans [REVOKED]

[**Source:** Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-3-3. Standards for construction [REVOKED]

[**Source:** Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-3-4. Site [REVOKED]

[**Source:** Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-3-5. Environmental sanitation systems [REVOKED]

[**Source:** Revoked at 22 Ok Reg 759, eff 5-12-05]

SUBCHAPTER 5. STANDARDS [REVOKED]

310:610-5-1. Communication [REVOKED]

[Source: Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-5-2. Standards for hygiene and sanitation [REVOKED]

[Source: Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-5-3. Standards for food service [REVOKED]

[Source: Revoked at 22 Ok Reg 759, eff 5-12-05]

310:610-5-4. Standards for fire prevention and safety [REVOKED]

[Source: Revoked at 22 Ok Reg 759, eff 5-12-05]

CHAPTER 615. AMBULATORY SURGICAL CENTERS

[Authority: 63 O.S., §§ 1-104 and 2662]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:615-1-1. Purpose

The purpose of this Chapter is to insure the quality of medical care in ambulatory surgical centers is the same as that required in hospitals licensed by the State of Oklahoma.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92]

310:615-1-2. Definitions

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

"Ambulatory surgical center" means an establishment with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services available on call, and registered professional nurse services on site, whenever a patient is in the facility, which provides services or other accommodations for patients to recover for a period not to exceed twenty-three (23) hours after surgery.

"Chief executive officer" means that individual appointed by the governing body as its on-site designee who is, in fact, responsible for the conduct of all affairs of the ambulatory surgical center and who is answerable to the governing body for the day-to-day facility operation.

"Governing body" means that person, persons, or legal entity that is legally responsible for the conduct of the facility as an institution and carries out the functions, ownership, and governance.

"Grandfathered" means the status of all ambulatory surgical centers licensed at the date of publication of this Chapter.

"Hospital" means any institution, place, building, or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity. [63 O.S. 1991, §1-701(a)]

"Organized medical staff of physicians" means a group of three or more physicians organized under bylaws approved by the governing body and responsible to the governing body for the quality of all surgical care provided patients in the facility and for the ethical and professional practices of its members.

"Physician" means a person duly licensed by the Oklahoma State Board of Medical Licensure and Supervision or the Oklahoma State Board of Osteopathy to practice medicine/osteopathy and surgery.

"Registered nurse" means a person duly licensed by the Oklahoma Board of Nursing as a registered professional nurse.

"Substantial" means 50 percent or more of the area, wing or building which must comply with these standards and the New Health Care Occupancy, NFPA 101.

"Surgical procedures" means any invasive procedure to the body, either by incision or entry into a natural body cavity, to preserve or to remove with minimal risk, diseased or injured organs, tissues, etc., but primarily restricted to the management of problems and injuries that would not require hospitalization.

"Transfer agreement" means a formally adopted mutual agreement between the ambulatory surgical center and a general hospital located no more than a twenty-minute travel distance from the ambulatory surgical center which provides for the expeditious admission of patients for whom overnight care becomes necessary.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Amended at 10 Ok Reg 1999, eff 6-1-93]

310:615-1-2.1. Applicability

All centers which are licensed on the effective date of this Chapter shall be considered grandfathered in regards to all construction requirements but shall comply with all other requirements. For any substantial renovations, the center must meet all of the requirements of this chapter.

[Source: Added at 9 Ok Reg 2021, eff 6-11-92]

310:615-1-2.2. Licensure

(a) Application for licensure.

(1) No person or entity shall operate an ambulatory surgical center without first obtaining a license from the Department. The license is not transferable or assignable.

(2) Any person, corporation, partnership, association or other legal entity desiring to obtain a license to establish, or to obtain a renewal license to operate, an ambulatory surgical center in this State shall make application to the State Department of Health in such form and accompanied by such information and fee as the State Commissioner of Health shall prescribe.

(3) An application is not considered to be filed unless it is accompanied by the application fee.

(b) Licensure fees.

(1) An application for an initial license to establish or operate a new ambulatory surgical center shall be accompanied by a nonrefundable application fee of two thousand dollars (\$2,000.00).

(2) A renewal application for an existing ambulatory surgical center shall be accompanied by a nonrefundable licensing fee of five hundred dollars (\$500.00).

(c) Application filing. An initial license application or renewal application shall be filed as follows:

(1) The application for an initial license for a new ambulatory surgical center shall be filed prior to or at the time final drawings for construction are submitted to the Department for review which shall be at least thirty (30) days before a ambulatory surgical center begins operation.

(2) The application for an initial license for a change of ownership or operation, shall be filed at least thirty (30) days before the transfer. The sale of stock of a corporate licensee is not considered a change of ownership or operation. The sale or merger of a corporation that owns an operating corporation that is the licensed entity shall not be considered a change of ownership unless a majority of the governing body is replaced.

(3) The application for renewal of a license of an existing ambulatory surgical center shall be filed at least thirty (30) days before the expiration date of the current license.

(d) **Where to file.** The application and the license fee shall be delivered or sent to the Oklahoma State Department of Health. The date of filing of the application shall be recorded as the date the application and fee are received.

(e) **Duration and posting.** A license shall be valid for a period of twelve (12) months from the date of issue and shall expire on the last day of the month of issue twelve (12) months hence.

[Source: Added at 27 Ok Reg 2534, eff 7-25-10]

310:615-1-3. General considerations and incorporations by reference

(a) The following national standards are incorporated by reference:

(1) Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Outpatient Facilities, 2018 Edition; and

(2) National Fire Protection Association (NFPA)101: Life Safety Code (LSC), 2012 Edition, and 2012 LSC Tentative Interim Amendments (TIA) 12-1, 12-2, 12-3, and 12-4; and NFPA99 Health Care Facilities Code (HCFC), 2012 Edition, excluding chapters 7, 8, 12 and 13, and 2012 HCFC TIA 12-2, 12-3, 12-4, 12-5 and 12-6 adopted in 81 Federal Register 26871 by the Centers for Medicare & Medicaid Services on July 5, 2016.

(b) Oklahoma statutes prevail if there is conflict between the FGI Guidelines and Oklahoma statutes. For Medicare-certified ambulatory surgical centers, the Life Safety Code adopted by the Centers for Medicare & Medicaid Services prevails if there is a conflict between the Life Safety Code and this Chapter.

(c) An ambulatory surgical center may submit a request for exception or temporary waiver if the FGI Guidelines create an unreasonable hardship, or if the design and construction for the ambulatory surgical center property offers improved or compensating features with equivalent outcomes to the FGI Guidelines.

(d) The Department may permit exceptions and temporary waivers of the FGI Guidelines if the Department determines that such exceptions or temporary waivers comply with the requirements of 63 O.S. Section 2657

et seq., this Chapter, and the following:

- (1) Any ambulatory surgical center requesting an exception or temporary waiver shall apply in writing on a form provided by the Department and pay the exception or temporary waiver of FGI Guidelines fee set in OAC 310:615-1-3.1. The form shall include:
 - (A) The FGI Guidelines section(s) for which the exception or temporary waiver is requested;
 - (B) Reason(s) for requesting an exception or temporary waiver;
 - (C) The specific relief requested; and
 - (D) Any documentation which supports the application for exception.
 - (2) In consideration of a request for exception or temporary waiver, the Department shall consider the following:
 - (A) Compliance with 63 O.S. Section 2657 et seq.;
 - (B) The level of care provided;
 - (C) The impact of an exception on care provided;
 - (D) Alternative policies or procedures proposed; and
 - (E) Compliance history with provisions of the FGI Guidelines, Life Safety Code and this Chapter.
 - (3) The Department shall permit or disallow the exception or waiver in writing within forty-five (45) calendar days after receipt of the request.
 - (4) If the Department finds that a request is incomplete, the Department shall advise the ambulatory surgical center in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) calendar days after receipt of notification to submit additional or clarifying information in writing to the Department of Health, or the request shall be considered withdrawn.
 - (5) An ambulatory surgical center which disagrees with the Department's decision regarding the exception or temporary waiver may file a written petition requesting relief through an individual proceeding pursuant to OAC 310:2 (relating to Procedures of the State Department of Health).
 - (6) The Department may revoke an exception or temporary waiver through an administrative proceeding in accordance with OAC 310:2 and the Oklahoma Administrative Procedures Act upon finding the ambulatory surgical center is operating in violation of the exception or temporary waiver, or the exception or temporary waiver jeopardizes patient care and safety or constitutes a distinct hazard to life.
 - (7) The Department shall publish decisions on requests for exceptions and waivers and make them available to facilities and the public.
- (e) Documentation of the ambulatory surgical center governing body's approval of the functional program shall be sufficient to meet the requirements in this Chapter relating to Department approval of the functional program.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Amended at 34 Ok Reg 1293, eff 10-1-17 ; Amended at 36 Ok Reg 1710, eff 9-13-19]

310:615-1-3.1. Submission of plans and specifications and related requests for services

(a) **Submission of Plans.** Before construction is begun, plans and specifications, covering the construction of new buildings or major alterations to existing buildings, shall be submitted to the Oklahoma State Department of Health as provided in OAC 310:615-1-3.2 or 310:615-1-5.

(1) Plans and specifications are required for the following alterations:

- (A) Changes that affect path of egress;
- (B) Change of use or occupancy;
- (C) Repurposing of spaces;
- (D) Structural modifications;
- (E) Heating, ventilation and air conditioning (HVAC) modifications;
- (F) Electrical modifications that affect the essential electrical system;
- (G) Changes that require modification or relocation of fire alarm initiation or notification devices;
- (H) Changes that require modification or relocation of any portion of the automatic fire sprinkler system;
- (I) Replacement of fixed medical equipment if the alteration requires any work noted in (A) through (H) of this paragraph;
- (J) Replacement of, or modifications to, any required magnetic or radiation shielding;
- (K) Changes to or addition of any egress control devices or systems.

(2) Plans and specifications are not required for the following alterations:

- (A) Painting, papering tiling, carpeting, cabinets, counter tops and similar finish work provided that the new finishes shall meet the requirements of this Chapter;
- (B) Ordinary repairs and maintenance;
- (C) Modifications to nurse call or other signaling/communication/information technology systems provided the modifications meet the requirements of this Chapter; or
- (D) Replacement of fixed or moveable medical equipment that does not affect electrical, HVAC, or shielding requirements noted above.

(b) **Fees.** Each construction project submitted for approval under OAC 310:615-1-3.2 shall be accompanied by the appropriate review fee based on the cost of design and construction of the project. Review fees are as follows:

- (1) Project cost less than \$10,000.00: \$250.00 Fee
- (2) Project cost \$10,000.00 to \$50,000.00: \$500.00 Fee

- (3) Project cost \$50,000.00 to \$250,000.00: \$1000.00 Fee
- (4) Project cost \$250,000.00 to \$1,000,000.00: \$1500.00 Fee
- (5) Project cost greater than \$1,000,000.00: \$2000.00 Fee

(c) **Fees when greater than two (2) submittals required.** The review fee shall cover the cost of review for up to two (2) stage one and two (2) stage two submittals and one final inspection. If a stage one or stage two submittal is not approved after two (2) submissions, another review fee based on the cost of the project shall be required with the third submittal. Fast-track projects shall be allowed two reviews for each package submitted. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project shall be required with the third submittal of the package.

(d) **Review process.** Design and construction plans and specifications shall be reviewed in accordance with the following process.

- (1) Unless otherwise provided in this Subchapter, the Department shall have ten (10) calendar days in which to determine if the filed application is administratively complete

- (A) Upon determining that the application is not administratively complete, the Department shall immediately notify the applicant in writing and shall indicate with reasonable specificity the inadequacies and measures necessary to complete the application. Such notification shall not require nor preclude further review of the application and further requests for specific information. If the Department fails to notify the applicant as specified in this Paragraph, the period for technical review shall begin at the close of the administrative completeness review period. Upon submission of correction of inadequacies, the Department shall have an additional ten (10) calendar days to review the application for completeness.

- (B) Upon determination that the application is administratively complete, the Department shall immediately notify the applicant in writing. The period for technical review begins.

- (2) The Department shall have forty-five (45) calendar days from the date a completed application is filed to review each application for technical compliance with the relevant regulations and reach a final determination.

- (A) The time period for technical review is tolled (the clock stops) when the Department has asked for supplemental information and advised the applicant that the time period is tolled pending receipt.

- (B) To make up for time lost in reviewing inadequate materials, a request for supplemental information may specify that up to 30 additional calendar days may be added to the deadline for technical review, unless the request for supplemental information is a second or later request that identifies new deficiencies not previously identified

(C) An application shall be deemed withdrawn if the applicant fails to supplement an application within 90 calendar days after the Department's request, unless the time is extended by agreement for good cause.

(D) Extensions may be made as provided by law.

(e) **Fees for other services.** Fees for other services related to construction projects are as follows:

(1) Request for exception to, or temporary waiver of, FGI Guidelines fee: Five Hundred Dollars (\$500.00);

(2) Application for self-certification fee: One Thousand Dollars (\$1,000.00);

(3) Courtesy inspection, prior to final inspection for approval of occupancy, fee: Five Hundred Dollars (\$500.00);

(4) Professional consultation or technical assistance fee: Five Hundred Dollars (\$500.00) for each eight staff hours or major fraction thereof. For technical assistance requiring travel, the fee may be increased to include the Department's costs for travel.

[Source: Added at 27 Ok Reg 2534, eff 7-25-10 ; Amended at 34 Ok Reg 1293, eff 10-1-17]

310:615-1-3.2. Preparation of plans and specifications

(a) **Stage one.** Preliminary plans and outline specifications shall be submitted and include sufficient information for approval by the Department of the following: scope of project; project location; required fire-safety and exiting criteria; building-construction type, compartmentation showing fire and smoke barriers, bed count and services; the assignment of all spaces, areas, and rooms for each floor level, including the basement. An ambulatory surgical center has the option, at its own risk, to bypass the stage one submittal and proceed directly to submittal of stage two documents.

(b) **Stage two.** A proposed construction document shall be submitted that includes final drawings and specifications adequate for approval by the Department. All final plans and specifications shall be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and shall be submitted timely.

(c) **Special submittals.**

(1) **Fast-track projects.** The fast track process applies only to stage two submittals. A stage one submittal and functional program must be approved before entering the fast track process.

(A) Equipment and built-in furnishings are to be identified in the stage one submittal.

(B) The ambulatory surgical center has the option to submit two packages: civil, landscaping and structural in stage one, and the balance of the components in stage two.

(C) Fast-track projects shall have prior approval and be submitted in no more than four (4) separate packages.

(i) Site work, foundation, structural, underslab mechanical, electrical, plumbing work, and related

specifications.

(ii) Complete architectural plans and specifications.

(iii) All mechanical, electrical, and plumbing plans and specifications.

(iv) Equipment and furnishings.

(2) **Radiation protection.** Any project that includes radiology or special imaging equipment used in medical diagnosis, treatment, and therapy of patients, shall include plans, specifications, and shielding criteria, prepared by a qualified medical physicist.

These plans shall be submitted and approved by the Oklahoma State Department of Health prior to installation of the equipment.

(d) **Floor plan scale.** Floor plans are to be submitted at a scale of one-eighth (1/8) inch equals one (1) foot, with additional clarifying documents as required.

(e) **Application form.** The submittal shall be made using a Department application form which requests information required by this Chapter and specifies the number of copies and format for document submittal.

[Source: Added at 27 Ok Reg 2534, eff 7-25-10 ; Amended at 34 Ok Reg 1293, eff 10-1-17]

310:615-1-4. Construction design

(a) New construction.

(1) Prior to construction commencement of a new ambulatory surgical center, or of additions, alterations, remodeling of existing facilities or of the remodeling of any facility for the purpose of establishing an ambulatory surgical center, proposed construction documents prepared by an architect licensed by the Board of Governors, State of Oklahoma, containing complete plans and specifications, shall be submitted to the Department for review and approval.

(2) All engineering requirements established for proposed projects shall be prepared by professional engineers registered to practice in the State of Oklahoma.

(3) Proposed construction documents shall be of such detail as to allow complete functional and construction evaluation, including site use.

(b) **Modernization projects.** Where modernization or replacement work is done within an existing facility, only the scope of the modernization project shall comply with applicable sections of this Chapter.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Amended at 36 Ok Reg 1710, eff 9-13-19]

310:615-1-5. Self-certification of plans

(a) The Department shall make available professional consultation and technical assistance services covering the requirements of this section to an ambulatory surgical center considering self-certification of plans. The consultation and technical assistance is subject to the fee for professional consultation and technical assistance services set in OAC 310: 310:615-1-3.1. The consultation is optional and not a prerequisite for filing a

request through the self-certification review process.

(b) The ambulatory surgical center and the project architect or engineer may elect to request approval of design and construction plans through a self-certification review process. The ambulatory surgical center and the project architect or engineer shall submit a self-certification request on a form provided by the Department, along with a self-certification application fee set in OAC 310: 310:615-1-3.1. The form shall be signed by the ambulatory surgical center and the project architect or engineer attesting that the plans and specifications are based upon and comply with the requirements of this Chapter. The form shall require information necessary to demonstrate compliance with OAC 310:615-1-5(c).

(c) To be eligible for self-certification, projects must comply with the following requirements:

(1) The project involves any portion of the ambulatory surgical center where patients are intended to be examined or treated and the total of design and construction cost is five million dollars (\$5,000,000.00) or less; or

(2) The project involves only portions of the ambulatory surgical center where patients are not intended to be examined or treated; and

(3) The project architect or engineer attesting the application has held a license to practice architecture or engineering for at least five (5) years prior to the submittal of the application, is licensed to practice in Oklahoma; and

(4) The ambulatory surgical center owner/operator acknowledges that the Department retains the authority to:

(A) Perform audits of the self-certification review program and select projects at random for review;

(B) Review final construction documents;

(C) Conduct on-site inspections of the project;

(D) Withdraw approval based on the failure of the ambulatory surgical center or project architect or engineer to comply with the requirements of this Chapter; and

(5) The ambulatory surgical center agrees to make changes required by the Department to bring the construction project into compliance with this Chapter.

(d) Within twenty-one (21) calendar days after receipt of a complete application, the Department shall approve or deny the application for self-certification and send notification to the ambulatory surgical center. If the application is denied, the ambulatory surgical center shall have thirty (30) calendar days to submit additional or supplemental information demonstrating that the application complies with the requirements for self-certification of plans and specifications. The Department shall have fourteen (14) calendar days after receipt of supplemental information to reconsider the initial denial and issue a final approval or denial of the self-certification request.

(e) After denial of the application for self-certification and prior to the start of construction, the ambulatory surgical center shall pay the applicable fee for plan review specified in OAC 310: 310:615-1-3.1. Upon receipt of the plan review fee, the Department shall review the

ambulatory surgical center's plans in accordance with the process in 310:615-1-3.1.

[Source: Added at 34 Ok Reg 1293, eff 10-1-17]

SUBCHAPTER 3. ADMINISTRATION AND ORGANIZATION

310:615-3-1. Governing body

Every ambulatory surgical center shall have a governing body which shall adopt bylaws for the governance of the center, meet at periodic intervals, at least semi-annually, provide for the systematic review of center operations, appoint or reappoint the medical staff and delineate the privileges of its individual members, appoint a chief executive officer who shall have appropriate education, training, and experience to qualify him for the management of the center.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92]

310:615-3-2. Medical staff

- (a) The medical staff shall be an organized group of two or more physicians which shall initiate and adopt, with the approval of the governing body, bylaws, rules, regulations, and policies governing their professional activities in the ambulatory surgical center. Physician membership shall be limited to those physicians holding current hospital staff appointments.
- (b) In addition to the minimum number of physician members of the medical staff, legally licensed dentists or podiatrists may be members of the medical staff.
- (c) All members of the medical staff shall submit a written application for staff membership which shall include a summary of all education, professional training and previous appointments to institutional medical staffs.
- (d) Provisions shall be made for the review and evaluation of surgical practices on a continuing basis by the establishment and operation of a Tissue Committee and/or a Professional Standards Committee which shall review pathological reports on all specimens and review the professional performance. Such Committee to be comprised of two or more members of the medical staff. When warranted by the evidence, the medical staff shall recommend to the governing body the dismissal from the medical staff or the reduction of professional privileges of any member not conforming to the adopted professional standards of the ambulatory surgical center.
- (e) Physician assistants may be certified by the governing body to assist in surgery, but in no instance shall the privileges of a physician's assistant exceed those permitted by his State certification, nor shall a physician's assistant be authorized to function independently from his responsible physician.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92]

310:615-3-3. Records

- (a) A medical record shall be maintained for every patient cared for in the ambulatory surgical center. The medical records shall be filed for easy access by the medical staff or representatives of the licensing agency.
- (b) The medical record shall contain, as a minimum, the following:
 - (1) Patient identification.
 - (2) Patient history, physical examination, chief complaint, copies of any laboratory, X-ray, or consultation reports.
 - (3) Description of surgical procedures performed, observations, anesthesia records and disposition of the patient.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92]

310:615-3-4. Nursing services

- (a) The center shall provide nursing services under the direction of a professional registered nurse with post-graduate training or experience in surgical nursing.

- (b) The facility shall have at least one registered nurse who has professional training and competence in surgical nursing on duty in the ambulatory surgical center when patients are present.
- (c) The facility shall have sufficient licensed nurses and other nursing personnel, under the direction of a registered nurse, to assure observation and nursing care of all patients in the center.
- (d) The facility shall instruct all nursing personnel as to the location, operation, and use of emergency and resuscitative equipment.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92]

310:615-3-5. Anesthesia services

- (a) The facility shall provide anesthesia services under the direction of an anesthesiologist or a physician with training and experience in the administration of anesthetics.
- (b) An anesthesiologist or physician shall be on the premises during the post-anesthetic recovery period until all patients are alert and/or discharged.
- (c) At the time of admission to the ambulatory surgical center, a history and physical examination shall be completed and recorded.
- (d) All anesthesia shall be administered by an anesthesiologist, physician anesthetist, or certified registered nurse anesthetist (CRNA), except for those local agents which may be administered by the attending physician or surgeon.
- (e) Pulse oximeters should be used during procedures and recovery.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92]

310:615-3-6. Emergency equipment

The facility shall provide sufficient emergency equipment to handle emergencies resulting from the services rendered in the facility. Such equipment shall include, but not be limited to, a portable oscilloscope, portable defibrillator, portable suction equipment, inhalation-resuscitation equipment, and equipment to open and maintain an airway.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92]

310:615-3-7. Supportive services

- (a) The facility shall provide sufficient support services to assure the adequate and appropriate availability of supplies, instruments, and equipment.
- (b) Sterilizers and autoclaves shall be provided of appropriate type and capacity to sterilize instruments, utensils, dressings, water, and operating-room materials. There shall be approved control and safety features, and instrument accuracy must be checked on a regular, periodic basis by an approved method.
- (c) Sterile supplies must be maintained separately from unsterile supplies and must be stored in dust-proof and moisture-free, properly labeled packs.

(d) All sterile packs shall have marked on their outer surface the date of sterilization and the expiration date of such period of sterile condition.

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92]

310:615-3-8. Medications

(a) Medications shall be administered only on the order of any person authorized by state law to so prescribe [Nurse Practice Act 59 O.S. 1981 §567.3a].

(b) The center shall provide proper storage, safeguarding, preparation, and dispensing of medications in a pharmacy or medication room which is under the supervision of a registered pharmacist who is either an employee of the center or serves as a consultant pharmacist, who shall be required to visit the ambulatory surgical center no more than one time per month.

[Source: Amended at 9 Ok Reg 2021, eff 6-11-92 ; Amended at 27 Ok Reg 2534, eff 7-25-10 ; Amended at 36 Ok Reg 1710, eff 9-13-19]

SUBCHAPTER 5. MINIMUM STANDARDS [REVOKED]

310:615-5-1. Administration and public areas [REVOKED]

[Source: Amended at 9 Ok Reg 2021, eff 6-11-92 ; Amended at 27 Ok Reg 2534, eff 7-25-10 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-5-2. Clinical facilities [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-5-3. Surgical facilities [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-5-4. Janitors' closet(s) [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-5-5. Employees' facilities [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-5-6. Details and finishes [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-5-7. Construction, including fire-resistive requirements [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-5-8. Elevators [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-5-9. Mechanical requirements [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-5-10. Electrical requirements [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

SUBCHAPTER 7. CODES AND STANDARDS [REVOKED]

310:615-7-1. General [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

310:615-7-2. List of referenced codes and standards [REVOKED]

[Source: Revoked and reenacted at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

**APPENDIX A. GENERAL PRESSURE RELATIONSHIPS
AND VENTILATION OF CERTAIN AMBULATORY
SURGICAL CENTER AREAS [REVOKED]**

[Source: Revoked at 9 Ok Reg 2021, eff 6-11-92]

**APPENDIX B. FILTER EFFICIENCIES FOR CENTRAL
VENTILATION AND AIR-CONDITIONING SYSTEMS IN
AMBULATORY SURGICAL CENTERS [REVOKED]**

[Source: Revoked at 9 Ok Reg 2021, eff 6-11-92]

APPENDIX C. STATION OUTLETS FOR OXYGEN AND VACUUM (SUCTION) SYSTEMS [REVOKED]

[Source: Revoked at 9 Ok Reg 2021, eff 6-11-92]

**APPENDIX D. FLAME-SPREAD AND SMOKE-
PRODUCTION LIMITATIONS OF INTERIOR FINISHES
IN AMBULATORY SURGICAL CENTERS [REVOKED]**

[Source: Added at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

**APPENDIX E. VENTILATION REQUIREMENTS FOR
AREAS AFFECTING PATIENT CARE IN AMBULATORY
SURGICAL CENTERS [REVOKED]**

[Source: Added at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

**APPENDIX F. FILTER EFFICIENCIES FOR CENTRAL
VENTILATION AND AIR CONDITIONING SYSTEMS IN
OUTPATIENT FACILITIES [REVOKED]**

[Source: Added at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

APPENDIX G. STATION OUTLETS FOR OXYGEN AND VACUUM (SUCTION) SYSTEMS [REVOKED]

[Source: Added at 9 Ok Reg 2021, eff 6-11-92 ; Revoked at 36 Ok Reg 1710, eff 9-13-19]

CHAPTER 616. BIRTHING CENTERS REGULATIONS

[Authority: 63 O.S.Supp.1991, § 1-701]

[Source: Codified 6-11-92]

SUBCHAPTER 1. GENERAL PROVISIONS

310:616-1-1. Purpose

This Chapter establishes the minimum criteria for the issuance and renewal of a birthing center license and the procedures for enforcement thereto.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

310:616-1-2. Definitions

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

"Administrator" means a person acting in authority and who is responsible for all events and day-to-day operations of the birthing center.

"Applicant" means a person, firm, corporation, organization or association applying for a license to operate a birthing center.

"Birthing center" means a freestanding facility, place or institution, which is maintained or established primarily for the purpose of providing services of a certified midwife or licensed physician to assist or attend a woman in delivery and birth, and where a woman is scheduled in advance to give birth following a normal, uncomplicated, low-risk pregnancy.

"Birth room" means a home-like room where births are planned to occur with the availability of emergency equipment.

"Board" means the State Board of Health.

"Department" means the Oklahoma State Department of Health.

"License" means a document issued by the Department and renewable annually, provided the institution complies with all requirements of these regulations and the assessed fee.

"Licensed birth attendant" means a doctor of medicine or osteopathy or a certified nurse-midwife (CNM) licensed in the state of Oklahoma.

"Low risk" means a normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth as defined by generally accepted criteria of maternal and fetal health.

"Medical director" means a doctor of medicine or osteopathy who is licensed pursuant to the laws of this state with no restrictive sanctions and is commissioned by the birthing center to consult and advise on the medical component of the patient care program of the birthing center.

"Midwife" means a person educated in the discipline of nursing and midwifery, certified by the American College of Nurse-Midwives (ACNM) and licensed by the state to engage in the practice of midwifery

and as a registered nurse.

"Midwifery" means the application of scientific principles in the art of "with women" care during uncomplicated pregnancy, birth and puerperium including care of the newborn, support of the family unit and gynecologic health care.

"Referral hospital" means a hospital identified by the birthing center to receive mothers and/or infants who are not low risk.

"Transfer agreement" means a formally adopted mutual agreement between the birthing center, a suitable emergency transport system, and a hospital which provides obstetrical services and is located within a thirty minute travel distance.

"The Hospital Licensure Act" also known as **"the Act"** means Title 63 of the Oklahoma Statutes, sections 1-701 through 1-709 inclusive, as amended.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

SUBCHAPTER 3. ADMINISTRATION

310:616-3-1. Licensure

(a) **Applicant.** Any individual, public or private organization desiring to establish a birthing center may apply and obtain a license from the Department. A license is not mandatory to operate a birthing center.

(b) **Application.** The application for a birthing center license shall be filed on a form prescribed by the Department.

(c) **Expiration/renewal.** The birthing center license shall expire one year from the date of issue, unless suspended or revoked. An application for renewal shall be submitted according to the act.

(d) **Conditions for licensure.**

(1) The license is valid only for the location indicated on the license.

(2) The license is not transferable or assignable.

(3) The Department shall be notified within thirty days of change of administrator.

(4) The Department shall be notified within thirty days of change in business name and/or address.

(5) The Department shall be notified in writing when the center closes and the administrator shall return the license to the Department.

(6) A licensed birth attendant shall be available twenty-four hours a day.

(7) A transfer agreement shall be in place between the birthing center and a hospital which has obstetrical services where the medical director has obstetrical admitting privileges. The hospital shall be located not more than 30 minutes from the birthing center.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

310:616-3-2. Organization

(a) **Policies and procedures.** Each birthing center which falls within the purview of these regulations shall develop and maintain operational policy and procedures which describe the functions, staffing, services available to the patient and other basic information relating to the fulfillment of the facility's objectives.

(b) **Governing body.** A birthing center shall have a governing body that assumes full legal responsibility for determining, implementing and monitoring policies governing the total operations of the center. The governing body must also ensure that all services provided are consistent with accepted standards of practice, including contract services.

(c) **Personnel requirements.** Policies shall be developed concerning the following and placed in personnel records:

- (1) Job descriptions for all personnel.
- (2) A requirement for orientation of all employees.
- (3) Inservice education.
- (4) Evidence that all birth attendants are currently certified by the American Heart Association or the American Red Cross in infant and adult cardiopulmonary resuscitation.
- (5) Verification that all staff meet state licensure requirements.
- (6) Certification of the midwife by the American College of Nurse-Midwives (ACNM), and a certificate of recognition from the Oklahoma Board of Nursing permitting the use of the title of Certified Nurse-Midwife (CNM).

(d) **Food service**

(1) Birthing centers with three or fewer birth rooms which provide meals to patients shall use one of the following methods:

(A) Food catered from a licensed food service using vendor's utensils.

(B) Prepackaged complete meals or snacks.

(C) For meals prepared on the premises:

(i) Kitchen shall be equipped for sanitary preparation of food and snacks.

(ii) There shall be a sink to wash, sanitize and air dry dishes or there shall be a mechanical dishwasher.

(iii) Mechanical refrigeration shall be provided.

(2) Birthing centers with four or more birth rooms which provide meals to patients shall comply with the requirements for food services in Chapter 665 of this Title.

(3) Commercially prepared food products may be brought to the birth center by the family for patient use.

(4) Prepackaged disposable formula units shall be used for other than breast feeding for infants.

(e) **Medical director.** The medical director shall be a doctor of medicine or osteopathy licensed to practice in the state of Oklahoma, free of restrictive sanctions and shall assume overall responsibility for the medical component of the patient care program of the center.

310:616-3-3. Reports and records

(a) **Reports.** Reports shall be made by the birthing center to the appropriate agency, including but not limited to the following:

- (1) Communicable diseases.
- (2) Births and deaths.
- (3) Periodic reports to the Department on forms supplied for this purpose.
- (4) Newborn hearing screening report.
- (5) Newborn metabolic screening.
- (6) Birth defects.

(b) **Retention and preservation of records.**

(1) **State retention requirements.** Medical records will be retained a minimum of five years beyond the date the patient was last seen or a minimum of three years beyond the date of the patient's death.

(2) **Preservation of records.** Birthing centers generating medical records may microfilm the medical records and destroy the original record in order to conserve space.

(c) **Record of care.**

(1) The birthing center shall establish and maintain a medical record for each mother and infant receiving care and services. The record shall be complete, timely and accurately documented, and readily accessible.

(2) The medical record shall contain sufficient information to justify the diagnosis and treatment and warrant the services provided. Entries are made and signed by the person providing the services. The record shall include all care and services whether furnished directly or under arrangement made by the center. Each record shall contain at least, but not limited to, the following:

- (A) Identification data.
- (B) Initial and subsequent assessments.
- (C) Record of prenatal care.
- (D) Medical history and physical exam.
- (E) Risk assessment.
- (F) Allergies and medication reactions.
- (G) A disclosure statement signed by the patient explaining the principles of midwifery, benefits, limitations, and risks available to them at the birthing center and describing the arrangements the center has with physicians and the referral hospitals.
- (H) Plan of care.
- (I) Laboratory reports.
- (J) X-Ray reports.
- (K) Intrapartum care.
- (L) Postpartum care.
- (M) Newborn care.
- (N) Patient's compliance to advice and/or treatment.
- (O) Discharge Summary.

[Source: Added at 9 Ok Reg 1715, eff 4-13-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

310:616-3-4. Confidentiality

(a) Medical records shall be kept confidential. Only authorized personnel shall have access to the record. Written consent of the patient, the court appointed guardian, or a court order must be presented as authority for release of medical information.

(b) Patient access to medical records. Any person who is or has been a patient of a physician, hospital, or other medical facility, except psychiatric, shall be entitled to access information contained in his/her medical records upon request. Request for minors may be made by parents or legal guardian. A copy of the medical record pertaining to his/her case shall be furnished upon tender of the expense of such copy or copies. The cost of each copy shall not exceed the statutory fee.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

SUBCHAPTER 5. MINIMUM STANDARDS

310:616-5-1. Admission

(a) Admission to the birthing center shall be limited to low risk, uncomplicated pregnancies, with an anticipated spontaneous vaginal delivery, which, determined by history of prenatal care and risk criteria, predicts a normal, uncomplicated birth. Regional or general anesthesia shall not be utilized in the birthing center.

(b) Each birthing center shall have sufficient space to accommodate participating family members and support personnel of the patient's choice and shall provide care for childbearing women during pregnancy, birth and puerperium with public service standards accessible to acute care obstetrical and newborn services.

(c) A woman who develops any condition that causes her to deviate from having a low-risk birth shall be referred and transferred to the appropriate referral hospital when the abnormal condition is recognized.

(d) Infants who are born with or develop problems following birth shall also be referred to the appropriate hospital or physician.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

310:616-5-2. Quality assurance

The birthing center shall have a quality assurance program to monitor and assure that all requirements are met, including but not limited to:

(1) Sanitation.

(A) A safe and sanitary environment shall be properly constructed, equipped and maintained according to established policies and procedures to protect the health and safety of the patient.

(B) An infection control program shall be developed which includes the utilization of universal precautions.

(C) Properly functioning equipment shall be available to sterilize instruments, equipment and supplies prior to use in the center using current standards and principles of sterilization in processing sterile supplies.

(D) All waste, including biomedical waste, shall be disposed of by a state approved method. Placentas shall not be placed in the trash or dumpster for disposal. Infectious or pathological waste shall be double-bagged in plastic bags not less than 1.5 mil thick each and conspicuously marked. Biomedical waste shall not be commingled with routine solid waste.

(2) Emergency equipment.

(A) Properly functioning emergency equipment shall include oxygen, respiratory support equipment including airways, manual breathing bag and mask and laryngoscope and endotracheal tubes for adults and infants.

(B) Emergency medications as specified by the medical director shall be maintained.

(3) Evaluation of care.

(A) Acceptable quality of care shall be provided to patients both directly and under arrangements.

(B) The governing board shall annually review and revise, as needed, the birthing center's quality assurance program. Goals shall be established and problems identified with documented solutions.

(C) Policies and procedures shall be reviewed, revised as needed, and approved by the governing board, annually.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

310:616-5-3. Life Safety Code

(a) This section establishes life safety requirements for free standing birthing centers that are permitted to operate twenty-four hours per day.

(b) Each floor occupied by patients shall have not less than two remote exits, one of which shall discharge directly to the outside.

(c) Travel distance to an exit shall be limited to 150 feet.

(d) Doors in means of egress shall be not less than thirty-four inches wide.

(e) Corridors and ways of exit shall be provided with emergency lighting. Emergency lights shall operate, without manual intervention, on failure of normal electric service with power supplied by battery packs or emergency generator.

(f) Construction standards shall be in accordance with applicable building codes for group use and occupancy. In locations where no building code exists, construction shall conform to the state adopted building code. New and existing buildings to be occupied by a birthing center may be of NFPA construction Type V-000, unprotected wood frame

or any code complying residential construction type providing that fire and safety features are in practice. Buildings three stories in height shall be of at least one hour fire resistive construction. Plans of construction of a new building, addition to or major alterations of existing buildings, shall be submitted to the Department and the State Fire Marshall. All structures shall be equipped with an approved sprinkler system.

(g) Interior finishes in exit ways shall be class "A" (flame spread 0 - 25).

(h) A manual fire alarm interconnected with a corridor smoke detection system shall be installed with direct connection with the local fire department of a manned central station.

(i) Electrical wiring in new construction shall be in compliance with national electrical code N.F.P.A. #70. Major electrical appliances shall be grounded in accordance with manufacturers recommendations.

(j) The use of extension cords or temporary wiring is prohibited.

(k) A floor plan of the building shall be posted in a conspicuous place showing the evacuation route of the exit ways.

(l) Fire drills shall be conducted quarterly and will be documented.

(m) The birthing center shall have at least one fire extinguisher for each floor and one extinguisher for the kitchen area. The kitchen extinguisher shall be at least a five pound dry chemical or carbon dioxide type. All others shall be either a five pound ABC or two and one-half gallon pressurized water type.

(n) Emergency telephone numbers shall be posted at the telephone.

(o) Air conditioning, heating and ventilation equipment shall be installed and maintained in accordance with N.F.P.A. 90A.

(p) Corridors shall not be used as return air plenums.

(q) Air handling units in excess of 2500 cubic feet per minute (cfm) used for heat, exhaust and air conditioning systems, shall be controlled by all phases for the fire alarm system to cease air movement.

(r) The use of non-vented fuel burning space heaters and portable electric heaters are prohibited.

(s) All hot water heaters shall be equipped with temperature and pressure relief valves designed for relieving capacity.

(t) Combustion, exhaust and ventilation air shall be taken from and discharged directly to outside air.

(u) If parts of a birthing center, already in operation prior to the date a standard is issued, fail to meet a particular standard, compliance with the standard will be waived if patient care and safety are not deemed to be in jeopardy.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

310:616-5-4. Construction

(a) **Location.** The facility shall be serviced by all weather roads and available to private and emergency vehicles at all times.

(b) **Parking.** Parking shall be made available for patients, staff and visitors. (See Uniform Federal Accessibility Standards [UFAS] and American National Standards Institute Standard A117.1 [ANSI], American Standard Specification for Making Buildings and Facilities Accessible to and Useable by the Physically Handicapped).

(c) **Building plans and specifications.** Before the start of construction, plans and specifications covering the construction of new buildings or major alterations to existing buildings, shall be submitted to the Department for review and approval.

(d) **Staged submission.** Prepared plans and specifications shall be submitted in two stages.

(1) Stage one shall contain sufficient information to establish the scope of the project, project location, required fire safety and exiting criteria, building construction type, bed count and services, and assignment of all spaces for all floors.

(2) Stage two shall be the final drawings and specifications. This submittal shall be complete and adequate for proposed contract purposes. All final plans and specifications shall be sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval by the Department and shall be submitted as is timely.

(e) **Construction start.** Construction, other than minor alterations, shall not commence until the stage two plan-review has been approved.

(f) **Special submittal.** Fast-Tract projects must have prior approval and shall be submitted in a maximum of four separate packages:

(1) Foundation, structural, underslab, mechanical, electrical and plumbing work, and related specifications.

(2) Complete architectural plans and specifications.

(3) All mechanical, electrical, and plumbing plans and specifications.

(4) Equipment and furnishings.

(5) Automatic sprinkler systems. A minimum of two sets of sprinkler system show drawings, specifications and calculations (if applicable) prepared by the installer, shall be submitted to the office of the State Fire Marshall for review and approval prior to the installation of the proposed system in the project.

(g) **Construction.** The completed construction shall be in compliance with the approved drawings and specifications., including all addenda or modifications to the project.

(h) **Final inspection.** A final inspection, prior to occupancy, will be scheduled for the purpose of verifying compliance with the licensing standards, plans and specifications.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

SUBCHAPTER 7. ENFORCEMENT

310:616-7-1. Inspections

(a) Any duly authorized representative of the Department shall have the right to conduct inspections as necessary in order to determine compliance with the provisions of the Act and this Chapter in force pursuant thereto.

(b) Inspections shall be conducted by authorized representatives of the Department at least annually, but more frequently if there is a reasonable basis for such action.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

310:616-7-2. Complaints and investigations

(a) A complaint may be registered with the Department by any person who believes the birthing center is operating contrary to the Act or is posing a serious threat to the health and welfare of a patient in its care. The complaint may be registered verbally or in writing.

(b) An investigation will be conducted by the Department to determine the validity of the complaint and instigate necessary action applicable to the situation. The complainant will be notified, in writing, of the findings, if a name and address is furnished.

(c) If the Department determines there are reasonable grounds to believe the birthing center is operating in violation of the regulations, the Department shall follow the notice and hearing procedure established by the Act and as contained in the Procedure of the State Department of Health, Chapter 2 of this Title.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

310:616-7-3. Penalties

After notice and hearing pursuant to the Act, the Department may use any and all the remedies provided by the Act and by the general statutory authority of the Commissioner of Health.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

310:616-7-4. Appeals

Final orders of the Department may be appealed to the District Court by any party directly affected or aggrieved by the order.

[Source: Added at 9 Ok Reg 1715, eff 4-23-92 (emergency); Added at 9 Ok Reg 1979, eff 6-11-92]

CHAPTER 620. CERTIFICATE OF NEED STANDARDS FOR HEALTH CARE FACILITY ACQUISITIONS [REVOKED]

[**Authority:** 63 O.S., §§ 1-850 et seq.; 63 O.S., §§ 1-880.1 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL [REVOKED]

310:620-1-1. Purpose [REVOKED]

[**Source:** Amended at 12 Ok Reg 3065, eff 7-27-95 ; Amended at 14 Ok Reg 2261, eff 6-12-971 ; Amended at 18 Ok Reg 2496, eff 6-25-01 ; Revoked at 38 Ok Reg 2051, eff 9-11-21]

310:620-1-2. Criterion [REVOKED]

[**Source:** Revoked at 14 Ok Reg 2261, eff 6-12-97]

310:620-1-3. Applicability [REVOKED]

[**Source:** Added at 12 Ok Reg 3065, eff 7-27-95 ; Amended at 14 Ok Reg 2261, eff 6-12-97 ; Amended at 18 Ok Reg 2496, eff 6-25-01 ; Revoked at 22 Ok Reg 2414, eff 7-11-05]

SUBCHAPTER 3. STANDARDS [REVOKED]

310:620-3-1. Financial [REVOKED]

[**Source:** Amended at 12 Ok Reg 3065, eff 7-27-95 ; Amended at 14 Ok Reg 2261, eff 6-12-971 ; Amended at 18 Ok Reg 2496, eff 6-25-01 ; Amended at 19 Ok Reg 2079, eff 6-27-02 ; Amended at 22 Ok Reg 2414, eff 7-11-05 ; Revoked at 38 Ok Reg 2051, eff 9-11-21]

310:620-3-2. Staffing [REVOKED]

[**Source:** Amended at 12 Ok Reg 3065, eff 7-27-95 ; Revoked at 38 Ok Reg 2051, eff 9-11-21]

310:620-3-3. Experience [REVOKED]

[**Source:** Amended at 12 Ok Reg 3065, eff 7-27-95 ; Revoked at 14 Ok Reg 2261, eff 6-12-971 ; Amended at 18 Ok Reg 2496, eff 6-25-01 ; Amended at 19 Ok Reg 2079, eff 6-27-02 ; Amended at 22 Ok Reg 2414, eff 7-11-05 ; Revoked at 38 Ok Reg 2051, eff 9-11-21]

310:620-3-4. Investigation [REVOKED]

[**Source:** Amended at 12 Ok Reg 3065, eff 7-27-95 ; Revoked at 14 Ok Reg 2261, eff 6-12-971]

310:620-3-4.1. Description of notice to residents and families [REVOKED]

[**Source:** Added at 14 Ok Reg 2261, eff 6-12-97 ; Amended at 18 Ok Reg 2496, eff 6-25-01 ; Amended at 22 Ok Reg 2414, eff 7-11-05 ; Revoked at 38 Ok Reg 2051, eff 9-11-21]

CHAPTER 625. CERTIFICATE OF NEED STANDARDS FOR ICF/IID [REVOKED]

[**Authority:** 63 O.S., §§ 1-104 and 1-851.2(A)(7)]

[**Source:** Codified 12-31-91]

310:625-1-1. Purpose [REVOKED]

[**Source:** Amended at 36 Ok Reg 1725, eff 9-13-19 ; Revoked at 38 Ok Reg 2053, eff 9-11-21]

310:625-1-2. Service area [REVOKED]

[**Source:** Amended at 36 Ok Reg 1725, eff 9-13-19 ; Revoked at 38 Ok Reg 2053, eff 9-11-21]

310:625-1-3. Burden of proof [REVOKED]

[**Source:** Amended at 36 Ok Reg 1725, eff 9-13-19 ; Revoked at 38 Ok Reg 2053, eff 9-11-21]

310:625-1-4. Standards [REVOKED]

[**Source:** Amended at 36 Ok Reg 1725, eff 9-13-19 ; Revoked at 38 Ok Reg 2053, eff 9-11-21]

CHAPTER 630. CERTIFICATE OF NEED STANDARDS FOR LICENSED NURSING FACILITY BEDS [REVOKED]

[**Authority:** 63 O.S., §§ 1-104 and 1-851.2(A)(7)]

[**Source:** Codified 12-31-91]

310:630-1-1. Purpose [REVOKED]

[**Source:** Amended at 18 Ok Reg 2498, eff 6-25-01 ; Amended at 36 Ok Reg 1726, eff 9-13-19 ; Revoked at 38 Ok Reg 2054, eff 9-11-21]

310:630-1-2. Service areas [REVOKED]

[**Source:** Amended at 18 Ok Reg 2498, eff 6-25-01 ; Amended at 19 Ok Reg 2080, eff 6-27-02 ; Revoked at 38 Ok Reg 2054, eff 9-11-21]

310:630-1-3. Standards [REVOKED]

[**Source:** Amended at 18 Ok Reg 2498, eff 6-25-01 ; Amended at 19 Ok Reg 2080, eff 6-27-02 ; Amended at 22 Ok Reg 2416, eff 7-11-05 ; Amended at 36 Ok Reg 1726, eff 9-13-19 ; Revoked at 38 Ok Reg 2054, eff 9-11-21]

310:630-1-4. Standards [REVOKED]

[**Source:** Revoked at 11 Ok Reg 3173, eff 6-27-94]

CHAPTER 635. CERTIFICATE OF NEED STANDARDS FOR PSYCHIATRIC AND CHEMICAL DEPENDENCY SERVICE BEDS [REVOKED]

[Authority: 63 O.S., §§ 1-880.1 et seq.]

[Source: Codified 12-31-91]

310:635-1-1. Purpose [REVOKED]

[Source: Revoked at 38 Ok Reg 2057, eff 9-11-21]

310:635-1-1.1. Definitions [REVOKED]

[Source: Added at 9 Ok Reg 1975, eff 6-11-92 ; Revoked at 38 Ok Reg 2057, eff 9-11-21]

310:635-1-2. Applicability [REVOKED]

[Source: Amended at 19 Ok Reg 2083, eff 6-27-02 ; Revoked at 38 Ok Reg 2057, eff 9-11-21]

310:635-1-3. Burden on applicant [REVOKED]

[Source: Revoked at 38 Ok Reg 2057, eff 9-11-21]

310:635-1-4. Service area [REVOKED]

[Source: Amended at 19 Ok Reg 2083, eff 6-27-02 ; Revoked at 38 Ok Reg 2057, eff 9-11-21]

310:635-1-5. Population-based need [REVOKED]

[Source: Amended at 19 Ok Reg 2083, eff 6-27-02 ; Revoked at 38 Ok Reg 2057, eff 9-11-21]

310:635-1-6. Availability of alternative services [REVOKED]

[Source: Revoked at 38 Ok Reg 2057, eff 9-11-21]

310:635-1-7. Financial resources [REVOKED]

[Source: Revoked at 38 Ok Reg 2057, eff 9-11-21]

310:635-1-8. Staffing [REVOKED]

310:635-1-8.¹ Staffing [REVOKED]

[Source: Revoked at 38 Ok Reg 2057, eff 9-11-21]

Editor's Note: ¹*In the initial codification of this agency's rules (12-31-91), two Sections were numbered as 310:635-1-8. Upon discovery of this error on 12-30-96, the number of the second Section was changed to 310:635-1-9.*

310:635-1-9. Other [REVOKED]
310:635-1-9.¹ Other [REVOKED]

[Source: Revoked at 38 Ok Reg 2057, eff 9-11-21]

Editor's Note: ¹*In the initial codification of this agency's rules (12-31-91), two Sections were numbered as 310:635-1-8. Upon discovery of this error on 12-30-96, the number of the second Section was changed to 310:635-1-9.*

310:635-1-10. Temporary emergency admissions [REVOKED]

[Source: Added at 9 Ok Reg 1975, eff 6-11-92 ; Revoked at 38 Ok Reg 2057, eff 9-11-21]

APPENDIX A. MENTAL HEALTH SERVICE AREAS [REVOKED]

[**Source:** Revoked and reenacted at 19 Ok Reg 2083, eff 6-27-02 ; Revoked at 38 Ok Reg 2057, eff 9-11-21]

APPENDIX B. HOSPITAL SERVICE REGIONS [REVOKED]

[Source: Revoked and reenacted at 19 Ok Reg 2083, eff 6-27-02 ; Revoked at 38 Ok Reg 2057, eff 9-11-21]

CHAPTER 638. DRUG AND ALCOHOL TESTING

[Authority: 40 O.S., §§ 557 and 558]

[Source: Codified 7-27-95]

SUBCHAPTER 1. GENERAL PROVISIONS

310:638-1-1. Purpose

The rules in this chapter implement the Standards for Workplace Drug and Alcohol Testing Act (40 O.S. Sections 551 et seq., hereinafter, the Act).

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-1-2. Definitions

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

"Alcohol concentration" means the amount of alcohol present in urine or blood expressed in terms of percent of the weight of alcohol per volume of urine or blood (w/v), or the amount of alcohol present in breath expressed in terms of grams of alcohol per two hundred ten (210) liters of breath, or the amount of alcohol present in saliva expressed in grams of alcohol per one hundred (100) milliliters of saliva.

"Alcohol testing facility" means any building, place, or facility in which operations, procedures, or examinations of materials derived from the human body are performed for the purpose of alcohol testing and if, as a result of such testing, mandatory or discretionary consequences may be rendered to the individual.

"Approved drug screening procedure" means a procedure approved by the Commissioner of Health to initially screen urine, hair or saliva for the presence or absence of a drug or drugs.

"Blind performance test specimen" means a specimen submitted to a testing facility which is blank i.e., certified to contain no drug, or spiked with one or more drugs for which the testing facility is testing;

"Department" means the Oklahoma State Department of Health.

"Drug screen testing facility" means any building, place, or facility in which operations or procedures for the biological, serological, immunological, chemical, immunohematological, or other examinations of materials derived from the human body are performed for the purpose of drug testing and if, as a result of such testing, mandatory or discretionary consequences may be rendered to the individual.

"Proficiency testing program" means performance of testing on specimens containing those drugs and metabolites which each testing facility shall be prepared to assay in concentration ranges that allow detection of the analyte by commonly used immunoassay screening techniques. The proficiency testing program for drug testing facilities shall be approved for use by the Commissioner of Health.

"Saliva" means mucosal transudate or a combination of oral fluids consisting of a mixture of gingival crevicular fluid and common saliva.

"Screening device test" means non-evidential breath testing apparatus such as tubes filled with materials that turn a certain color when alcohol-laden breath is blown into them or a small, hand-held electronic apparatus that registers the presence or absence of alcohol concentration in breath, or an apparatus which registers a particular alcohol concentration when a swab with saliva from the employee's mouth is inserted into it.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

310:638-1-3. Qualifications of testing facilities

(a) Drug screen testing facilities.

(1) Drug screen testing facilities not certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists shall meet the provisions of this Chapter for the matrices for which they test for drugs of abuse in order to be eligible for licensure as a testing facility.

(2) Drug screen testing facilities certified for forensic urine drug testing by the United States Department of Health and Human Services, accredited for forensic urine drug testing by the College of American Pathologists, or licensed by a State acceptable to the Department shall be deemed to meet the requirements of OAC 310:638 Subchapter 5 and shall be eligible for licensure as a testing facility.

(b) Drug confirmation testing facilities. All facilities performing drug confirmation testing using urine or saliva as the testing matrix shall be certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists in order to be eligible for licensure as a testing facility. Facilities performing confirmation testing using hair as the testing matrix, shall have passed an inspection performed by the Department or be licensed by another State acceptable to the Department.

(c) Notification requirements. All testing facilities licensed by the Department based on certification by the United States Department of Health and Human Services, accreditation by the College of American Pathologists, or licensed by another State accepted by the Department shall notify the Department in writing within ten (10) days of the loss of such certification, accreditation, or licensure.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

310:638-1-4. Body specimens appropriate for testing

(a) **Drugs.**

- (1) **Initial tests.** Urine, saliva or hair shall be used for the initial test for all drugs.
- (2) **Confirmation tests.** Urine, saliva or hair shall be used for the confirmation test for all drugs.

(b) **Alcohol.**

- (1) **Initial tests.** Breath or saliva shall be used for the initial test for alcohol. Blood may be used for initial testing as described in OAC 310:638-7-4(b)(4).
- (2) **Confirmation tests.** Breath or blood shall be used for the confirmation test for alcohol.
- (3) **Rehabilitation/post-rehabilitation tests.** For alcohol testing which meets the criteria at 310:638-7-8(a), urine may be used as the specimen for initial and/or confirmation testing.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

310:638-1-5. Drugs approved for testing in urine or saliva

(a) A licensed testing facility may test for any drug or class of drugs or their metabolites included in Schedule I, II, or III of the Controlled Substances Act (21 U.S.C. § 801, et seq.) provided testing for such substances has been approved by the Commissioner of Health.

(b) The following drugs or their metabolites have been approved for testing by the Commissioner of Health:

- (1) marijuana;
- (2) opiates:
 - (A) codeine;
 - (B) heroin;
 - (C) morphine;
- (3) semi-synthetic and synthetic narcotics:
 - (A) hydrocodone;
 - (B) hydromorphone;
 - (C) meperidine;
 - (D) methadone;
 - (E) oxycodone;
 - (F) propoxyphene;
- (4) cocaine;
- (5) phencyclidine;
- (6) amphetamines:
 - (A) amphetamines;
 - (B) methamphetamines;
 - (C) methylenedioxymphetamine;
 - (D) methylenedioxymethamphetamine;
 - (E) phentermine;
- (7) barbiturates:
 - (A) amobarbital;
 - (B) butalbital;
 - (C) pentobarbital;

- (D) secobarbital
- (8) benzodiazepines:
 - (A) diazepam;
 - (B) chlordiazepoxide;
 - (C) alprazolam;
 - (D) clorazepate; and
- (9) methaqualone.
- (c) If the United States Department of Health and Human Services has established an approved protocol and positive threshold for a substance not listed in (b) of this Section, testing for such a substance shall be deemed to be approved by the Commissioner of Health.
- (d) Drugs other than those listed shall be tested by scientifically established methods at scientifically established detection levels.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 18 Ok Reg 3592, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1050, eff 5-13-02 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

310:638-1-5.1. Drugs approved for testing in hair

- (a) A licensed testing facility may test for any drug or class of drugs or their metabolites included in Schedule I, II or III of the Controlled Substances Act (21 U.S.C. § 801 et seq.) provided testing for such substances has been approved by the Commissioner of Health.
- (b) The following types of drugs or their metabolites have been approved for testing by the Commissioner of Health:
 - (1) marijuana;
 - (2) opiates:
 - (A) codeine;
 - (B) heroin;
 - (C) morphine;
 - (3) cocaine;
 - (4) phencyclidine;
 - (5) amphetamines:
 - (A) amphetamines;
 - (B) methamphetamine.

- (c) If the United States Department of Health and Human Services has established an approved protocol and positive threshold for a substance not listed in (b) of this Section, testing for such a substance shall be deemed to be approved by the Commissioner of Health.
- (d) Drugs other than those listed shall be tested by scientifically established methods at scientifically established detection levels.

[Source: Added at 17 Ok Reg 381, eff 11-1-99 (emergency); Added at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 18 Ok Reg 3592, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1050, eff 5-13-02]

310:638-1-6. Cutoff levels for initial drug screening tests in urine

- (a) The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for these drugs or their metabolites:
 - (1) marijuana metabolites: 50 ng/ml

- (2) cocaine metabolites: 300 ng/ml
- (3) opiates and metabolites: 2000 ng/ml; opiates and metabolites include the following:
 - (A) codeine;
 - (B) heroin;
 - (C) morphine;
- (4) semi-synthetic and synthetic narcotics: 300 ng/ml
 - (A) hydrocodone;
 - (B) hydromorphone;
 - (C) meperidine (immunoassay unavailable, initial test level of 1000 ng/ml shall be used for meperidine)
 - (D) methadone;
 - (E) oxycodone;
 - (F) propoxyphene;
- (5) phencyclidine: 25 ng/ml
- (6) amphetamines: 1,000 ng/ml; amphetamines include the following:
 - (A) amphetamines;
 - (B) methamphetamines;
 - (C) methylenedioxymethamphetamine (immunoassay unavailable);
 - (D) methylenedioxymethamphetamine (immunoassay unavailable);
 - (E) phentermine;
- (7) barbiturates: 300 ng/ml; barbiturates include the following:
 - (A) amobarbital;
 - (B) butalbital;
 - (C) pentobarbital;
 - (D) secobarbital;
- (8) benzodiazepines: 300 ng/ml; benzodiazepines include the following:
 - (A) diazepam;
 - (B) chlordiazepoxide;
 - (C) alprazolam;
 - (D) clorazepate; and
- (9) methaqualone: 300 ng/ml.

(b) These test levels are subject to change by the Department as advances in technology or other considerations warrant identification of these substances at other concentrations.

(c) Drugs other than those listed shall be tested by scientifically established methods at scientifically established detection levels.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 16 Ok Reg 2514, eff 6-25-99 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 18 Ok Reg 3592, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1050, eff 5-13-02]

310:638-1-6.1. Hair cutoff levels for initial drug screening tests

(a) The following initial cutoff levels shall be used when screening hair specimens to determine whether they are negative for these drugs or their metabolites:

- (1) marijuana: 10pg/10 mg of hair
- (2) cocaine: 5 ng/10 mg of hair
- (3) opiates and metabolites: 5 ng/10 mg of hair; opiates and metabolites include the following:
 - (A) codeine;
 - (B) heroin;
 - (C) morphine;
- (4) phencyclidine: 3 ng/10 mg of hair
- (5) amphetamines: 5 ng/10 mg of hair; amphetamines include the following:
 - (A) amphetamines;
 - (B) methamphetamines.

(b) These test levels are subject to change by the Department as advances in technology or other considerations warrant identification of these substances at other concentrations.

(c) Drugs other than those listed shall be tested by scientifically established methods at scientifically established detection levels.

[Source: Added at 17 Ok Reg 381, eff 11-1-99 (emergency); Added at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 18 Ok Reg 3592, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1050, eff 5-13-02]

310:638-1-6.2. Saliva cutoff levels for initial drug screening tests

The manufacturer of the saliva test system shall establish initial cutoff levels to be used when screening saliva specimens to determine whether they are negative for drugs or their metabolites. Such cutoffs shall be consistently applied for all saliva testing using that test system.

[Source: Added at 24 Ok Reg 1183, eff 4-2-07 (emergency); Added at 25 Ok Reg 2436, eff 7-11-08]

310:638-1-7. Cutoff levels for drug confirmation testing in urine

(a) All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS), or an equivalent accepted method of equal or greater accuracy as approved by the Commissioner of Health, at the following cutoff levels for these drugs or their metabolites. All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the testing facility record as "greater than the highest standard curve value."

- (1) marijuana metabolites: 15 ng/ml (Delta-9-tetrahydrocannabinol-9-carboxylic acid)
- (2) cocaine metabolites: 150 ng/ml (Benzoylecgonine)
- (3) opiates and metabolites: 2000 ng/ml; opiates and metabolites include the following:
 - (A) codeine;
 - (B) morphine;
 - (C) heroin (10 ng/ml for tests for 6-Acetylmorphine when the morphine concentration exceeds 2000 ng/mL);
- (4) semi-synthetic and synthetic narcotics: 300 ng/ml
 - (A) hydrocodone;
 - (B) hydromorphone;

- (C) meperidine; (confirmatory test level of 500 ng/ml shall be used for meperidine)
 - (D) methadone;
 - (E) oxycodone;
 - (F) propoxyphene;
 - (5) phencyclidine: 25 ng/ml
 - (6) amphetamines: 500 ng/ml; amphetamines include the following:
 - (A) amphetamines;
 - (B) methamphetamines; (Specimen must also contain amphetamine at a concentration of greater than 200 ng/mL)
 - (C) methylenedioxymphetamine;
 - (D) methylenedioxymethamphetamine;
 - (E) phentermine.
 - (7) barbiturates: 300 ng/ml; barbiturates include the following:
 - (A) amobarbital;
 - (B) butalbital;
 - (C) pentobarbital;
 - (D) secobarbital;
 - (8) benzodiazepines: 300 ng/ml; benzodiazepines include the following:
 - (A) diazepam;
 - (B) chlorthalidone;
 - (C) alprazolam;
 - (D) clonazepam; and
 - (9) methaqualone: 300 ng/ml.
- (b) These test levels are subject to change by the Department as advances in technology or other considerations warrant identification of these 'substances at other concentration.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 16 Ok Reg 2514, eff 6-25-99 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 18 Ok Reg 3592, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1050, eff 5-13-02]

310:638-1-7.1. Hair cutoff levels for drug confirmation testing and procedures

(a) All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS), liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS), mass spectrometry/mass spectrometry (MS/MS), or an equivalent accepted method of equal or greater accuracy as approved by the Commissioner of Health, at the following cutoff levels for these drugs or their metabolites. All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the testing facility record as "greater than the highest standard curve value."

- (1) marijuana metabolites: 1 pg/10 mg of hair (Delta-9-tetrahydrocannabinol-9-carboxylic acid);

- (2) cocaine: must be at or above 5 ng/10 mg of hair and/or metabolites as follows:
 - (A) benzoylecgonine at 1 ng/10 mg of hair;
 - (B) cocaethylene at 1 ng/10 mg of hair;
- (3) opiate and metabolites: 5 ng/10 mg of hair; opiate and metabolites include the following:
 - (A) codeine;
 - (B) 6-monoacetylmorphine (heroin metabolite);
 - (C) morphine;
- (4) phencyclidine: 3 ng/10 mg of hair;
- (5) amphetamines: 5 ng/10 mg of hair; amphetamines include the following:
 - (A) amphetamines.
 - (B) methamphetamines.

(b) These test levels are subject to change by the Department as advances in technology or other considerations warrant identification of these substances at other concentrations.

(c) All hair specimens undergoing confirmation shall be decontaminated using an approved wash procedure which has been published in the peer reviewed literature which at least, has an initial fifteen (15) minute organic solvent wash followed by multiple (at least three) thirty (30) minute aqueous washes and one final one hour aqueous wash.

(d) After hair is washed, the drug entrapped in the hair shall be released either by digestion (chemical or enzymatic) or by multiple solvent extractions. The resulting digest or pooled solvent extracts shall then be confirmed by approved methods.

(e) All confirmation analysis methods must eliminate the melanin fraction of the hair before analysis. If a non-digestion method is used, the laboratory must present published data in the peer reviewed literature from a large population study which indicates that their method of extraction does not possess a statistically significant hair color bias.

(f) Additional hair samples may be collected to reconfirm the initial report. The recollected sample shall be retested as specified, however, the confirmation analysis shall be performed even if the screening test is negative. A second positive report shall be made if the drug concentration in the digest by confirmation methods exceeds the limit of quantitation of the testing laboratory's method. A second test shall be offered to anyone disputing a positive hair test result.

(g) To assist the Review Officer in the interpretation of results, officers may order sectioning of a hair sample (e.g. segmenting hair into 0.5 inches sections, which is about one months growth, each analyzed separately). The sectioning may occur on the original and any subsequent sample submitted for testing.

[Source: Added at 17 Ok Reg 381, eff 11-1-99 (emergency); Added at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 18 Ok Reg 3592, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1050, eff 5-13-02]

310:638-1-7.2. Cutoff levels for drug confirmation testing in saliva

(a) All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS), or an equivalent accepted method of equal or greater accuracy as approved by

the Commissioner of Health. The manufacturer of the saliva test system shall establish confirmation cutoff levels to be used when confirming saliva specimens that screen positive. Such cutoffs shall be consistently applied for all saliva testing using that test system. All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the testing facility record as "greater than the highest standard curve value."

(b) All confirmation testing on saliva shall be performed on the same specimen that was identified as positive on the initial screen.

[Source: Added at 24 Ok Reg 1183, eff 4-2-07 (emergency); Added at 25 Ok Reg 2436, eff 7-11-08]

310:638-1-8. Urine specimen collection procedures

(a) **Designation of collection site.** Each urine drug testing program shall have one or more designated collection sites which have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a licensed drug testing facility.

(b) **Security.** Procedures shall provide for the designated collection site to be secure. If a collection site facility is dedicated solely to urine collection, it shall be secure at all times. If a facility cannot be dedicated solely to drug testing, the portion of the facility used for testing shall be secured during drug testing.

(c) **Chain of custody.** Chain of custody standardized forms shall be properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

(d) **Access to authorized personnel only.** No unauthorized personnel shall be permitted in any part of the designated collection site when urine specimens are collected or stored.

(e) **Privacy.** Procedures for collecting urine specimens shall allow individual privacy. No employer or representative, agent or designee of the employer shall directly observe an applicant or employee in the process of producing a urine sample, provided collection occurs in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.

(f) **Integrity and identity of specimen.** Precautions shall be taken to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine specimen bottle and on the chain of custody form can identify the individual from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:

- (1) To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks wherever possible, so the reservoir of water in the toilet bowl always remains blue. There shall be no other source of water i.e., no shower or sink, in the enclosure where urination occurs.

(2) When an individual arrives at the collection site, the collection site person shall request the individual to present photo identification. If the individual does not have proper photo identification, the collection site person shall contact the supervisor of the individual, the coordinator of the drug testing program, or any other employer official who can positively identify the individual. If the individual's identity cannot be established, the collection site person shall not proceed with the collection.

(3) If the individual fails to arrive at the assigned time, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.

(4) The collection site person shall ask the individual to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the individual's urine specimen. The collection site person shall ensure that all personal belongings such as a purse or briefcase remain with the outer garments. The individual may retain his or her wallet.

(5) The individual shall be instructed to wash and dry his or her hands prior to urination.

(6) After washing hands, the individual shall remain in the presence of the collection site person and shall not have access to any water fountain, faucet, soap dispenser, cleaning agent or any other materials which may be used to adulterate the specimen.

(7) The individual may provide the specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy.

(8) The collection site person shall note any unusual behavior or appearance on the chain of custody form.

(9) In the exceptional event that a drug testing program designated collection site is not accessible and there is an immediate requirement for specimen collection (e.g., an accident investigation), a public rest room may be used according to the following procedures: A collection site person of the same gender as the individual shall accompany the individual into the public rest room which shall be made secure during the collection procedure. If possible, a toilet bluing agent shall be placed in the bowl and any accessible toilet tank. The collection site person shall remain in the rest room, but outside the stall, until the specimen is collected. If no bluing agent is available to deter specimen dilution, the collection site person shall instruct the individual not to flush the toilet until the specimen is delivered to the collection site person. After the collection site person has possession of the specimen, the individual shall be instructed to flush the toilet and to participate with the collection site person in completing the chain of custody procedures.

(10) Upon receiving the specimen from the individual, the collection site person shall determine that it contains at least forty-five (45) ml of urine under the split sample method of collection or thirty (30) ml of urine under the single sample

method of collection.

(A) If drug testing is to be conducted in a testing facility which performs both the initial screening test and the confirmatory test at the same location, urine may be collected under either the single sample method of collection, or the split sample method of collection.

(B) If drug testing is to be conducted in a testing facility which performs only the initial screening test, the split sample method of collection shall be used.

(i) **Split sample collection method.**

(I) The donor shall urinate into a container or a specimen bottle capable of holding at least sixty (60) ml.

(II) If a collection container is used, the collection site person, in the presence of the donor, pours the urine into two specimen bottles. Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least fifteen (15) ml shall be poured into the other bottle, to be used as the split specimen.

(III) If a single specimen bottle is used as a collection container, the collection site person shall pour thirty (30) ml of urine from the specimen bottle into a second specimen bottle to be used as the primary specimen and retain the remainder, i.e., at least fifteen (15) ml, in the collection bottle to be used as the split specimen.

(IV) Both bottles shall be shipped in a single shipping container to the testing facility.

(ii) **Single sample collection method.**

(I) The collection site person may choose to direct the donor to urinate either directly into a specimen bottle or into a separate collection container.

(II) If a separate collection container is used, the collection site person shall pour at least thirty (30) ml of the urine from the collection container into the specimen bottle in the presence of the donor.

(C) In either collection methodology, upon receiving the specimen from the donor, the collection site person shall determine if it has at least thirty (30) ml of urine for the primary or single specimen bottle, and where the split specimen collection method is used, an additional fifteen (15) ml of urine for the split specimen bottle. If the individual is unable to provide such a quantity of urine, the collection site person shall instruct the individual to drink not more than twenty-four (24) ounces of fluids and, after a period of up to two (2) hours, again attempt to provide a

complete sample using a fresh collection container. The original insufficient specimen shall be discarded. If the donor is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and an official of the drug testing program so notified.

(11) After the specimen has been provided and submitted to the collection site person, the individual shall be allowed to wash his or her hands.

(12) Immediately after the specimen is collected, the collection site person shall measure the temperature of the specimen. The temperature measuring device used shall accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measurement is critical and in no case shall exceed four (4) minutes.

(13) If the temperature of a specimen is outside the range of 32 - 37°C/90 - 100°F, that is a reason to believe that the individual did alter or substitute the specimen, and another specimen shall be collected under direct observation of a same gender collection site person and both specimens shall be forwarded to the testing facility for testing. An individual may volunteer to have an oral temperature taken to provide evidence to counter the reason to believe the individual did alter or substitute the specimen caused by the specimen's temperature falling outside the prescribed range.

(14) Immediately after the specimen is collected, the collection site person shall also inspect the specimen to determine its color and look for any signs of contaminants such as unusual odor or sudsing. Any unusual findings shall be noted on the chain of custody form.

(15) All specimens suspected of being adulterated shall be forwarded to the testing facility for testing.

(16) Whenever there is reason to believe that a particular individual did alter or substitute the specimen provided, a second specimen shall be obtained as soon as possible under the direct observation of a same gender collection site person.

(17) Both the individual being tested and the collection site person shall keep the specimen in view at all times prior to its being sealed and labeled. If the specimen is transferred to a second bottle, the collection site person shall request the individual to observe the transfer of the specimen and the placement of the tamper-proof seal over the bottle cap and down the sides of the bottle.

(18) The collection site person and the individual shall be present at the same time during procedures outlined in paragraphs (f)

(19) - (f)(22) of this section.

(19) The collection site person shall place securely on the bottle an identification label which contains the date, the individual's specimen number, and any other identifying information provided or required by the drug testing program.

(20) The individual shall initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collected from the individual.

(21) The collection site person shall indicate on the chain of custody form all information identifying the specimen. The collection site person shall sign the chain of custody form next to the identifying information.

(22) The individual shall be asked to read and sign a statement certifying that the specimen identified as having been collected from the individual is in fact that specimen the individual provided.

(23) A higher level supervisor shall review and concur in advance with any decision by a collection site person to obtain a specimen under the direct observation of a same gender collection site person based on a reason to believe that the individual did alter or substitute the specimen provided.

(24) The collection site person shall complete the chain of custody form.

(g) **Collection control.** To the maximum extent possible, collection site personnel shall keep the individual's specimen bottle within sight both before and after the individual has urinated. After the specimen is collected, it shall be properly sealed and labeled. An approved chain of custody form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on an approved chain of custody form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens.

(h) **Transportation to the testing facility.** Collection site personnel shall arrange to transport the collected specimens to the drug testing facility. The specimens shall be placed in containers designed to minimize the possibility of damage during transport, for example, specimen boxes or padded mailers; and those containers shall be securely sealed to eliminate the possibility of undetected tampering. On the tape sealing the container, the collection site supervisor shall sign and enter the date specimens were sealed in the container for transfer. The collection site personnel shall ensure that the chain of custody documentation is sealed separately from the specimen and placed inside the container sealed for transfer to the drug testing facility.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00]

310:638-1-8.1. Hair specimen collection procedures

(a) **Designation of collection site.** Each hair drug testing program shall have one (1) or more designated collection sites which have all necessary personnel, material, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of hair specimens to a licensed drug testing facility.

(b) **Security.** While security is important with any collection, in the case of hair, only the temporary storage area in the designated collection site needs to be secure.

(c) **Chain of custody.** Chain of custody standardized forms shall be properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of hair specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

(d) **Access to authorized personnel only.** The hair collection site shall be off limits to unauthorized personnel during the actual collection of specimens.

(e) **Privacy.** Procedures for collecting hair shall be performed on one individual at a time to prevent substitutions or interference with the collection of reliable samples.

(f) **Integrity and identity of specimen.** Precautions shall be taken to ensure that the root end of a hair specimen is indicated for the testing facility who performs the testing. The maximum length of hair that shall be tested is 3.9 cm distal from the skin. This length may be changed if a review officer requests the testing of proximal segments to assist their evaluation of testing data. The collection of pubic hair is not permitted. The information on the hair specimen container and on the chain of custody form shall identify the individual from whom the specimen was collected. The following minimum precautions shall be taken when collecting a hair specimen to ensure specimens are obtained and correctly identified.

(1) When an individual arrives at the collection site, the collection site person shall request the individual to present photo identification. If the individual does not have proper photo identification, the collection site person shall contact the supervisor of the individual, the coordinator of the drug testing program, or any other employer official who can positively identify the individual. If the individual's identity cannot be established, the collection site person shall not proceed with the collection.

(2) If the individual fails to arrive at the assigned time, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.

(3) The collection site person shall note any unusual behavior or appearance on the chain of custody form.

(4) Hair shall be cut as close to the scalp as possible. Upon taking the specimen from the individual, the collection site person shall determine that it contains approximately 1/2 inch of hair when fanned out on a ruler (e.g. about 40 mg of hair).

(5) Both the individual being tested and the collection site person shall keep the specimen in view at all times prior to the specimen container being sealed with a tamper resistant seal and labeled with the individual's specimen number and other required information.

(6) The collection site person shall label the container which contains the hair with the date, the individual's specimen number,

and any other identifying information provided or required by the drug testing program.

(7) The individual shall initial the container for the purpose of certifying that it is the specimen collected from the individual.

(8) The collection site person shall indicate on the chain of custody form all information identifying the specimen. The collection site person shall sign the chain of custody form next to the identifying information or the chain of custody on the specimen container.

(9) The individual shall be asked to read and sign a statement certifying that the specimen identified as having been collected from the individual is in fact the specimen the individual provided.

(10) The collection site person shall complete the chain of custody form.

(g) **Collection control.** To the maximum extent possible, collection site personnel shall keep the individual's specimen container within sight both before and after collection. After the specimen is collected, it shall be properly sealed and labeled. An approved chain of custody form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on an approved chain of custody form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens.

(h) **Transportation to the testing facility.** Collection site personnel shall arrange to transport the collected specimens to the drug testing facility. The specimens shall be placed in containers which shall be securely sealed to eliminate the possibility of undetected tampering. The collection site personnel shall ensure that the chain of custody documentation is sealed separately from the specimen and placed inside the container sealed for transfer to the drug testing facility.

[Source: Added at 17 Ok Reg 381, eff 11-1-99 (emergency); Added at 17 Ok Reg 2045, eff 6-12-00]

310:638-1-8.2. Saliva specimen collection procedures

(a) **Designation of collection site.** Each saliva drug testing program shall have one (1) or more designated collection sites which have all necessary personnel, material, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of saliva specimens to a licensed drug testing facility.

(b) **Security.** While security is important with any collection, in the case of saliva, only the temporary storage area in the designated collection site needs to be secure.

(c) **Chain of custody.** Chain of custody standardized forms shall be properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of saliva specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

(d) **Access to authorized personnel only.** The saliva collection site shall be off limits to unauthorized personnel during the actual collection of specimens.

(e) **Privacy.** Procedures for collecting saliva shall be performed on one individual at a time to prevent substitutions or interference with the collection of reliable samples.

(f) **Integrity and identity of specimen.** Saliva shall be collected in a device approved by the Federal Food and Drug Administration and according to the instructions provided by the manufacturer of the saliva collection device. The information on the saliva specimen container and on the chain of custody form shall identify the individual from whom the specimen was collected. The following minimum precautions shall be taken when collecting a saliva specimen to ensure specimens are obtained and correctly identified.

(1) When an individual arrives at the collection site, the collection site person shall request the individual to present photo identification. If the individual does not have proper photo identification, the collection site person shall contact the supervisor of the individual, the coordinator of the drug testing program, or any other employer official who can positively identify the individual. If the individual's identity cannot be established, the collection site person shall not proceed with the collection.

(2) If the individual fails to arrive at the assigned time, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.

(3) The collection site person shall note any unusual behavior or appearance on the chain of custody form.

(4) Both the individual being tested and the collection site person shall keep the specimen in view at all times prior to the specimen container being sealed with a tamper resistant seal and labeled with the individual's specimen number and other required information.

(6) The collection site person shall label the container which contains the saliva with the date, the individual's specimen number, and any other identifying information provided or required by the drug testing program.

(7) The individual shall initial the container for the purpose of certifying that it is the specimen collected from the individual.

(8) The collection site person shall indicate on the chain of custody form all information identifying the specimen. The collection site person shall sign the chain of custody form next to the identifying information or the chain of custody on the specimen container.

(9) The individual shall be asked to read and sign a statement certifying that the specimen identified as having been collected from the individual is in fact the specimen the individual provided.

(10) The collection site person shall complete the chain of custody form.

(g) **Collection control.** To the maximum extent possible, collection site personnel shall keep the individual's specimen container within sight

both before and after collection. After the specimen is collected, it shall be properly sealed and labeled. An approved chain of custody form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on an approved chain of custody form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens.

(h) **Transportation to the testing facility.** Collection site personnel shall arrange to transport the collected specimens to the drug testing facility. The specimens shall be placed in containers which shall be securely sealed to eliminate the possibility of undetected tampering. The collection site personnel shall ensure that the chain of custody documentation is sealed separately from the specimen and placed inside the container sealed for transfer to the drug testing facility.

[Source: Added at 24 Ok Reg 1183, eff 4-2-07 (emergency); Added at 25 Ok Reg 2436, eff 7-11-08]

310:638-1-9. Training and qualifications of review officers

(a) The Review Officer is a person responsible for receiving testing facility results generated by an employer's drug and alcohol testing program and who has knowledge of substance abuse disorders and has appropriate training to interpret and evaluate an individual's positive test result together with the individual's medical history and any other relevant biomedical information.

(b) The Review Officer shall possess the following minimum qualifications:

(1) Be licensed to practice medicine and surgery or osteopathic medicine or hold an earned doctoral degree from an accredited institution in clinical chemistry, forensic toxicology, or a similar biomedical science; and

(2) Have completed at least twelve (12) hours of training appropriate for Review Officers provided by the Medical Review Officer Certification Council, American Association of Medical Review Officers, or another organization approved by the Commissioner of Health.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-1-10. Training and qualifications of collection site personnel

(a) Collection procedures and training shall clearly emphasize that the collection site person is responsible for maintaining the integrity of the specimen collection and transfer process, carefully ensuring the modesty and privacy of the donor.

(b) A collection site person shall have successfully completed documented training to carry out this function or shall be a licensed medical professional or technician who acknowledges in writing he or she has been provided instructions for collection as described at OAC 310:638-1-8 , 310:638-1-8.1, or 310:638-1-8.2.

(1) A non-medical collection site person shall receive appropriate training in collection procedures as described at OAC 310:638-1-8, 310:638-1-8.1, or 310:638-1-8.2 and shall demonstrate proficiency in the application of these collection procedures prior to serving as a collection site person. A medical professional, technologist, or technician licensed or otherwise approved to practice in the jurisdiction in which the collection takes place is not required to receive such training if that person acknowledges in writing the receipt of instructions for collection as described at OAC 310:638-1-8, 310:638-1-8.1, or 310:638-1-8.2.

(2) Collection site persons shall be provided with detailed, clear instructions on the collection of specimens in compliance with OAC 310:638-1-8, 310:638-1-8.1, or 310:638-1-8.2. Employer representatives and donors subject to testing shall also be provided standard written instructions setting forth their responsibilities.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

SUBCHAPTER 3. ADMINISTRATION

310:638-3-1. Testing facilities eligible for licensure

(a) **Intrastate licensure.** Testing facilities located within the State of Oklahoma shall be licensed by the Department in accordance with this Chapter in order to provide laboratory services to an employer to test for the presence or absence of drugs or alcohol.

(b) **Interstate licensure.** Testing facilities located outside the State of Oklahoma which are certified for forensic urine drug testing by the United States Department of Health and Human Services, accredited for forensic urine drug testing by the College of American Pathologists or licensed by a State acceptable to the Department are eligible for licensure in accordance with this Chapter to provide laboratory services to an employer to test for the presence or absence of drugs or alcohol.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00]

310:638-3-2. Licensure fee

The fee for licensure of each testing facility shall be one hundred fifty dollars (\$150.00) annually. Licenses shall be renewed annually provided the provisions of this Chapter are met.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-3-3. Procedures for licensure

- (a) Application for licensure shall be made on a form prescribed by the Commissioner of Health by the director of the applicant testing facility.
- (1) A separate application shall be completed for each testing facility location, except that a testing facility which is not at a fixed location, that is, a testing facility that moves from testing site to testing site, shall complete a single application using the address of its designated primary site.
- (2) Each van or other mobile unit providing laboratory services to an employer to test for the presence or absence of drugs or alcohol shall complete a separate application using the address of the designated primary site or home base.
- (b) The license fee shall be paid at the time of application for each application completed and filed. The license fee is non-refundable.
- (c) Prior to licensure, in addition to the completed application and licensure fee, each drug screen testing facility shall provide:
- (1) Proof of enrollment and satisfactory performance in an approved proficiency testing program in accordance with OAC 310:638-5-10;
- (2) The names and qualifications of all technical staff in accordance with OAC 310:638-5-2;
- (3) The name and address of the testing facility(s) utilized for confirmation testing.
- (d) Prior to licensure, in addition to the completed application and licensure fee, each testing facility seeking licensure based on certification by the United States Department of Health and Human Services, accreditation by the College of American Pathologists or licensed by a State acceptable to the Department, shall submit proof of current certification, accreditation, or licensure and shall be deemed to meet licensure requirements.
- (e) Upon satisfying the requirements for licensure, the testing facility shall be issued the appropriate class of license for initial screening for drugs and/or alcohol or confirmatory testing for drugs and/or alcohol or both.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00]

310:638-3-4. Interim licensure procedures [REVOKED]

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

310:638-3-5. Transfer of ownership of a testing facility

- (a) The license for a testing facility is not transferable or assignable.
- (b) If an entity is considering acquisition of a licensed testing facility, an application for licensure with the one hundred fifty dollar (\$150.00) fee shall be filed with the Department prior to the effective date of the change.

(c) No license shall be transferred from one location to another unless the Department is notified. If a testing facility is considering relocation, the testing facility shall notify the Department thirty (30) days prior to the intended relocation. The Department shall provide written notification to the testing facility amending the annual license to reflect the new location.

(d) Upon the effective date of a change of ownership or upon cessation of operation of a testing facility, the current license shall be returned to the Department. The testing facility shall advise the Department in writing at the time of cessation of operation where testing facility records shall be archived and how such records shall be accessed.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-3-6. Enforcement

(a) **Revocation, suspension, or nonrenewal of license.** The license of a testing facility may be revoked, suspended, or nonrenewed upon the filing of an individual proceeding in accordance with Chapter 2 of this Title.

(b) **Factors to consider.** The following factors shall be considered in determining whether revocation, suspension, or nonrenewal is necessary:

- (1) Unsatisfactory performance in analyzing and reporting the results of drug or alcohol tests;
- (2) Unsuccessful performance in proficiency testing or testing facility inspections;
- (3) Failure to conduct confirmatory testing of a positive drug or alcohol test obtained on the initial screening test;
- (4) Conviction of any criminal offense committed as an incident to operation of the testing facility;
- (5) Loss of certified, licensed or accredited status by the certifying, licensing or accrediting body, or failure to notify the Department of loss of certification, licensure or accreditation as required by this Chapter;
- (6) Failure to detect the presence or absence of a drug or drugs in blind performance test specimens if an employer chooses to submit such specimens;
- (7) Failure to comply with any provision of the Act or this Chapter;
- (8) Any other cause which materially affects the ability of the testing facility to ensure full reliability and accuracy of drug or alcohol tests and the accurate reporting of results.

(c) **Period and terms.** The period and terms of revocation, suspension, or nonrenewal shall be determined by the Commissioner of Health and shall depend on the facts and circumstances of the revocation, suspension, or nonrenewal and the need to ensure accurate and reliable drug and alcohol testing of the employees.

(d) **Following revocation, suspension, or nonrenewal of license.** Upon revocation, suspension, or nonrenewal of the intrastate license a testing facility located in Oklahoma shall cease all drug and alcohol testing. Upon revocation, suspension, or nonrenewal of the interstate

license a testing facility located outside the State of Oklahoma shall cease all drug and alcohol testing for Oklahoma employers. Revocation, suspension, or nonrenewal of the license may be appealed in accordance with the Oklahoma Administrative Procedures Act (75 O.S. Sections 309 et seq.)

(e) **Reinstatement of testing facility license.** Following the termination or expiration of any suspension, revocation, or nonrenewal, a testing facility may apply for reinstatement. Upon submission of evidence satisfactory to the Commissioner of Health that the testing facility is in compliance with this Chapter and any conditions imposed as part of the suspension, revocation, or nonrenewal, the Commissioner of Health may reinstate the testing facility. If the license issued to a testing facility has been suspended, revoked, or nonrenewed because of unsuccessful performance in proficiency testing, the reinstatement shall only occur after the testing facility has demonstrated satisfactory performance on three consecutive proficiency testing events.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00]

310:638-3-7. Inspections

(a) Completed applications received by the Department for initial licensure, licensure renewal, or for licensure reinstatement shall constitute consent for an on-site inspection during normal operating hours by representatives of the Department.

(b) Testing facilities as well as collection sites associated with a testing facility are subject to inspection during normal operating hours any time an on-site inspection is deemed necessary by the Commissioner of Health to protect the health and welfare of the public.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

SUBCHAPTER 5. DRUG SCREEN TESTING FACILITIES

310:638-5-1. Eligibility

Drug screen testing facilities shall comply with applicable Federal, State, and local laws.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-5-2. Personnel

The drug screen testing facility shall contract with, or employ, the following personnel to perform, supervise, and report drug screen tests:

- (1) **Director.** The drug screen testing facility shall have a qualified individual to assume professional, organizational, educational, and administrative responsibility for the drug screen

testing facility. The director shall possess the following minimum qualifications:

- (A) A bachelor's degree from an accredited institution in the chemical, biological, or physical sciences or medical laboratory science; and two (2) or more years of full-time drug testing experience; or
- (B) A bachelor's degree from an accredited institution; and four (4) or more years of full-time drug testing experience; or
- (C) An associate's degree from an accredited institution in the chemical, biological, or physical sciences or a medical laboratory science; and three (3) or more years of full-time drug testing experience.

(2) **Director responsibilities.** The director shall be engaged in, and be responsible for, the management of the drug screen testing facility even where another individual has overall responsibility for an entire multispecialty testing facility.

(A) The director shall be responsible for ensuring that there are sufficient personnel with adequate training and experience to supervise and conduct the work of the drug screen testing facility. The director shall ensure the continued competency of drug screen testing facility personnel by documenting their inservice training, reviewing their work performance, and verifying their skills.

(B) The director shall be responsible for the drug screen testing facility having a procedure manual which is complete, up-to-date, available for personnel performing tests, and followed by those personnel. The procedure manual shall be reviewed, signed, and dated by the director whenever procedures are first placed into use, or changed, or when a new individual assumes responsibility for direction of the drug screen testing facility. Copies of all procedures and dates on which they are in effect shall be maintained.

(C) The director shall be responsible:

- (i) for maintaining a quality assurance program to ensure the proper performance and reporting of all test results;
- (ii) for maintaining acceptable analytical performance for all controls and standards;
- (iii) for maintaining quality control testing; and
- (iv) for assuring and documenting the validity, reliability, accuracy, precision, and performance characteristics of each test and test system.

(D) The director shall be responsible for assuring all necessary action is taken to maintain satisfactory operation and performance of the drug screen testing facility in response to quality control systems not being within performance specifications, errors in result reporting or in analysis of performance testing results.

The director shall ensure that sample results are not reported until all corrective actions have been taken and he or she can ensure that the test results provided are accurate and reliable.

(3) **General supervisor.** A qualified general supervisor shall be on the premises during all hours in which tests are performed. The general supervisor shall be responsible for day-to-day operations and supervision of analysts. The general supervisor shall possess the following minimum qualifications:

(A) A high school diploma or equivalent and documented training by the manufacturer, or other qualified person, in the operation and maintenance of the test system utilized, to include the instrumentation, test reagents, calibration and quality control materials, and any other equipment or supplies required in the performance of the drug screen testing procedure; and

(B) Have training and experience in the theory and practice of the procedures used in the drug screen testing facility, resulting in a thorough understanding of:

- (i) quality control practices and procedures;
- (ii) the review, interpretation, and reporting of test results;
- (iii) maintenance of chain of custody; and
- (iv) proper remedial actions to be taken in response to test systems being out of control limits or detecting aberrant test or quality control results.

(4) **Test validation.** The drug screen testing facility shall have a qualified individual(s) who reviews all pertinent data and quality control results in order to attest to the validity of the drug screen testing facility's test reports. A drug screen testing facility may designate more than one person to perform this function. This individual(s) shall be any employee who is qualified as director or general supervisor.

(5) **Other personnel.** Other technical or nontechnical staff shall have the necessary training and skills for the tasks assigned, and shall perform only those procedures that require a degree of skill commensurate with their training, education, and technical ability.

(6) **Training.** The drug screen testing facility shall make available continuing education programs to meet the needs of facility personnel.

(7) **Personnel records.** Personnel records shall include at least the following:

- (A) verification of education;
- (B) initial skills orientation program;
- (C) resume of training and experience;
- (D) documentation of continuing education;
- (E) certification or license, if any;
- (F) references;
- (G) job descriptions;

- (H) records of performance evaluation and advancement;
- (I) incident reports; and
- (J) results of tests which establish employee competency.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08 ; Amended at 37 Ok Reg 1421, eff 9-11-20]

310:638-5-3. Security and chain of custody

- (a) Drug screen testing facilities shall be secure at all times. They shall have in place sufficient security measures to control access to the premises and to ensure that no unauthorized personnel handle specimens or gain access to testing facility processes or to areas where records are stored. Access to these secured areas shall be limited to specifically authorized individuals whose authorization is documented. With the exception of personnel authorized to conduct inspections on behalf of federal or state agencies, all authorized visitors and maintenance and service personnel shall be escorted at all times. Documentation of individuals accessing these areas, dates, time of entry, and purpose of entry shall be maintained.
- (b) Drug screen testing facilities shall use internal chain of custody procedures to maintain control and accountability of specimens from receipt through completion of screening, reporting of results, during storage, and continuing until final disposition of specimens. The date and purpose shall be documented on an appropriate chain of custody form each time a specimen is handled or transferred, and every individual in the chain shall be identified. Authorized drug screen testing facility personnel shall be responsible for each specimen or aliquot in their possession and shall sign and complete chain of custody forms for those specimens or aliquots as they are received.
- (c) When specimens are received, drug screen testing facility personnel shall inspect each package for evidence of possible tampering and compare information on specimen bottles and containers within each package to the information on the accompanying chain of custody forms. Any direct evidence of tampering or discrepancies in the information on specimen bottles and containers and the agency's chain of custody forms shall be immediately reported to the employer and shall be noted on the drug screen testing facility's chain of custody form which shall accompany the specimens while they are in the drug screen testing facility's possession.
- (d) Specimen bottles shall normally be retained within the drug screen testing facility's accession area until all analyses have been completed. Aliquots and the drug screen testing facility's chain of custody forms shall be used by drug screen testing facility personnel for conducting initial screening tests.
- (e) Urine specimens shall be tested for adulteration.
- (f) Testing facilities shall perform integrity checks on saliva specimens as required by facility policy.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 24 Ok Reg 1183, eff 4-2-07]

310:638-5-4. Methods of analysis and specimen storage

(a) Methods of analysis.

(1) Licensed drug screen testing facilities shall have the capability of performing initial screening for the following classes of drugs or their metabolites: marijuana and cocaine, using an immunoassay which meets the requirements of the United States Food and Drug Administration for commercial distribution or another approved screening procedure or if prepared in-house by the testing facility, documented evidence shall exist indicating that the antibody meets acceptable performance criteria.

(2) Initial screening shall be completed within forty-eight (48) hours following receipt of the specimen by the testing facility. If the initial screening cannot be completed within forty-eight (48) hours, the specimen shall not be accepted or shall be sent to another testing facility for screening.

(3) If the drug screen testing facility is not certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists all specimens that do not test negative shall be forwarded to an appropriate testing facility for confirmation.

(4) All confirmatory urine or saliva drug testing shall be performed by a testing facility that is certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists.

(5) No positive urine or saliva drug screen shall be reported to the Review Officer until the positive initial screen has been confirmed as required. If the employer operates a drug screen testing facility, the employer shall not base any employment decision on a positive urine drug screen until the positive initial test has been confirmed and reviewed.

(6) No positive hair drug screen shall be reported to the Review Officer until the positive initial screen has been decontaminated and confirmed by the same laboratory.

(b) Specimen storage.

(1) Urine specimens that do not receive an initial test within twenty-four (24) hours of arrival at the drug screen testing facility shall be placed in secure refrigeration units where the temperatures do not exceed 6°C. Urine testing facilities shall have emergency power equipment or other appropriate storage shall be available in case of a prolonged power failure.

(2) The drug screen testing facility shall log in the split specimen, with the split specimen bottle seal remaining intact. The drug screen testing facility shall store this sample securely as in 310:638-5-4(b)(1).

(3) If the result of the primary specimen is negative, the drug screen testing facility may discard the split specimen. If the result of the test of the primary specimen is positive, the drug screen

testing facility shall forward the split specimen, using appropriate chain of custody procedures, to a qualified testing facility for confirmation testing. The drug screen testing facility shall ensure the confirmatory testing facility retains the split specimen in properly secured frozen storage (-20°C or less) for a minimum of one (1) year.

(4) Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

(5) Saliva specimens shall be stored and transported as required by the manufacturer of the collection device.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

310:638-5-5. Internal review and certification of test results

(a) The drug screen testing facility shall report positive test results to the employer's Review Officer within an average of five (5) working days after receipt of the specimen by the drug screen testing facility. Before any test result is reported (the results of initial tests, confirmatory tests, or quality control data), it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall identify the drugs/metabolites tested for, whether positive or negative, and the cutoff for each, the specimen number assigned by the employer, and the drug screen testing facility specimen identification number.

(b) *A testing facility shall report single-use test results that meet the standard to be sent to the laboratory for confirmation testing to an employer's review officer, or a designee of the employer's review officer, as soon as the results for the single-use test become available or the next working day. The final conclusion of the testing, which shall include the results of the single-use tests, confirmatory tests, or quality control data, shall be reviewed and the test certified as an accurate report by the responsible individual.* [Title 40 O.S. § 559.1]

(c) The drug screen testing facility shall report as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported as positive for a specific drug.

(d) The Review Officer may request from the drug screen testing facility and the drug screen testing facility shall provide quantitation of test results. The Review Officer shall not disclose quantitation of test results to the employer but shall report only whether the test was positive or negative.

(e) The drug screen testing facility may transmit results to the Review Officer by electronic means, i.e., teleprinters, facsimile, or computer, in a manner designed to ensure confidentiality of the information. Results shall not be provided verbally by telephone. The drug screen testing facility shall ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.

(f) The drug screen testing facility shall send to the Review Officer the positive drug test results, which shall be signed by the individual responsible for the day-to-day management of the drug screen testing facility or the individual responsible for attesting to the validity of the test reports.

(g) All results reported to the employer shall be by the same source.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:638-5-6. Records and procedure manual

(a) **Records.** The drug screen testing facility shall maintain and make available for at least two (2) years documentation of all aspects of the testing process.

(1) The required documentation shall include:

- (A) personnel files on all individuals authorized to have access to specimens;
- (B) chain of custody documents;
- (C) quality assurance/quality control records;
- (D) procedure manuals;
- (E) all test data, including calibration curves and any calculations used in determining test results;
- (F) reports;
- (G) performance records on proficiency testing;
- (H) performance on certification inspections; and
- (I) hard copies of computer-generated data or another read-only computerized data storage system that produces exact duplicates of the reported result.

(2) The drug screen testing facility shall maintain documents for any specimen under legal challenge for an indefinite period.

(b) **Procedure manual.** Each drug screen testing facility shall have a procedure manual which includes the principles of each test, preparation of reagents, standards and controls, calibration procedures, derivation of results, linearity of methods, sensitivity of the methods, cutoff values, mechanisms for reporting results, controls, criteria for unacceptable specimens and results, remedial actions to be taken when the test systems are outside of acceptable limits, reagents and expiration dates, and references. Copies of all procedures and dates on which they are in effect shall be maintained as part of the manual.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00]

310:638-5-7. Instruments and equipment

(a) Volumetric pipettes and measuring devices shall be certified for accuracy or be checked by gravimetric, colorimetric, or other verification procedure. Automatic pipettes and diluters shall be checked for accuracy and reproducibility before being placed in service and periodically thereafter.

(b) There shall be written procedures for instrument set-up and normal operation, a schedule for checking critical operating characteristics for all instruments, tolerance limits for acceptable function checks and instructions for major trouble shooting and repair. Records shall be available on preventive maintenance.

(c) There shall be written procedures for the actions to be taken when systems are out of acceptable limits or errors are detected. There shall be documentation that these procedures are followed and that all necessary corrective actions are taken. There shall also be in place systems to verify all stages of testing and reporting and documentation that these procedures are followed.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-5-8. Standards and controls

(a) Drug screen testing facility standards shall be prepared with pure drug standards which are properly labeled as to content and concentration. The standards shall be labeled with the following dates:

- (1) when received;
- (2) when prepared or opened;
- (3) when placed in service; and
- (4) expiration date.

(b) Purchase, storage, and use of all drug standards shall conform to all Federal, State, and local laws.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-5-9. Quality assurance and quality control

(a) **Quality assurance.** Drug screen testing facilities shall have a quality assurance program which encompasses all aspects of the testing process including but not limited to specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, and validation of analytical procedures. Quality assurance procedures shall be designed, implemented, and reviewed to monitor the conduct of each step of the process of testing for drugs.

(b) **Quality control.**

- (1) Each analytical run of specimens to be screened shall include:
 - (A) Urine, hair, or saliva specimens certified to contain no drug;
 - (B) Urine, hair, or saliva positive controls with the drug or metabolite at or near the threshold (cutoff).
- (2) Implementation of procedures to ensure that carryover does not contaminate the testing of an individual's specimen shall be documented.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

310:638-5-10. Proficiency testing

(a) Enrollment and performance.

- (1) Each drug screening and/or confirmation testing facility shall enroll and demonstrate satisfactory performance in a Department approved proficiency testing program established by an independent group which contains those drugs and metabolites for which urine, hair, or saliva is routinely screened.
- (2) The drug testing facility shall satisfactorily perform in one proficiency testing event prior to initial licensure and demonstrate continued satisfactory performance to maintain licensure.
- (3) The drug testing facility shall authorize the proficiency testing service to send results to the Oklahoma State Department of Health for review. The drug testing facility shall maintain records which shall document the handling, processing and examination of all proficiency testing samples for a minimum of two (2) years from the date of testing.
- (4) The drug testing facility shall ensure that proficiency testing samples are analyzed at least three (3) times each year using the same techniques as those employed for screening unknown specimens.
- (5) The proficiency testing samples shall be included with the routine sample run and tested with the same frequency as unknown samples by the individuals responsible for testing unknown specimens.
- (6) The drug testing facility shall not engage in discussions or communications concerning proficiency testing results with other drug testing facilities nor shall they send proficiency testing samples or portions of the samples to another drug testing facility for analysis.

(b) Satisfactory performance.

- (1) The drug testing facility shall maintain an overall testing event score of at least eighty (80) percent for proficiency testing performance to be considered satisfactory.
- (2) Failure to participate in a proficiency testing event shall result in a score of zero (0) percent for the testing event.

(c) Unsuccessful performance. Failure to achieve satisfactory performance in two (2) consecutive testing events, or two (2) out of three (3) consecutive testing events, shall be determined to be unsuccessful performance.

[Source: Added at 11 Ok Reg 4339, eff 7-14-94 (emergency); Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 17 Ok Reg 381, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2045, eff 6-12-00 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2436, eff 7-11-08]

SUBCHAPTER 7. ALCOHOL TESTING FACILITIES

310:638-7-1. Qualifications of alcohol testing facilities

(a) Testing facilities conducting alcohol screening tests shall meet the requirements of this subchapter to be eligible for licensure as an alcohol testing facility.

(b) Testing facilities conducting blood alcohol or urine alcohol confirmation testing shall be certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists and meet the provisions of this subchapter to be eligible for licensure as an alcohol testing facility.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-7-2. Notification requirements

All alcohol testing facilities licensed by the Department based on certification by the United States Department of Health and Human Services or accreditation by the College of American Pathologists shall notify the Department in writing within ten (10) days of the loss of such certification or accreditation.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-7-3. Testing locations for alcohol screening device and evidential breath testing (EBT) devices

(a) Each testing facility shall conduct alcohol testing in a location that affords visual and aural privacy to the individual being tested, sufficient to prevent unauthorized persons from seeing or hearing test results. All necessary equipment, personnel, and materials for alcohol testing shall be provided at the location where testing is conducted.

(b) A testing facility may use a mobile collection facility, e.g., a van equipped for alcohol testing, that meets the requirements of OAC 310:638-7-3(a).

(c) In unusual circumstances, e.g., when it is essential to conduct a test outdoors at the scene of an accident, a test may be conducted at a location that does not fully meet the requirements of OAC 310:638-7-3(a). In such a case the testing facility or testing personnel shall provide visual and aural privacy to the employee to the greatest extent practicable.

(d) The testing personnel shall supervise alcohol device testing of only one (1) employee at a time. The testing personnel shall not leave the alcohol testing location while the testing procedure for a given employee is in progress.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-7-4. Initial alcohol screening tests

(a) **Cutoff level for initial alcohol screening tests.** An alcohol concentration of 0.02 or greater shall be considered a positive initial test for alcohol and shall be confirmed as required. A positive result obtained utilizing an alcohol screening device which meets the requirements at OAC 310:638-7-4(b) shall be considered a positive initial test for alcohol and shall be confirmed as required.

(b) Alcohol screening device and initial blood tests.

(1) All alcohol screening devices with the exception of evidential breath testing devices (EBT) shall comply with the requirements specified in the National Highway Traffic Safety Administration's Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids (59 FR 7372).

(2) Evidential breath testing devices shall comply with the National Highway Traffic Safety Administration's Model Specifications for Evidential Breath Testing Devices (58 FR 48705) and be included on the Conforming Products List (59 FR 18839).

(3) All alcohol screening device and initial blood testing shall follow the manufacturer's instructions for test system operation and test performance.

(4) Enzyme blood tests for alcohol initial testing shall be used only under limited circumstances when an alcohol screening device, EBT, or appropriately trained breath alcohol technician (BAT) is not readily available to conduct alcohol testing by another method. Blood alcohol testing is not intended to be an equal alternative method to saliva or breath testing which an employer may choose as a matter of preference.

(c) Procedures for alcohol screening device tests.

(1) When the employee enters the alcohol testing location, the testing personnel shall require the individual to provide positive identification, e.g., through use of a photo I.D. card or identification by an employer representative.

(2) Alcohol testing facilities shall use internal chain of custody procedures to maintain control and accountability of specimens from receipt through completion of screening, reporting of results, during storage (if applicable), and continuing until final disposition of specimens. Each chain of custody/test report form shall include a unique sequential test identification number.

(3) There shall be a log book that is used to identify every test conducted unless an EBT is used. The log book shall include the unique sequential test identification number and the date of the test. The log book or the chain of custody form shall include the test identification number, date and time of the test, name of the testing personnel, location of the test, and test result. If the test is conducted using a disposable alcohol screening device, the log book or chain of custody form shall also contain the manufacturer's lot number and expiration date for each device used. Log books, chain of custody forms, and test results shall be maintained in a confidential manner secured from unauthorized review.

(4) The testing personnel shall explain the testing procedure to the employee, and the test shall then be conducted according to the manufacturer's instructions and the results recorded on the chain of custody/test report form.

(5) The testing personnel and employee shall sign a statement certifying the performance and results of the alcohol screening test.

(6) In any case in which the result of the screening test is an alcohol concentration of less than 0.02, no further testing is authorized. The testing personnel shall transmit the result of less than 0.02 to the employer in a confidential manner, and the employer shall receive and store the information so as to ensure that confidentiality is maintained.

(7) If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test shall be performed as described at OAC 310:638-7-6 or OAC 310:638-7-7.

(d) Procedures for enzyme initial alcohol blood tests.

(1) Blood used for initial alcohol tests shall be collected as specified at OAC 310:638-7-7(a), however, at least three (3), five (5) milliliter samples of blood shall be collected. One (1) sample shall be used for the test performance and two (2) samples shall remain unopened and securely stored under refrigeration at two (2) to eight (8) degrees centigrade for possible confirmation testing. Collection control and transportation of specimens to the testing facility shall comply with OAC 310:638-7-7(b) & (c).

(2) The enzyme initial alcohol test shall be performed as specified by the test manufacturer's instructions and the results shall be recorded on the chain of custody/test report form. If the result of this analysis is an alcohol concentration of less than 0.02, the alcohol testing facility shall transmit the test result to the employer as negative. If the alcohol concentration is 0.02 or greater, a blood alcohol confirmation test shall be performed as described at OAC 310:638-7-7.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-7-5. Cutoff level and alcohol confirmation tests

All positive initial alcohol screening tests shall be confirmed using breath analyzed by an EBT or blood analyzed by gas chromatography (GC). A test performed on blood and analyzed by gas chromatography shall be considered a confirmed alcohol test. An alcohol concentration of 0.02 or greater shall be considered a positive confirmation test for alcohol.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-7-6. Breath alcohol confirmation tests

(a) The breath alcohol technician.

(1) The breath alcohol technician (BAT) shall be trained to proficiency in the operation of the EBT(s) the BAT is using and in the alcohol testing procedures of this chapter.

(2) Proficiency shall be demonstrated by successful completion of a course of instruction which, at a minimum, provides the following:

(A) Training in the principles of EBT methodology, operation and calibration checks;

(B) The fundamentals of breath analysis for alcohol content; and

(C) Procedures required in this chapter for obtaining a breath sample, and interpreting and recording EBT results.

(3) Only courses of instruction for operation of EBTs that are equivalent to the United States Department of Transportation model course, as determined by the National Highway Traffic Safety Administration (NHTSA), shall be used to train BATs to proficiency.

(4) The course of instruction shall provide documentation that the BAT has demonstrated competence in the operation of the specific EBT(s) the BAT shall use.

(5) Any BAT who shall perform an external calibration check of an EBT shall be trained to proficiency in conducting the check on the particular model of EBT, to include practical experience and demonstrated competence in preparing the breath alcohol simulator or alcohol standard, and in maintenance and calibration of the EBT.

(6) The BAT shall receive additional training, as needed, to ensure proficiency, concerning new or additional devices or changes in technology that the BAT will use.

(7) The alcohol testing facility or its agent shall establish documentation of the training and proficiency test of each BAT it uses to test employees and maintain the documentation as required at OAC 310:638-7-11(a)(3).

(8) A BAT, who is a qualified supervisor of an employee, may conduct the alcohol confirmation test for that employee only if another BAT is unavailable to perform the test in a timely manner.

(9) Law enforcement officers who have been certified by state or local governments to conduct breath alcohol testing are deemed to be qualified as BATs. The officer shall have been certified by a state or local government to use the EBT that is to be used for the test.

(b) **Devices for breath alcohol confirmation tests.** For confirmation tests, alcohol testing facilities shall use EBTs that meet the following requirements:

(1) EBTs shall have the capability of providing, independently or by direct link to a separate printer, a printed result of each breath test;

(2) EBTs shall be capable of assigning a unique and sequential number to each completed test, with the number capable of being read by the BAT and the employee before each test and being printed out along with the test result.

(3) EBTs shall be capable of printing out the manufacturer's name for the device, the device's serial number, and the time of the test.

(4) EBTs shall be able to distinguish alcohol from acetone at the 0.02 alcohol concentration level.

(5) EBTs shall be capable of testing an air blank prior to each collection of breath; and

(6) EBTs shall be capable of performing an external calibration check.

(c) Quality assurance plans for EBTs.

(1) In order to be used in confirmation alcohol testing an EBT shall have a quality assurance plan (QAP) developed by the manufacturer.

(2) The QAP shall designate the method or methods to be used to perform external calibration checks of the device, using only calibration devices on the NHTSA "Conforming Products List of Calibrating Units for Breath Alcohol Tests."

(3) The QAP shall specify the minimum intervals for performing external calibration checks of the device. Intervals shall be specified for different frequencies of use, environmental conditions, e.g., temperature, altitude, humidity, and contexts of operation, e.g., stationary or mobile use.

(4) The QAP shall specify the tolerances on an external calibration check within which the EBT is regarded to be in proper calibration.

(5) The QAP shall specify inspection, maintenance, and calibration requirements and intervals for the device.

(6) The alcohol testing facility shall comply with the quality assurance plan for each EBT it uses for alcohol screening or confirmation testing.

(7) The alcohol testing facility shall ensure that external calibration checks of each EBT are performed as provided in the QAP.

(8) The alcohol testing facility shall take an EBT out of service if any external calibration check results in a reading outside the tolerances for the EBT specified in the QAP. The EBT shall not be used for alcohol testing until it has been serviced and had an external calibration check resulting in a reading within the tolerances for the EBT.

(9) The alcohol testing facility shall ensure that inspection, maintenance, and calibration of each EBT are performed by the manufacturer or a manufacturer's representative as required. The alcohol testing facility shall also ensure that each BAT or other individual who performs an external calibration check of an EBT has demonstrated proficiency in conducting such a check of the model of EBT in question.

(10) The alcohol testing facility shall maintain records of the external calibration checks of EBTs as required at OAC 310:6387-11(c).

(11) When the alcohol testing facility is not using the EBT at an alcohol testing site, the employer shall store the EBT in a secure space.

(d) Chain of custody. Alcohol testing facilities shall use internal chain of custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting of results, during storage (if applicable), and continuing until final disposition of specimens. Each chain of custody/test report form shall include a unique test identification number.

(e) Procedures for confirmation tests.

(1) If the BAT conducting the confirmation test is not the person who conducted the screening test, the BAT shall follow the procedures at OAC 310:638-7-4(c)(1).

(2) The BAT shall instruct the employee not to eat, drink, put any object or substance in the mouth, and, to the extent possible, not belch during a waiting period before the confirmation test. This time period begins with the completion of the screening test, and shall not be less than fifteen (15) minutes. The confirmation test shall be conducted within twenty (20) minutes of the completion of the screening test. The BAT shall explain to the employee the reason for this requirement, i.e., to prevent any accumulation of mouth alcohol leading to an artificially high reading, and that it is for the employee's benefit. The BAT shall also explain that the test shall be conducted at the end of the waiting period, even if the employee has disregarded the instruction. If the BAT becomes aware that the employee has not complied with this instruction, the BAT shall so note in the "Remarks" section of the chain of custody/test report form.

(3) Before the confirmation test is administered for each employee, the BAT shall ensure that the EBT registers 0.00 on an air blank. If the reading is greater than 0.00, the BAT shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument.

(4) Before the confirmation test is administered for each employee, the BAT shall ensure that he or she and the employee read the sequential number displayed on the EBT and confirm that the number matches the number on the chain of custody/test report form.

(5) Any EBT taken out of service because of failure to perform an air blank accurately shall not be used for testing until a check of external calibration is conducted and the EBT is found to be within tolerance limits.

(6) An individually sealed mouthpiece shall be opened in view of the employee and BAT and attached to the EBT in accordance with the manufacturer's instructions.

(7) The BAT shall instruct the employee to blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT indicates that an adequate amount of breath has been obtained.

(8) In the event that the screening and confirmation test results are not identical, the confirmation test result shall be deemed to be the final result.

(9) If the EBT provides a printed result, but does not print the results directly onto the chain of custody/test report form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the chain of custody/test report form in the designated space, using a method that shall provide clear evidence of removal, e.g., tamper-evident tape. The printout shall include the test result and the sequential number.

(10) If the EBT prints the test results directly onto the chain of custody/test report form, the BAT shall show the employee the result displayed on the EBT. The printout shall include the test result and the sequential number.

(11) The testing personnel and employee shall sign a statement included on the chain of custody/test report form certifying the performance and results of the alcohol confirmation test.

(12) If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the employee and the BAT shall initial or sign the notation. The test shall be invalid and the employer and employee shall be so advised.

(13) The BAT shall transmit all results to the employer in a confidential manner.

(14) An employer shall designate at least one (1) employer representatives for the purpose of receiving and handling alcohol testing results in a confidential manner. All communications by BATs to the employer concerning the alcohol testing results of employees shall be to a designated employer representative. The employer shall store the information so as to ensure confidentiality is maintained.

(15) Such transmission shall be in writing, in person, or by electronic means, but the BAT shall ensure immediate transmission to the employer of results that require the employer to prevent the employee from performing a safety-sensitive function.

(f) Refusal to test and uncompleted tests.

(1) Refusal by an employee to sign the certification statement, to provide breath, to provide an adequate amount of breath, or otherwise not cooperate with the testing process in a way that prevents the completion of the test, shall be noted by the BAT in the "Remarks" section of the chain of custody/test report form. The testing process shall be terminated and the BAT shall immediately notify the employer.

(2) If a confirmation test cannot be completed, or if an event occurs that invalidates the test, the BAT shall, if practicable, begin a new confirmation test, as applicable, using a new chain of custody/test report form with a new sequential test number.

(g) Inability to provide an adequate amount of breath.

(1) The following procedures shall be completed in any case in which an employee is unable, or alleges an inability, to provide an amount of breath sufficient to permit a valid breath test because of a medical condition.

(2) The BAT shall again instruct the employee to attempt to provide an adequate amount of breath. If the employee refuses to make the attempt, the BAT shall immediately inform the employer.

(3) If the employee attempts and fails to provide an adequate amount of breath, the BAT shall so note in the "Remarks" section of the chain of custody/test report form and immediately inform the employer.

(4) If the employee attempts and fails to provide an adequate amount of breath, the employer shall proceed as follows:

(A) The employer shall direct the employee to obtain, as soon as practical after the attempted provision of breath, an evaluation from a licensed physician who is acceptable to the employer concerning the employee's medical ability to provide an adequate amount of breath.

(B) If the physician determines that a medical condition has, or with a high degree of probability, could have, precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed a refusal to take a test. The physician shall provide to the employer a written statement of the basis for this conclusion.

(C) If the physician is unable to make the determination set forth at OAC 310:638-7-6(g)(2)(i), the employee's failure to provide an adequate amount of breath shall be regarded as a refusal to take a test. The physician shall provide a written statement of the basis for this conclusion to the employer.

(h) **Invalid tests.** A breath alcohol test shall be invalid under the following circumstances:

(1) The next external calibration check of an EBT produces a result that differs by more than the tolerance stated in the QAP from the known value of the test standard. In this event, every test result of 0.02 or above obtained on the device since the last valid external calibration check shall be invalid;

(2) The BAT does not observe the minimum fifteen (15) minute waiting period prior to the confirmation test, as provided at OAC 310:638-7-6(e)(2);

(3) The BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to or after the administration of the test, as provided at OAC 310:638-7-6(e)(3);

(4) The BAT does not sign the chain of custody/test report form as required;

(5) The BAT fails to note on the "Remarks" section of the chain of custody/test report form that the employee failed or refused to sign the form following the recording or printing on, or attachment to, the form of the test result;

(6) An EBT fails to print a confirmation test result; or

(7) The sequential test number of alcohol concentration displayed on the EBT is not the same as the sequential test number of alcohol concentration on the printed result.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-7-7. Blood alcohol confirmation tests

(a) **Collection procedures for blood alcohol tests.** Personnel who collect blood for alcohol tests shall be licensed, certified, or otherwise

authorized to withdraw blood in accordance with Federal, State, and local laws.

(1) Blood shall be withdrawn in accordance with accepted medical practices using at least the following items:

- (A) A suitable clean, sterile, dry tube with inert closure, containing the appropriate anticoagulant(s) and preservative(s) for alcohol analysis by gas chromatography;
- (B) A chain of custody form;
- (C) A label for the tube;
- (D) A sterile, non-alcoholic swab; and
- (E) An appropriate, disposable blood extraction device.

(2) Blood shall be withdrawn by venipuncture, after appropriate preparation of the puncture site, and with necessary precautions to maintain asepsis and avoid contamination of specimens.

Puncture site preparation and skin cleansing- shall be performed without the use of alcohol or other volatile organic disinfectants.

(3) At least two (2), five (5) milliliter samples of blood shall be collected directly in or immediately deposited into suitable tubes as described at OAC 310:638-7-7(a). The collection personnel shall immediately label the tube as required by chain of custody procedures and transport to the testing facility as specified at OAC 310:638-7-7(c).

(4) Collection personnel shall use blood alcohol collection materials in accordance with the supplier's instructions, and as required to meet the specimen requirements of the testing facility. Collection personnel shall not use collection materials after their expiration date. Collection personnel shall not re-use a blood extraction device.

(b) **Collection control.** Chain of custody standardized forms shall be properly executed by authorized collection site personnel upon collection of specimens. Handling and transportation of blood specimens from one (1) authorized individual or place to another shall always be accomplished through chain of custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

(c) **Transportation to the testing facility.** Collection site personnel shall arrange to transport the collected specimens to the alcohol testing facility. The specimens shall be placed in containers designed to minimize the possibility of damage during transport, e.g., specimen boxes or padded mailers; and those containers shall be securely sealed to eliminate the possibility of undetected tampering. On the tape sealing the tube, the collection site supervisor shall sign and enter the date specimens were sealed in the container for transfer. The collection site personnel shall ensure that the chain of custody documentation is placed in each container sealed for transfer to the alcohol testing facility.

(d) **Methods of analysis and result reporting.** The alcohol testing facility shall analyze an unopened sample for its alcohol concentration using gas chromatography. If the result of this analysis is an alcohol concentration of less than 0.02, the alcohol testing facility shall transmit the test result to the employer as negative. If the alcohol concentration is 0.02 or greater, the alcohol testing facility shall transmit the quantitative

result to the Review Officer. One (1) sample shall remain unopened and refrigerated at two (2) to eight (8) degrees centigrade for at least one (1) year for further confirmation or the challenge of results by the employee. The alcohol testing facility shall transmit the results of alcohol confirmation tests to the employer in a confidential manner, and the employer shall receive and store the information so as to ensure that confidentiality is maintained.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 16 Ok Reg 2514, eff 6-25-99]

310:638-7-8. Rehabilitation/post-rehabilitation urine alcohol testing

(a) **Criteria for urine alcohol testing.** Urine shall be considered an appropriate specimen for alcohol testing only when monitoring an employee's compliance with program requirements during the course of a substance abuse rehabilitation program and for a defined time period after completion of such a substance abuse rehabilitation program. The period of time an employee shall be subject to urine alcohol testing after completion of a substance abuse rehabilitation program shall be specified by the employer's written policy or as part of a written agreement between employer and employee. Urine shall not be considered an appropriate specimen for alcohol testing under any other conditions.

(b) **Cutoff levels for urine alcohol testing.** A urine alcohol concentration of 0.02 or greater shall be considered a positive initial test for alcohol. A urine alcohol concentration of 0.02 or greater shall be considered a positive confirmation test for alcohol.

(c) **Urine specimen collection procedures.** Urine for rehabilitation/post-rehabilitation alcohol testing shall be collected as required for urine drug testing as described at OAC 310:638-1-8 by collection site personnel who meet the qualifications and training requirements at OAC 310:638-1-10.

(d) **Urine alcohol tests.**

(1) All initial urine alcohol screening tests shall be performed using gas chromatography or an enzyme assay which meets the requirements of the United States Food and Drug Administration for commercial distribution or another approved screening procedure. A test performed on urine and analyzed by gas chromatography shall be considered a confirmed urine alcohol test.

(2) All specimens identified as positive on the initial test shall be confirmed using gas chromatography, or an equivalent accepted method of equal or greater accuracy approved by the Commissioner of Health. All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the testing facility record as "greater than the highest standard curve value."

(3) If the urine alcohol testing facility is not certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists the urine alcohol testing

facility shall meet the requirements at OAC 310:638-5-1 through OAC 310:638-5-9 for drug screen testing facilities with the exception of OAC 310:638-5-4(a)(1) for initial urine alcohol testing.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-7-9. Internal review and certification of results

(a) The testing facility shall report positive test results to the employer's Review Officer within an average of five (5) working days after receipt of the specimen by the testing facility. Before any test result is reported, including the results of initial tests, confirmatory tests, or quality control data, it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall quantify the concentration of alcohol (ethanol), whether positive or negative, the cutoff, the specimen number assigned by the employer, and the testing facility specimen identification number.

(b) *A testing facility shall report single-use test results that meet the standard to be sent to the laboratory for confirmation testing to an employer's review officer, or a designee of the employer's review officer, as soon as the results for the single-use test become available or the next working day. The final conclusion of the testing, which shall include the results of the single-use tests, confirmatory tests, or quality control data, shall be reviewed and the test certified as an accurate report by the responsible individual.* [Title 40 O.S. § 559.1]

(c) The testing facility shall report as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported as positive.

(d) The Review Officer shall not disclose quantitation of test results to the employer but shall report only whether the test was positive or negative.

(e) The testing facility may transmit results to the Review Officer by electronic means, i.e., teleprinters, facsimile, or computer, in a manner designed to ensure confidentiality of the information. Results shall not be provided verbally by telephone. The testing facility shall ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.

(f) The testing facility shall send to the Review Officer positive alcohol test results, which shall be signed by the individual responsible for the day-to-day management of the testing facility or the individual responsible for attesting to the validity of the test reports.

(g) All results reported to the employer shall be by the same source.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:638-7-10. Proficiency testing

(a) Enrollment and performance.

(1) The testing facility performing blood and/or urine alcohol testing shall enroll in and demonstrate satisfactory performance in an approved proficiency testing program for the blood and/or

urine alcohol testing method(s) it performs.

(2) The testing facility performing blood and/or urine alcohol testing shall satisfactorily perform at least one (1) proficiency testing event prior to initial licensure and demonstrate continued satisfactory performance to maintain licensure.

(3) The testing facility performing blood and/or urine alcohol testing shall authorize the proficiency testing service to send results to the Oklahoma State Department of Health for review. The testing facility shall maintain records which shall document the handling, processing and examination of all proficiency testing samples for at least two (2) years from the date of testing.

(4) The testing facility performing blood and/or urine alcohol testing shall ensure that proficiency testing samples are analyzed at least three (3) times each year using the same techniques as those employed for screening unknown specimens.

(5) The proficiency testing samples shall be included with the routine sample run and tested with the same frequency as unknown samples by the individuals responsible for testing unknown specimens.

(6) The testing facility performing blood and/or urine alcohol testing shall not engage in discussions or communications concerning proficiency testing results with other testing facilities nor shall they send proficiency testing samples or portions of the samples to another testing facility for analysis.

(b) Satisfactory performance.

(1) The testing facility performing blood and/or urine alcohol testing shall maintain an overall testing event score of at least eighty (80) percent for proficiency testing performance to be considered satisfactory.

(2) Failure to participate in a proficiency testing event shall result in a score of zero (0) percent for the testing event.

(c) Unsuccessful performance. Failure to achieve satisfactory performance in two (2) consecutive testing events, or two (2) of three (3) consecutive testing events, shall be determined to be unsuccessful performance.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

310:638-7-11. Maintenance of records

(a) EBTs and BATs. Each alcohol testing facility or its agent shall maintain the following records for at least two (2) years:

(1) Records of the inspection and maintenance of each EBT used in employee testing;

(2) Documentation of the alcohol testing facility's compliance with the QAP for each EBT it uses for alcohol testing;

(3) Records of the training and proficiency testing of each BAT used in employee testing;

(4) Records of tests performed. Records shall include copies of chain of custody forms and test results. These records shall be maintained in a confidential manner secured from unauthorized

review.

(b) **Other screening and confirmatory testing.** Each alcohol testing facility or its agent shall maintain the following records for at least two (2) years:

- (1) Records of the inspection and maintenance of each device/instrument used in employee testing;
- (2) Records of proficiency testing results;
- (3) Records of tests performed, including log books, copies of chain of custody forms, and test reports. These records shall be maintained in a confidential manner secured from unauthorized review.

(c) **Calibration records.** Each alcohol testing facility or its agent shall maintain for at least five (5) years records pertaining to the calibration of each device/instrument used in alcohol testing, including records of the results of external EBT calibration checks.

[Source: Added at 12 Ok Reg 517, eff 12-12-94 (emergency); Added at 12 Ok Reg 3069, eff 7-27-95]

CHAPTER 640. EMERGENCY MEDICAL SERVICE REGULATIONS [REVOKED]

[Authority: 63 O.S.Supp.1990, §§ 1-2501 et seq.]
[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:640-1-1. Purpose [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

310:640-1-2. Explanation [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

310:640-1-3. Citation [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 3. AMBULANCE EQUIPMENT AND PERSONNEL [REVOKED]

310:640-3-1. Minimum requirements for equipment and staffing [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

310:640-3-2. Vehicle specifications and criteria [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

310:640-3-3. Extrication equipment [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

310:640-3-4. Sanitation and environmental requirements [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 5. LICENSURE OF EMERGENCY MEDICAL TECHNICIANS AND CERTIFICATION OF FIRST RESPONDERS [REVOKED]

310:640-5-1. Levels of emergency medical technicians [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

310:640-5-2. First responders [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 7. MEDICAL CONTROL FOR ADVANCED LEVEL PROCEDURES [REVOKED]

310:640-7-1. Medical control requirement [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 9. LICENSING AND RELICENSURE OF EMERGENCY MEDICAL TECHNICIANS [REVOKED]

310:640-9-1. Licensing requirements [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 11. REVOCATION OF LICENSE AND TESTING APPEAL [REVOKED]

310:640-11-1. Actions and appeal [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 13. EMT INSTRUCTOR/COORDINATOR QUALIFICATIONS AND CLINICAL REQUIREMENTS [REVOKED]

310:640-13-1. Criteria for EMT instructors and clinical needs [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 15. STORAGE AND UTILIZATION OF DRUGS ON AMBULANCES [REVOKED]

310:640-15-1. Drugs carried on ambulances [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 17. REQUIREMENTS FOR AMBULANCE SERVICES [REVOKED]

310:640-17-1. Ambulance service requirements [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 19. SPECIALTY CARE [REVOKED]

310:640-19-1. Specialty care requirements [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 21. CLASSIFICATION OF AMBULANCE SERVICES [REVOKED]

310:640-21-1. Levels of service [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 23. AMBULANCE SERVICE LICENSURE PROCEDURE [REVOKED]

310:640-23-1. Procedure, rejection and variances [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 25. ENFORCEMENT PROVISIONS [REVOKED]

310:640-25-1. Inspections and non-compliance [REVOKED]

[Source: Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

SUBCHAPTER 27. GENERAL OPERATION OF AMBULANCE SERVICES [REVOKED]

310:640-27-1. Effective rate of requirements [REVOKED]

[**Source:** Revoked at 8 Ok Reg 3143, eff 7-18-91 (emergency); Revoked at 9 Ok Reg 1495, eff 5-1-92]

CHAPTER 641. EMERGENCY MEDICAL SERVICES

[Authority: 63 O.S., §§ 1-104 and 1-2501 et seq.]

[Source: Codified 5-1-92]

SUBCHAPTER 1. GENERAL EMS PROGRAMS

PART 1. GENERAL PROVISIONS

310:641-1-1. Purpose

The purpose of this Chapter is to implement the "Oklahoma Emergency Response Systems Development Act" as established at Title 63 O.S. Section 1-2501 et seq., as amended (the Act), and:

- (1) to describe and give a cross-reference to the several other subchapters of emergency medical service rules, and
- (2) to provide definitions and implement emergency medical service law.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-1-2. Emergency medical service rules [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-1-3. Impersonation, assault, battery, penalties

(a) *Every person who willfully delays, obstructs or in any way interferes with an emergency medical technician or other emergency medical care provider in the performance of or attempt to perform emergency medical care and treatment or in going to or returning from the scene of a medical emergency, upon conviction, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not to exceed Five Hundred Dollars (\$500.00), or by both such fine and imprisonment [Section 650.3 of Title 21, Oklahoma Statutes].*

(b) *Every person who, without justifiable or excusable cause and with intent to do bodily harm, commits any assault, battery or assault and battery upon the person of an emergency medical care provider who is performing medical care duties, upon conviction, is guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term not exceeding two (2) years, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment [Section 650.4 of Title 21, Oklahoma Statutes].*

(c) *It is unlawful for any person to knowingly discharge, or cause to be discharged, any electrical stun gun, tear gas weapon, mace, tear gas, pepper mace or any similar deleterious agent against another person knowing the other person to be a peace officer, corrections officer, probation or parole officer, firefighter, or an emergency medical technician or paramedic who is acting in the course of official duty. Any*

person violating the provisions of this section, upon conviction, shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not exceeding ten (10) years, or by imprisonment in the county jail for a term of not exceeding one (1) year [Section 1272.3 of Title 21, Oklahoma Statutes].

(d) Except as provided in subsection B of this section, every person who falsely personates any public officer, civil or military, any firefighter, any law enforcement officer, any emergency medical technician or other emergency medical care provider, or any private individual having special authority by law to perform any act affecting the rights or interests of another, or who assumes, without authority, any uniform or badge by which such officers or persons are usually distinguished, and in such assumed character does any act whereby another person is injured, defrauded, harassed, vexed or annoyed, upon conviction, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment [Section 1533 of Title 21, Oklahoma Statutes].

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-1-4. Purpose, authority and indoor tobacco smoke

(a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]

(b) The Commissioner of Health has conducted a study and is recommending these measures to the Board of Health under his authority as stated in section 1-106 of the Public Health Code. [63 O.S. § 1-106] The Board has the authority to establish prevention programs for non-communicable disease and to promulgate rules for the control of causative or toxic substances, which can cause disease under section 1-502b of the Public Health Code. [63 O.S. § 1-502b] The Board is adopting this rule under its authority in sections 1-104 and 1-1526 of Title 63 of the Oklahoma Statutes. [63 O.S. §§ 1-104 & 1-1526]

(c) Smoking or possessing a lighted tobacco product is prohibited in an ambulance or stretcher aid van.

[Source: Added at 19 Ok Reg 2087, eff 7-1-02]

310:641-1-7. Definitions

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

"**ACLS**" means Advanced Cardiac Life Support.

"**Act**" means the "Oklahoma Emergency Response Systems Development Act".

"Advanced Emergency Medical Technician" means an AEMT as licensed pursuant to the Act or this chapter.

"Advanced Life Support (ALS) Emergency Medical Services Training Program" means an organization approved by the Department to conduct the following ALS training: Emergency Medical Responder, Emergency Medical Responder Refresher, Emergency Medical Technician, Emergency Medical Technician Refresher, Advanced Emergency Medical Technician, Advanced Emergency Medical Technician Refresher, Intermediate Refresher, Paramedic, Paramedic Refresher, Continuing Education at the Intermediate and Paramedic Levels, and such other courses of instruction that may be designated by the Department.

"Agency" means a Ground Ambulance Service, Specialty Care Ambulance Service, Stretcher Van Service, Air Ambulance Service, or Emergency Medical Response Agency.

"AHA" means the American Heart Association.

"Ambulance" means *any ground, air or water vehicle which is or should be approved by the Commissioner of Health, designed and equipped to transport a patient or patients and to provide appropriate on-scene and en route patient stabilization and care as required. Vehicles used as ambulances shall meet such standards as may be required by the State Board of health for approval, and shall display evidence of such approval at all times.* [Title 63 O.S. Section 1-2503].

"Base Station" means a location from which an ambulance responds. The Base Station may include the principle business office, living quarters for personnel training, and communication center.

"Basic Life Support (BLS) Emergency Medical Services Training Program" means an organization approved by the Department to conduct the following BLS training: Emergency Medical Responder, Emergency Medical Responder Refresher, Emergency Medical Technician Basic, Emergency Medical Technician Basic Refresher, Continuing Education at the Emergency Medical Technician Basic level, and such other courses of instruction that may be designated by the Department.

"BLS" means Basic Life Support, and includes cardiopulmonary resuscitation (CPR) and utilization of Semi-Automated Advisory Defibrillator (SAAD).

"Board" means the State Board of Health.

"Call Log" or **"request for service log"** means a summary of all requests for service that an agency receives, regardless of disposition.

"Call Received" means that a call has been received by an agency when enough information has been received to begin responding to a request for service.

"Certificate" means any certification or certificate issued by the Department, pursuant to the Act or this Chapter.

"Clinical Coordinator" means the individual designated in writing by a training program as responsible for coordination and supervision of clinical experiences.

"Clinical Experience" means all supervised learning experiences required and included as part of a training course in which the student provides or observes direct patient care. This includes vehicular

experiences with a licensed ambulance service.

"Council" means the Oklahoma Trauma and Emergency Response Advisory Council.

"Critical Care Paramedic" means an Oklahoma licensed Paramedic that has received additional training to provide specialized care to patients during interfacility transfers and has provided his or her registration information to the Department.

"Department" means the State Department of Health.

"Distance Learning" is instruction of didactic portions of curriculum which requires participation of the instructor and students but does not require the students to be physically present in the same location as the instructor.

"Distributive Education" means educational activity, in which the learner, the instructor, and the educational materials are not all present in the same place at the same time, e.g., continuing education activities that are offered on the Internet, via CD ROM or video, or through journal articles or audio tapes.

"Documents, Records, or Copies" means an electronic or paper copy maintained at the agency, on units, or provided to receiving facilities.

"DOT" means the United States Department of Transportation.

"Division" means the Emergency Medical Services Division.

"Emergency" means the patient being treated or transported is in an immediate risk of dying or losing a limb.

"Emergency Medical Dispatcher (EMD)" means a person trained using a Department-approved curriculum for the management of calls for emergency medical care.

"Emergency Medical Personnel" means all certified and licensed personnel which provide emergency medical care for an ambulance service.

"Emergency Medical Responder" means a person who has successfully completed a state-approved course using the national standard Emergency Medical Responder curriculum and passed a competency- based examination from a state approved testing agency such as the National Registry of EMTs.

"Emergency Medical Response Agency" or "EMRA" means a person, company, or governmental entity that will utilize certified or licensed emergency medical personnel to provide emergency care but does not transport or transfer patients to a facility. The Department will provide two types of certification.

(A) Pre-hospital EMRAs will operate as part of an Emergency Medical System, responding to requests for service within a response area, supporting and being supported by a licensed ambulance service.

(B) Event Stand-by EMRAs will operate or contract for on-site medical care at locations that are open to the public or that will respond to the public. These types of EMRAs are certified to standby at a location or site and provide medical care to the public.

"EMS" means Emergency Medical Services.

"Emergency Medical System" means a network of hospitals, different ambulance services, and other healthcare providers that exist in the state.

"Emergency Medical Technician (EMT)" means an individual licensed by the Department as an Emergency Medical Technician, formerly known as an EMT-B or Basic.

"Emergency transfer" means the movement of an acutely ill or injured patient from the scene to a health care facility (pre-hospital), or the movement of an acutely ill or injured patient from one health care facility to another health care facility (interfacility).

"Emergency Vehicle Operators Course" means a course that is meant to improve existing driving skills and familiarize an emergency vehicle operator or driver with the unique characteristics of driving emergency vehicles.

"En route Time" means the elapsed time from the time the emergency call is received by the EMS agency until the ambulance and complete crew is en route to the scene of the emergency.

"FDA Class One Device" means a device that is not life-supporting or life-sustaining and does not present a reasonable source of injury through normal usage. In the regulatory context, this applies to the stretcher/gurney and its locking system within the unit or vehicle.

"First Aid" means help given to the sick or injured person until full medical treatment arrives or is available. It is the initial response to an injury or illness, which can be given by a non-professional as soon as a medical problem arises.

"Ground ambulance service" means an ambulance service licensed at the basic, intermediate, advanced or paramedic life support level as provided in Subchapter 3. It does not mean a specialty care service licensed pursuant to Subchapter 11 or a stretcher van service licensed pursuant to Subchapter 17.

"Initial Certification or Initial Licensure" means the first certification or license that an applicant receives after an initial course, or the license or certification an applicant receives after the previous license or certification expired.

"Intermediate" means an Emergency Medical Technician-Intermediate as licensed pursuant to the Act or this chapter.

"Instructor" means a Department approved instructor that is certified to provide instruction at one of three levels:

(A) Level 1 Instructors teach Emergency Medical Responder courses, refresher and continuing education classes.

(B) Level 2 Instructors can teach all courses allowed for Level 1 Instructors, plus initial certification and licensure courses.

(C) Level 3 instructors can teach all courses allowed for Level 1 and Level 2 instructors, plus initial instructor courses, refresher courses, and instructor continuing education.

"Lapse in Medical Direction" means the Medical Director for an agency has not been accessible to the agency for a period of time as detailed with the agency's policies and agreement.

"Lead Instructor" means the lead instructor based on accreditation requirements.

"License" means any license issued by the Department, pursuant to the Act or this Chapter.

"Licensed Service Area" means the contiguous geographical area identified in an initial ambulance service application or in an amendment to an existing license. The geographic area is identified by the application and supported with documents provided by the local governmental jurisdictions. For ground ambulance services, this is the geographic area the ambulance service has a duty to act within.

"Medical Control Physician" or **"Medical Director"** means the licensed physician (M.D. or D.O.) that authorizes certified or licensed emergency medical personnel to perform procedures and interventions detailed in the agency's approved protocols.

"NHTSA" means National Highway Traffic Safety Administration.

"National Registry" means the National Registry of Emergency Medical Technicians (NREMT), Columbus, Ohio.

"Non-emergency" means the patient being treated or transported is not in an immediate risk of dying or a limb.

"Non-emergency transfer" means the movement of any patient in an ambulance other than an emergency transfer.

"OKEMSIS" means Oklahoma Emergency Medical Services Information System.

"PALS" means Pediatric Advanced Life Support.

"Patient" means the person who requests assistance or the person for whom assistance is being requested from an agency.

"Paramedic" means an individual licensed by the Department as a Paramedic, formerly known as an EMT-P.

"PIC" means Pilot in Command.

"Post" means a location where an ambulance may be positioned for an unspecified period of time while awaiting dispatch.

"Preceptor" means an individual with education, experience, and expertise in healthcare and approved by a training program to supervise and provide instruction to EMS students during clinical experiences.

"Program Administrator" means the individual designated in writing by a training program as responsible for all aspects of EMS training.

"Program Coordinator" means the individual designated in writing by a training program as responsible for all aspects of a specified course(s) or EMS program. This individual shall have at least two (2) years experience of full-time equivalent employment as a healthcare practitioner.

"Protocols" means the medical treatment and transport guidelines or standing orders that an agency uses when responding to requests for service. An agency's protocols will be approved by the Department.

"Response time" means the time from which a call is received by the EMS agency until the time the ambulance and complete crew arrives at the scene, unless the call is scheduled in advance.

"State Interoperability Governing Body" or **"SIGB"** means the formal group of public safety officials from across the State working with

the Oklahoma Office of Homeland Security to improve communication interoperability.

"Semi-Automated Advisory Defibrillator" or **"SAAD"** means a defibrillator that is part of the Basic Life Support curriculum and is also known as Automated External Defibrillator (AED) and Semi-Automated External Defibrillator (SAED).

"Specialty Care Transports" or **"SCT"** means interfacility transfers of critically ill or injured patients by an agency with the provision of medically necessary supplies and equipment, above the level of care of the Paramedic. SCT is necessary when a patient's condition requires ongoing care that must be provided by one or more healthcare providers in an appropriate specialty area. Examples include emergency or critical care nursing, emergency medicine, respiratory care, cardiovascular care, or a Paramedic with additional training in IV infusions including vasopressors, vasoactive compounds, antiarrhythmics, fibrinolytics, tocolytics, and/or any other parenteral pharmaceutical unique to the patient's special health care needs or special monitors or procedures such as mechanical ventilation, multiple monitors, cardiac balloon pump, external cardiac support (ventricular assist devices, etc.), or any other specialized device or procedure outside the Paramedic scope of practice certified by the referring physician as unique to the patient's health care needs.

"Statewide Ambulance coverage area" means a map of all ambulance response areas, maintained by the Department.

"State Designated Resource Status Reporting and Communication Tool" means the electronic system utilized to communicate in near real time status of the emergency medical system.

"Stretcher van" means any ground vehicle *which is or should be approved by the State Commissioner of Health, which is designed and equipped to transport individuals on a stretcher or gurney type apparatus* [Title 63 O.S. Section 1-2503 (25)].

"Stretcher van passenger" *means any person who is or will be transported in a reclining position on a stretcher or gurney, who is medically stable, nonemergent and does not require any medical monitoring equipment or assistance during transport* [Title 63 O.S. Section 1-2503 (26)].

"Substation" means a permanent structure where an ambulance(s) is/are stationed and available for calls on a twenty-four (24) hour basis.

"Tax Hold" means an individual with an Oklahoma certification or license who is not in compliance with Title 68 O.S. Section 238.1 and the Oklahoma Administrative Code 710:95-9 as it pertains to professional licensing compliance.

"Title 47" means the Oklahoma Motor Vehicle statutes.

"Training" means that education which is received through training programs as authorized by emergency medical services rule for training programs (Subchapter 7 of this Chapter).

"Training Manager" means an instructor or manager that provides or oversees the training that occurs at an agency, such as continuing education or refresher courses.

"Transfer" means the movement of a patient in an ambulance.

"Trauma transfer and referral center" means an organization certified by the Department and staffed and equipped for the purpose of directing trauma patient transfers within a region that consists of a county with a population of three hundred thousand (300,000) or more and its contiguous communities, and facilitating the transfer of trauma patients into and out of the region for definitive trauma care at medical facilities that have the capacity and capability to appropriately care for the emergent medical needs of the patient.

[Source: Amended and renumbered from 310:641-3-2 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-1-8. Severance

If any part or section of this Chapter is found to be invalid and/or declared un-enforceable, then the remaining parts or sections shall remain in effect.

[Source: Added at 39 Ok Reg 1338, eff 9-11-22]

PART 3. SPECIAL PROVISIONS [REVOKED]

310:641-1-10. Severance [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-1-11. Repealer [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-1-12. Effective date [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

SUBCHAPTER 2. EMERGENCY MEDICAL SERVICE AGENCY APPLICATIONS

PART 1. SPECIAL PROVISIONS

310:641-2-1. Purpose

The rules of this Subchapter are promulgated to:

- (1) incorporate the authorization and the minimum requirements for completing an application for all certified and licensed emergency medical service agencies, and

(2) Provide standards for the enforcement of the "Oklahoma Emergency Response Systems Development Act" and this Chapter.

[Source: Added at 39 Ok Reg 1338, eff 9-11-22]

310:641-2-2. Compliance required

All applications submitted pursuant to the Act shall comply with all appropriate Federal, State, and local laws, providing such local law does not conflict with Federal or State law.

[Source: Added at 39 Ok Reg 1338, eff 9-11-22]

310:641-2-3. Certification or License required

(a) No person, company, governmental entity or trust authority shall operate, advertise, or hold themselves out as providing any type of emergency medical service agency without first obtaining a certification or license to operate from the Department. The Department shall have sole discretion to approve or deny an application based on the ability of the applicant to meet the requirements of the Act or this chapter of rules.

(b) Persons, companies and governmental entities that respond to requests for service off private or governmental property or premises are required to be certified or licensed by the Department. Entities that limit the interventions and activities of their staff members to first aid, CPR, and the use of an AED are not required to be a certified Emergency Medical Response Agency.

(1) Governmental entities not certified or licensed by the Department may be part of mutual aid and disaster plans.

(2) Governmental entities may transport patients of governmental entities off governmental property to appropriate facilities.

(3) Contractors for governmental entities that provide transport services shall be licensed by the Department.

(c) Persons, companies, and governmental entities which operate on their own premises, are exempt from certification and licensing requirement.

(d) An application for a certification or license shall be submitted on forms prescribed and provided by the Department. Ground ambulance, air ambulance, an emergency medical response agency, stretcher van and specialty care services shall each be considered a separate license.

(1) Specialty care licenses are statutorily limited to patient care and interventions above the Paramedic scope of practice.

(2) Specialty Care applicants will declare in the application the type or types of specialty care and patients that will be transported by the agency. The types of specialty care and patients may include, but not be limited to:

(A) adult, pediatric, infant, neonatal, or a combination of age types,

(B) cardiac care, respiratory, neurological, septicemia, or other single or multi-system complications or illnesses requiring specialized treatment during the transport of the patient.

- (3) Ground ambulance services are required to meet the duty to act requirements as described in 63 O.S. § 1-2504.1.
- (e) The application shall be signed under oath by the party or parties seeking to secure the license.
- (f) The party or parties who sign the application shall be considered the owner or agent (licensee), and responsible for compliance to the Act and this chapter.
- (g) All applications shall contain, but not be limited to the following:
- (1) a statement of ownership which shall include the name, address, telephone number, occupation and/or other business activities of all owners or agents who shall be responsible for the service;
 - (A) If the owner is a partnership or corporation, a copy of incorporation documents and the name of all partner(s) or stockholder(s) with an ownership interest of five (5%) percent or more (principal), and the name and addresses of any other ambulance service in which any partner or stockholder holds an interest shall also be included.
 - (B) If the owner is an entity of government, governmental trust, trust authority, or non-profit corporation, the name of each board member, or the chief administrative officer and/or chief operation officer shall be included.
 - (C) A business plan which includes a financial disclosure statement showing evidence of the ability to sustain the operation for at least one (1) year.
 - (D) For purposes of unannounced inspections, the days and times the business office is open.
 - (2) Agencies that use emergency vehicles as defined in Title 47 O.S. Section 103 shall show proof of vehicle liability insurance, at least in the amount of one million dollars (\$1,000,000.00) or to the amount provided for in "The Governmental Tort Claims Act", Title 51 O.S. Section 151 et seq. This insurance requirement shall remain in effect at all times while the service is licensed. Air ambulances are to maintain aircraft liability insurance as required within Federal regulation.
 - (3) Proof of professional liability insurance, at least in the amount of one million dollars (\$1,000,000) or to the amount provided for in "The Governmental Tort Claims Act," Title 51 O.S. Section 151 et seq. This insurance requirement shall remain in effect at all times while the service is licensed;
 - (4) Proof of participation in a workers' compensation insurance program for employees who are subject to pertinent labor laws. This insurance requirement shall remain in effect at all times while the service is licensed;
- (h) Ground Ambulance Services, Air Ambulances, Emergency Medical Response Agencies, and Specialty Care agencies shall have medical control as prescribed by the Act and these rules and submit with the application:
- (1) a letter of agreement from the physician to provide medical direction and establish the protocols and the scope of practice provided at the service;

- (2) the physicians primary practice address or home address if the physician does not have a practice and email address;
- (3) For agencies providing care within the Intermediate, Advanced EMT, and Paramedic scope of practice, submit an Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) registrant certification or number;
- (4) a current Oklahoma medical license; and
- (5) a curriculum vitae,
- (i) a copy of any contract(s) for vehicles, medical equipment, and/or personnel, if such exist;
- (j) Ground Ambulance Services, Air Ambulances, Emergency Medical Response Agencies, and Specialty Care agencies shall submit a copy of patient care protocols and quality assurance plan or policy as required by the medical director and as prescribed by the Act and this chapter;
 - (1) The Department may require quality assurance documentation for review and shall protect the confidentiality of that information.
 - (2) The quality assurance documentation shall be maintained by the agency for three (3) years.
 - (3) The quality assurance policy shall include, but not be limited to:
 - (A) refusals,
 - (B) air ambulance utilization,
 - (C) airway management,
 - (D) cardiac arrest interventions,
 - (E) time sensitive medical and trauma cases,
 - (F) other selected patient care reports not specifically included , and
 - (G) how to provide internal and external feedback of findings determined through reviews. Documentation of the feedback will be maintained as part of the quality assurance documentation
 - (H) treatment protocols that expand beyond the published state protocols;
- (k) Ground ambulance service and Pre-hospital emergency medical response agency applications are required to submit documentation that supports agency licensure from the governmental authority (ies) having jurisdiction over the proposed emergency response area. If the emergency response area encompasses multiple jurisdictions, a written endorsement shall be presented from each. The ground ambulance and prehospital emergency medical response agency application shall contain from each endorsement the following;
 - (1) a map and written description of the endorsed or approved response area,
 - (2) name(s) and title(s) of the person(s) providing approval,
 - (3) any expiration date,
 - (4) name of the service receiving the endorsement.
 - (5) Ground ambulance service supporting documentation will be consistent with the County EMS plan as required in 19 O.S. Section 1-1203.
- (l) Pre-hospital emergency medical response agency applications shall include a letter of support or agreement from a licensed ambulance

service within the proposed emergency medical response service area that includes:

- (1) support of the application,
- (2) support of the medical control physician choice, and
- (3) plans or policies for supporting or participating in quality assurance activities.
- (4) If an applicant is unable to provide a letter of support from a licensed ambulance service within their proposed response area, the applicant can request an exemption. The Department has the discretion to approve or deny the exemption request.

(m) Event standby emergency response agency applications will include the following restrictions and requirements:

- (1) if the applicant is providing care to the public on public property, then letters of governmental support and documents verifying coordination with local ambulance services are required for that agency to have the authority to provide care at that setting.
- (2) if the agency is providing care to the public in a business or establishment open to the public on private property, then letters of governmental support are not required.
- (3) At all times, the standby event emergency medical response agency shall coordinate with other licensed and certified EMS agencies responsible for the event location when the event is within a licensed ambulance service area or approved area for prehospital emergency medical response agencies.

(n) All emergency medical response agencies are prohibited from transporting patients

(o) Stretcher Van service applications will include the following restrictions and requirements:

- (1) Stretcher Vans are prohibited from carrying medications other than oxygen and those other medications which are passenger supplied and administered. The passenger must have a current physician prescription and/or order for the administration of oxygen. A copy of the order shall be maintained in agency files.
- (2) Stretcher van applications will include a quality assurance process or policy that includes:

- (A) The Department may require quality assurance documentation for review and shall protect the confidentiality of that information.
- (B) The quality assurance documentation shall be maintained by the agency for three (3) years.
- (C) Any passenger condition where the passenger entered the 911 system,
- (D) If oxygen is continued, the physician order must be maintained with the trip report or passenger report;
- (E) a review other selected passenger reports not specifically included, and
- (F) process to provide internal and external feedback of findings determined through reviews. Documentation of the feedback will be maintained as part of the quality assurance documentation.

(p) Stretcher Van Services are to submit the following with their application:

(1) A map or narrative description which identifies the proposed service area;

(2) evidence that the proposed service area is an emergency medical service region, ambulance district, or county with a population in excess of five hundred thousand (500,000) people;

(q) Ground ambulance services will include a description of the proposed level of service in the proposed licensed service area, including:

(1) a map defining the whole licensed service area including location(s) of base station, substations, and posts;

(2) a description of the level of care to be provided;

(r) Ground Services, Air Ambulances, and prehospital emergency medical response agencies shall submit a communication policy addressing:

(1) receiving and dispatching emergency and non-emergency calls;

(2) ensuring compliance with State and local EMS communication plans.

(s) Specialty Care Services and Stretcher Van services shall submit communication policy addressing the screening process that ensures a request for service will meet the agency's capability, capacity, and licensure requirements. Documentation of the screening will be retained as part of the patient care report or call log.

(t) a response plan that includes:

(1) providing and receiving mutual aid with all surrounding, contiguous, or overlapping, licensed service areas,

(2) providing for and receiving disaster assistance in accordance with local and regional plans and command structures such as an incident command structure using national incident management support models.

(u) confidentiality policy ensuring confidentiality of all documents and communications regarding protected patient health information.

(v) For an initial or new ground ambulance service, air ambulance service, specialty care, and stretcher van service license application, shall be accompanied by a non-refundable fee of six hundred (\$600.00) dollars plus twenty (\$20.00) dollars for each vehicle, in excess of two (2) vehicles utilized for patient transport. An additional fee of one hundred fifty (\$150.00) dollars shall be included for each ambulance substation in addition to the base station. An Emergency Medical Response Agency Application shall be accompanied by a non-refundable fee of fifty (\$50.00) dollars.

(w) All applicants except air ambulance services are required to show documentation of compliance with any "Sole Source" Ordinance or Resolution. If an area of Oklahoma is being served by a licensed ambulance service, or services, and the area has adopted "sole source" resolutions or ordinances or an Emergency Services District as established pursuant to Article 10, Section 9 (c) of the Oklahoma Constitution, the Department shall require the approval of the community (ies) and/or the emergency medical services authority of that service area, before an additional ambulance service shall be licensed for that same service area.

(x) For all license applications, a business plan which includes a financial disclosure statement showing evidence of the ability to sustain the operation for at least one (1) year is required to be submitted with the application.

[Source: Added at 39 Ok Reg 1338, eff 9-11-22]

SUBCHAPTER 3. GROUND AMBULANCE SERVICE

PART 1. GENERAL PROVISIONS

310:641-3-1. Purpose

The rules of this Subchapter are promulgated to:

- (1) incorporate the authorization, licensure, and the minimum requirements for operating a ground ambulance service that responds to both pre-hospital and interfacility requests for service with certified and licensed personnel at the Emergency Medical Technician, Intermediate, Advanced Emergency Medical Technician, and Paramedic levels, and
- (2) Provide standards for the enforcement of the "Oklahoma Emergency Response Systems Development Act" and this Chapter.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-2. Definitions [AMENDED AND RENUMBERED TO 310:641-1-7]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 19 Ok Reg 386, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 21 Ok Reg 3113, eff 7-14-04 through 7-14-05 (emergency)¹; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-1-7 at 33 Ok Reg 1529, eff 9-11-16]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last prior permanent text is reinstated. Therefore, on 7-15-05 (after the 7-14-05 expiration of the emergency action), the text of 310:641-3-2 reverted back to the permanent text that became effective 7-12-04, as was last published in the 2004 OAC Supplement, and remained as such until amended again by permanent action on 6-25-06.*

310:641-3-3. Compliance required

All ambulance services licensed pursuant to the Act shall comply with all appropriate Federal, State, and local laws, providing such local law does not conflict with Federal or State law.

[Source: Added at 17 Ok Reg 392, eff 11-1-99 (emergency); Added at 17 Ok Reg 2948, eff 7-13-00]

PART 3. GROUND AMBULANCE SERVICES

310:641-3-10. License required [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1183, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-3-11. Issuance of a ground ambulance license

(a) The Department shall have sole discretion to approve or deny an application for a ground ambulance service license based on the ability of the applicant to meet the requirements of this subchapter.

(b) A license may be issued for Basic Life Support, Intermediate Life Support, Advanced Life Support, or Paramedic Life Support.

(1) Basic life support means that the ambulance service vehicles are equipped with the minimum basic equipment, and staffed with at least one EMT on each request for emergency medical services.

(2) Intermediate life support means that the ambulance service vehicles are equipped with the minimum intermediate equipment, and staffed with at least one Intermediate on each request for emergency medical services, except as permitted in this subchapter.

(3) Advanced life support means that the ambulance service vehicles are equipped with the minimum advanced EMT equipment and staffed with at least one Advanced EMT on each request for service, except as permitted in this subchapter.

(4) Paramedic life support means that the ambulance service vehicles are equipped with the minimum paramedic equipment, and staffed with at least one EMT-P on each request for emergency medical services, except as permitted in this subchapter.

(c) The license shall be issued only for the name, service area (area of coverage), level, and type of service given in the application.

(d) The license is not transferable or assignable.

(e) The initial license period shall expire the second June 30, following the date of issue. Subsequent renewal periods shall be twenty-four (24) months, or two (2) years.

(f) A temporary license, not to exceed one hundred twenty (120) days and for one (1) time only, may be issued at the sole discretion of the Department. to an applicant that substantially meets all requirements of the application. Factors that may also be considered include:

- (1) an area of Oklahoma that may otherwise be without ambulance service;
 - (2) the safety, need, and well-being of the public and general populace to be served by the ambulance service;
 - (3) availability of personnel in the area and equipment of the ambulance service;
 - (4) financial ability of the applicant to meet the minimum standards of emergency medical services law;
 - (5) the number of estimated runs to be made by the ambulance service;
 - (6) the desire of the community(ies) to be served.
- (g) The original, or a copy of the original, license shall be posted in a conspicuous place in the principal business office. If an office, or other public place is not available, then the license shall be available to anyone requesting to see the license, during regular business hours. A copy of the license shall be provided to the governmental agency(ies) providing a letter of support.
- (h) A licensed ambulance service may request a voluntary downgrade of its ambulance service license to certification as Emergency Medical Response Agency. The Department shall verify that the agency can maintain the requirements for Emergency Medical Response Agency Certification. No fee shall be required for such a downgrade.
- (i) The Department shall have the authority to upgrade or downgrade an Intermediate, Advanced or Paramedic life support ambulance provider's license upon evidence that the license no longer meets existing license requirements for that level of care.
- (1) Under no circumstance shall a downgrade be for less than basic life support.
 - (2) The service must continue to use approved protocols at the lower license level.
 - (3) The service must continue to provide care under appropriate medical direction.
 - (4) A fee of fifty (\$50.00) dollars shall be required for reinstatement.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 11 Ok Reg 3843, eff 7-11-94 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 19 Ok Reg 386, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 19 Ok Reg 2087, eff 6-27-02 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-12. Renewal of a ground ambulance license

The Department shall provide to all licensed ground ambulance services a "Survey/Renewal Form" each December. This form shall be considered and utilized as a renewal application, if due. The "Survey/Renewal Form" along with proof of current workers' compensation and liability insurance shall be returned to the Department by January 31 each year.

- (1) Upon receipt of a complete and correct renewal application, a renewal fee statement shall be mailed by the Department to each licensee in need of renewal.

(2) A non-refundable fee for the renewal of an ambulance service license shall be one hundred dollars (\$100.00), fifty dollars (\$50.00) for each substation, plus twenty dollars (\$20.00) for each vehicle in excess of two (2).

(3) An ambulance service license shall be renewed if:

(A) The ambulance service has applied for such renewal;

(B) The ambulance service has no outstanding deficiencies or is in need of correction as may be identified during inspection of the service, and;

(C) The proper fee has been received by the Department.

(4) An ambulance service license, if not renewed by midnight June 30 of the expiration year, shall be considered non-renewed.

(A) A grace period of thirty (30) days is permitted under 63 O.S. Section 1-1702.

(B) Thereafter a new application shall be required for the continuation of any such license, and the applicant shall be subject to initial application procedures. An extension may be granted by the Department for the purpose of renewal, subject to a determination by the Department of the following:

(i) The safety, need, and well-being of the public and general populace to be served by the ambulance service;

(ii) The availability of personnel, equipment, and the financial ability of the applicant to meet the minimum standards of emergency medical services law;

(iii) The desire of the community(ies) to be served.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-13. Denial of an initial or renewal license

(a) An application may be denied for any of the following reasons:

(1) A felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation, or the person designated to supervise the service; to include, but not be limited to, fraud, grand larceny, child abuse, sexual offense(s), drug offense(s), or a conviction, adjudication, or plea of guilty or nolo contendere which might otherwise have a bearing on the operation of the service;

(2) insufficient number of personnel to properly staff one vehicle on a twenty four (24) hour basis at the highest level of the service license.

(b) An applicant shall be notified in writing within sixty (60) days, from the date the Department receives a complete application, of the granting or denial of a license. In the event of a denial, the specific reason(s) shall be noted, and an indication of the corrective action necessary to obtain a license or renewal shall be given, if applicable. A license application may be re-submitted, but each re-submission shall be considered an initial

application.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 10 Ok Reg 3459, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2641, eff 6-25-94 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-13.1. Denial of an application for renewal of license

(a) A license application for renewal may be denied for any of the following:

- (1) the failure to meet standards set forth by statute or rule,
- (2) a felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation, or the person designated to manage the service to include, but not limited to fraud, grand larceny, child abuse, sexual offense(s), or a conviction, adjudication, or plea of guilty or nolo contendere which might otherwise have a bearing on the operation of the service,
- (3) insufficient number of personnel to properly staff one vehicle on a twenty-four (24) hour basis at the licensure level,
- (4) outstanding notice of violation that has not been addressed with an acceptable plan of correction,
- (5) insufficient financial resources,
- (6) falsification of Department required information,
- (7) ownership, management, or administration by principals of an entity whose ambulance service license has been revoked,
- (8) re-licensure may not be in the best interest of the public as determined by the Department,
- (9) revocation or denial of a governmental letter of support as required in 310:641-3-10.

(b) An applicant shall be notified in writing within sixty (60) days from the date the Department receives a complete renewal application of the granting or denial of a renewed license. In the event of a denial, the specific reason(s) shall be noted, and an indication of the corrective action necessary to obtain a renewed license shall be given, if applicable. A license application may be resubmitted, but each re-submission shall be considered an initial application.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-14. Severance of action, amendment, and re-instatement

(a) The issuance or renewal of a license after notice of a violation(s) has/have been given, shall not constitute a waiver by the Department of its power to rely on the violation(s) for subsequent license revocation or other enforcement action which may arise out of the notice of the violation(s).

(b) Any change in the name of the service, level, service area, addition of substation, or type of service shall necessitate an application to amend the license and shall be accompanied by a fee of one hundred dollars

(\$100.00).

(c) Addition of a substation that expands the service area shall comply with 310:641-3-11.

(d) Changing or moving the location of a substation requires written notification to the Department.

(e) If an existing license is placed on probation or suspension, a fee of one hundred (\$100.00) dollars, in addition to any other provision of the action, shall be submitted prior to re-instatement of the license to full privilege

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-15. Ground ambulance service - personnel staffing

(a) Each licensed ground ambulance service shall be staffed and available to respond to any request for service within the primary service area twenty-four (24) hours per day.

(b) Each ground ambulance service shall have on staff an adequate number of emergency medical personnel and a sufficient number of ambulances available in order to be en route to 90% of all emergency calls within five (5) minutes of the time the call is received in dispatch at the highest level of care for which the service is licensed.

(1) The request for emergency medical services shall be considered "received in dispatch" as soon as the licensed agency receives sufficient information to allow an appropriate response, i.e., location of the emergency and nature of the call.

(2) Staff licensed below the level of the ambulance service may be utilized provided one or more of the following conditions have been met:

(A) The request for service has been screened by a Department approved emergency medical dispatch system, or

(B) The patient is to be transported from a higher to a lower level of care, or

(C) The transport is approved in writing by the transferring physician at a specified lower level of care and scheduled in advance.

(D) An agency that screens emergency calls through an emergency medical prioritization program shall establish en route times for the priority levels established by the agency. The en route times established by the agency shall be included in the agency's policy and/or procedure manual.

(c) Under no circumstance during the transport of an ambulance patient shall the attendant be less than a licensed emergency medical technician.

(d) In addition to the requirement of licensed emergency medical technicians, each ground ambulance service shall have drivers who, at a minimum, are certified as an Emergency Medical Responder. All drivers of a ground ambulance service shall successfully complete an emergency

vehicle operator course approved by the Department within 120 days of employment. Emergency vehicle operators shall successfully complete a refresher course approved by the Department every two (2) years.

(e) In a unique and unexpected circumstance, including a disaster, the minimum driver requirement may be altered to facilitate a transport of an ambulance patient. The attendant, who is in charge of the vehicle while a patient is on board, may request a law enforcement officer or a firefighter, familiar with the operation of an authorized emergency vehicle, to drive the vehicle. If this option is utilized, a written report of the circumstances, reason, and any other pertinent information regarding the call shall be forwarded to the Division within ten (10) working days. Abuse and/or re-occurring incidents of this nature shall require a reassessment of the service's staff and staffing patterns. The service may be required to obtain additional personnel or other action by the Department may result.

(f) Only emergency personnel authorized by this Act, except for a physician, shall be utilized by an ambulance service for pre-hospital, or on-scene, patient care and transport. In some cases, involving inter-hospital transfer of an ambulance patient(s), a physician, physician assistant (PA), nurse practitioner, respiratory care practitioner, registered nurse, or licensed practical nurse may be required to assist the emergency medical technician because the medical care required exceeds the level of the ambulance service personnel. If this option is utilized, written orders by a physician and/or documentation of orders given via radio or telephone contact with a physician, shall become a part of the ambulance patient run report.

(g) Each agency will maintain training records demonstrating competency in medical skills and interventions, patient handling, and emergency vehicle operations for all personnel utilized by the agency.

(h) An agency that is unable to fulfill the twenty-four (24) hours staffing requirement may contract with another ground ambulance service to provide personnel to meet the staffing requirement. Contracts will contain but not be limited to the following information:

- (1) how and from what location personnel will respond;
- (2) procedure for notifying the contractor that personnel are needed;
- (3) communication policy to ensure coverage is in place for the licensed service area;
- (4) contingency plan for system overload;
- (5) copies of contracts will be provided to the Department as part of application requirements in 310:641-3-10;
- (6) scope of practice and protocol requirements for the contractual response; and
- (7) emergency plan in the event a contracted service is unable to respond within the contracted requirements, and how the request for service will be answered.

(i) An agency may enter into a contract or other memorandum of agreement with a non-transport agency or entity that is not a certified emergency medical response agency. The purpose of this contract or agreement is to improve emergency medical system responses. The agreement is to allow for interested individuals, who are certified and/or

licensed by the Department, at the non-transport agency to respond with ground ambulance services using non-transport agency equipment. The result will be for these individuals to serve as an extension of the ambulance service through the contract or agreement.

(1) The Contract or Memorandum of Agreement will address the following topics:

(A) Name of the non-certified Emergency Medical Response Agency;

(B) The specific vehicles and equipment to be used by the personnel for ambulance service responses;

(C) the parties that supply or maintain the supplies and equipment;

(D) communication arrangements.

(2) The personnel will be authorized to perform procedures under the ambulance services medical director. The ambulance service medical director will establish the scope of practice for the non-transport agency personnel.

(3) The ambulance service will be responsible for all quality assurance activities.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 19 Ok Reg 386, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

PART 5. GROUND TRANSPORT VEHICLES

310:641-3-20. Ground ambulance vehicles

(a) An ambulance manufactured prior to January 1, 2021 shall meet or exceed the standards established in the U.S. General Services Administration Federal Specification for the Star-of-Life Ambulance (GSA KKK-A-1822) in effect on November 1, 1994.

(b) A new or remounted production ground ambulance that is ordered or purchased after January 1, 2021 shall comply fully with the ambulance design criteria in either:

(1) The Commission on Accreditation of Ambulance Services Ground Vehicle Standard for Ambulances (GVS), effective July 1, 2019. A decal or letter of verification from the manufacturer certifying that the vehicle meets the GVS standard, if ordered after January 1, 2021, shall be made available upon inspection; or

(2) The National Fire Protection Association (NFPA) 1917 Standard for Automotive Ambulances - 2019 Edition. A decal or letter of verification from the manufacturer certifying that the vehicle meets the NFPA standard, if ordered after January 1, 2021, shall be made available upon inspection;

(c) Additionally, each ground ambulance service vehicle purchased or ordered after January 1, 2021 will meet the following requirements:

- (1) the business name, or acceptable legal abbreviation of the name of the service shall be placed on each side and the rear of the vehicle, and shall be at least three (3") inch high letters,
 - (2) A minimum of one Star of Life emblem that is a minimum of three (3) inches in diameter shall be placed on the front, sides, and rear of the vehicle.
 - (3) The word "Ambulance", "Emergency Medical Services", "EMS", or licensure level shall be on the sides and rear of the vehicle in at least three (3) inch high letters. If nomenclature is placed on a vehicle relating to a license level as defined in 63 O.S. § 1-2503, the nomenclature must reflect the agency license level of the agency operating the vehicle.
 - (4) Ambulance vehicles shall be exempt from the sections of GVS and NFPA specifications which specify color, emblems, and markings except for (c) of this sub-chapter.
- (d) If while waiting delivery of a new, remounted, or refurbished vehicle, a manufacturer or dealer provides a service with a vehicle on a temporary loan or lease, such temporarily loaned or leased vehicle shall comply with specification KKK-A-1822 in effect at the time of manufacture and shall be inspected and permitted by the Department prior to utilization as an ambulance.
- (e) A vehicle may not be permitted by the Department as an ambulance prior to the submission and approval of all required documentation, fees, and a Department inspection.
- (f) The purchaser of any vehicle that is not compliant with this section shall be responsible for corrective action.
- (g) A decal, notice, or other documentation showing the ambulance meets the manufacturing standard at the time of manufacture will be affixed to the vehicle.
- (h) Ambulances purchased after January 1, 2021 by Federal healthcare systems such as Department of Defense or Indian Health Services shall meet one of the following standards:
- (1) The Commission on Accreditation of Ambulance Services Ground Vehicle Standard for Ambulances (GVS), effective July 1, 2019. A decal or letter of verification from the manufacturer certifying that the vehicle meets the GVS standard, if ordered after January 1, 2021, shall be made available upon inspection ;
 - (2) The National Fire Protection Association (NFPA) 1917 Standard for Automotive Ambulances - 2019 Editions. A decal or letter of verification from the manufacturer certifying that the vehicle meets the NFPA standard, if ordered after January 1, 2021, shall be made available upon inspection; or
 - (3) U.S. General Services Administration Federal Specification for the Star-of-Life Ambulance (GSA KKK-A-1822) Version F with change orders 1 through 10.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 19 Ok Reg 386, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

**310:641-3-21. Ground transport vehicles currently in use
[REVOKED]**

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 17 Ok Reg 392, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2948, eff 7-13-00]

310:641-3-22. General provisions for ground transport vehicles

(a) Authorized emergency vehicles of licensed ambulance services shall comply at all times with the applicable requirements of Title 47, the Oklahoma Motor Vehicle Code to include audio and visual warning indicators.

(b) Authorized emergency vehicles of licensed ambulance services shall be in good mechanical and serviceable condition at all times, so as not to be hazardous to the patient(s) or crewmembers. If, in the determination of the Department, a vehicle does not meet this requirement, it may be removed from service until repairs are made.

(c) Authorized emergency vehicles of licensed ambulance services shall be tested for interior carbon monoxide, in a manner acceptable to the Department. Carbon monoxide levels of more than ten parts per million (10ppm) shall be considered in excess, and shall render the vehicle "out of compliance.". Vehicles shall be removed from service if carbon monoxide levels exceed fifty parts per million (50ppm) until repairs are made to reduce the amounts of carbon monoxide below ten parts per million (10ppm).

(d) Authorized emergency vehicles of licensed ambulance services utilized for the provision of patient care shall be equipped with communication equipment (such as two-way radio using VHF frequency 155.3400) which shall provide voice contact with the emergency departments of licensed hospitals. Acceptable frequencies shall be approved and consistent with the, Statewide Interoperability Governing Board communication plan, as adopted under the rules of the Federal Communications Commission (FCC). No paging shall be allowed on these designated medical frequencies. Encoder numbers for Oklahoma hospitals, and approval of frequencies may be obtained by contacting the Division.

(e) Authorized emergency vehicles of licensed ambulance services shall have a permit and/or inspection decal affixed by the Department. These decals shall be placed in the lower left corner of a rear window unless it shall be impossible or impractical to utilize this area.

(f) The following permit classifications of vehicle permits shall be recognized as authorized emergency vehicles of ambulance services:

(1) "Temporary Permit" may be affixed by the agency and will be valid for ten (10) business days. The temporary permit will be sent to the agency by the Department in the event the vehicle cannot be inspected by Department personnel within three (3) days of the Department receiving notification that a vehicle is ready for inspection.

(A) To receive a temporary permit, the agency will send to the Department:

- (i) a Department inspection form completed by an agency representative,
- (ii) pictures of the interior and exterior of the vehicle,
- (iii) copies or pictures of the vehicle tag,
- (iv) copies or pictures of the insurance verification

(B) Upon approval of the documentation, a temporary permit will be sent to the agency.

(C) Prior to the expiration of the temporary permit, the agency will make arrangements with the Department to ensure a complete inspection is conducted by the Department for the purpose of affixing a class "A" permit to the vehicle.

(2) Class "A" permit shall be affixed to an ambulance in compliance with all applicable standards. Emergency and non-emergency ambulance patients may be transported in class "A" ambulances.

(3) Class "B" permit shall be affixed to an ambulance in compliance with manufacturing, communication, safety, and Title 47 of Oklahoma Statutes requirements. Class "B" vehicles shall have the required medical equipment on board when placed in-service to respond to emergency calls or transport any ambulance patients.

(4) Class "E" permit shall be affixed to other vehicles owned or operated by a licensed ambulance service and utilized in provision of emergency medical services. Ambulance patients shall not be transported on the public streets or highways in a class "E" vehicle. A list of patient care equipment that is carried on class "E" units will be part of the agency's standard operating procedure or guideline manuals.

(5) The licensee shall notify the Department in writing on forms provided by the Department prior to placing a substitute (not a new vehicle purchase or part of a lease or loan from a dealer) vehicle into operation. A substitute vehicle may operate up to 5 days in temporary service provided it is available for inspection.

(g) When a vehicle is sold or removed from service, the agency will notify the Department on a Department form detailing the agency and unit identifiers, remove the permit, and return the form and permit to the Department within thirty (30) days.

(h) A vehicle with any of the following deficiencies or malfunctions may not be used for any patient transports:

- (1) inadequate sanitation, including the presence of contamination by blood and or bodily fluids;
- (2) inoperable heater or air conditioner as detailed within the vehicle manufacturing standards and specifications;
- (3) inoperable AED or defibrillator;
- (4) tires that do not meet Title 47 O.S. Section 12-405;
- (5) inoperable emergency lighting and or siren;
- (6) inoperable oxygen system or less than 200 psi in onboard oxygen system;
- (7) both portable and vehicle suction apparatus are inoperable;

- (8) carbon monoxide levels greater than fifty (50) parts per million;
 - (9) lapse of vehicle liability insurance;
 - (10) lapse of worker compensation insurance;
 - (11) inability to affix a class "A" or "B" permit on an existing permitted vehicle;
 - (12) vehicle that does not comply with statutory safety equipment found in Title 47.
- (i) If such violation is not or cannot be corrected immediately, any affected vehicle shall be removed from service and the ambulance permit shall be removed until such time as the vehicle is compliant and has been re-inspected and permitted by the Department.
 - (j) Any patient care equipment and supplies that is/are carried on an ambulance that is/are not on the approved equipment list will need Department approval through the protocol approval process.
 - (k) All lighting, both interior and exterior, shall be fully operational, including lens caps.
 - (l) All designated seating positions in the patient compartment shall be equipped with functioning safety restraint systems appropriate for each type of seating configuration.
 - (m) All oxygen tanks, (portable and onboard) shall be secured within brackets compliant with the ambulance's manufacture standard.
 - (n) Each vehicle shall not have any structural or functional defects that may adversely affect the patient, personnel, or the safe operation of the vehicle to include windshield wipers, steering systems, brakes, seatbelts, and interior or exterior compartment doors and latches.
 - (o) Each permitted vehicle shall have an accessible copy (electronic or paper) of the agency's approved protocols.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 19 Ok Reg 386, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-23. Equipment for ground ambulance vehicles

- (a) The tampering, modification, or removal of the manufacturer's expiration date is prohibited.
- (b) Licensed ambulance services shall ensure that all recalled, outdated, misbranded, adulterated, deteriorated fluids, supplies, and medications are removed from ambulances immediately.
- (c) The medical control physician will authorize all equipment and medications placed on the units for patient care.
 - (1) The authorized equipment and medications will be detailed on a unit checklist and will match the equipment and supplies with defined minimums needed to treat patients in the manner detailed in the agency approved protocols. The checklist will also meet the requirements described in the ambulance file section of this subchapter.
 - (2) The medications authorized by the medical director will be detailed on the unit checklist will include the number, weight, and volume of the medication containers.

- (3) An electronic or paper copy of patient care protocols will be on each in-service ambulance.
- (d) Each ground ambulance service vehicle shall carry:
 - (1) airway and breathing equipment and supplies, to include:
 - (A) a pulse oximetry device with pediatric and adult capability.
 - (B) a functioning portable suction apparatus with wide-bore tubing (1/4"), and rigid and soft suction catheters for adults, children, and infants, as detailed by agency protocols in addition to the vehicle mounted suction unit.
 - (C) One (1) bulb syringe, with saline drops, sterile, in addition to any bulb syringes in obstetric kits.
 - (D) a minimum of two (2) each, single use adult, pediatric, and infant bag-valve mask resuscitators with an adult, child, and infant clear masks.
 - (E) oropharyngeal airways set or a minimum of two (2) of each size for adult, child, and infant individually wrapped for sanitation purposes. Nasopharyngeal airways are optional.
 - (F) a portable ventilator as directed by the agency medical director and approved protocols.
 - (G) wall mounted oxygen set with variable flow regulators and adequate tubing.
 - (H) portable oxygen cylinder and regulator with a spare oxygen cylinder appropriately secured.
 - (I) a minimum of two (2) each adult, child, and infant sized oxygen masks.
 - (J) a minimum of two (2) adult nasal cannulas.
 - (K) a nebulizer; adult and pediatric, sizes per local protocols.
 - (2) Bandaging materials to include:
 - (A) two (2) burn sheets; clean, wrapped, and marked in a plastic bag.
 - (B) fifty (50) sterile 4"x4" dressings.
 - (C) six (6) sterile 6"x8" or 8"x10" dressings.
 - (D) ten (10) roller bandages, 2" or larger, such as kerlix, kling, or equivalent.
 - (E) four (4) rolls of tape (minimum of one (1) inch width).
 - (F) four (4) sterile occlusive dressings, 3" x 8" or larger.
 - (G) four (4) triangular bandages.
 - (H) one (1) pair of bandage scissors must be on the ambulance or on the on-duty personnel.
 - (3) Fracture immobilization devices, to include:
 - (A) one (1) adult and one (1) pediatric traction splint or equivalent device capable of adult and pediatric application.
 - (B) two (2) upper and two (2) lower extremity splints in adult and pediatric sizes.
 - (C) short spine board or vest type immobilizer, including straps and accessories as described within agency protocols.

(D) two (2) adult and one (1) pediatric size long spine board including straps and head immobilization devices(s), as described within the agency protocols.

(E) two (2) rigid or adjustable extrication collars in large, medium, small adult sizes, and pediatric sizes for children ages 2 years or older, and one (1) infant collar, as described within the agency protocols. Collars shall not be foam or fiber filled.

(4) Miscellaneous medical equipment, to include:

(A) one (1) infant, one (1) child, two (2) adult, and one (1) extra-large blood pressure cuffs.

(B) stethoscope, one (1) adult and one (1) pediatric size.

(C) obstetrical kit, with towels, 4"x4" dressing, umbilical tape, bulb syringe, cord cutting device, clamps, sterile gloves, aluminum foil, and blanket.

(D) universal communicable disease precaution equipment including gloves, mask, goggles, gown, and other universal precautions.

(E) blood-glucose measurement equipment per medical direction.

(F) CPAP per medical direction.

(G) Semi-automatic advisory defibrillator (SAAD) with adult and pediatric capability.

(5) Other mandatory equipment, to include:

(A) Two (2) appropriately labeled or designated waste receptacles for:

(i) waste that is contaminated by bodily fluids or potentially hazardous or infectious waste, and,

(ii) waste that does not present a biological hazard, such as plastic and paper products that are not contaminated.

(B) one (1) flexible, portable, soft stretcher for confined space and extrication as approved by medical direction.

(C) two way radio communication equipment as detailed in this Chapter and through the Statewide Interoperability Governing Body utilizing VHF frequency 155.3400.

(D) one (1) sturdy, lightweight, all-level cot for the primary patient and mounting cot fastener and/or anchorage assembly that is compliant with the vehicle manufacturing standards in place at the time of purchase.

(E) at least three (3) strap type restraining devices (chest, hip, and knee), and compliant shoulder harness shall be provided per stretcher, cot, and litter (not less than two (2") inches wide, nylon, easily removable for cleaning, two (2) piece assembly with quick release buckles).

(F) electronic or paper patient care reports.

(G) two (2) fire extinguishers one (1) in the cab of the unit, and one (1) in the patient compartment of the vehicle.

Each mounted in a manner that allows for quick release and is compliant with the ambulance manufactures standards. Each extinguisher is to be dry powder, ABC,

and a minimum of five (5#) pounds.

(H) two (2) operable flashlights.

(I) all ambulance equipment and supplies shall be maintained in accordance with the sanitation requirements in this subchapter. Additionally, sterility shall be maintained on all sterile packaged items.

(J) digital or strip type thermometer and single use probes.

(K) six (6) instant cold packs.

(L) one (1) length/weight based drug dose chart or tape.

(M) a minimum of two (2) DOT approved reflective vests.

(N) one (1) pair of binoculars.

(O) a current copy of the emergency response guide, electronic or paper format.

(P) As approved by local medical direction, a child restraint system or equipment for transporting pediatric patients.

(e) Intermediate equipment, in addition to the basic equipment, intermediate licensed service ambulance vehicles shall carry:

(1) intravenous administration equipment in a sufficient quantity to treat multiple patients requiring this level of care, including intravenous catheters 14 to 24 gauge, six (6) each.

(2) interosseous needles, two (2) each for adult and pediatric patients, and associated administration equipment if approved by local medical control.

(3) appropriate quantities of sterile fluid as approved by local medical control.

(4) adequate advanced airway equipment per medical control;

(A) endotracheal tubes, two (2) sets of cuffed 2.5 to 8.0, as permitted and approved by local medical control. Uncuffed endotracheal tubes are optional, based on medical director approval.

(B) supraglottic airway devices to be used as a primary or secondary airway intervention, as approved by medical control.

(C) Laryngoscope handle with extra batteries and bulbs with blade sizes and styles as approved by local medical control.

(5) blood sampling equipment if approved by medical control.

(6) one (1) Occupational Safety and Health Administration (OSHA) approved sharps container.

(7) magill forceps one (1) pediatric and one (1) adult size, individually wrapped.

(8) continuous waveform capnography required for use in endotracheal intubation and specific supraglottic airway devices.

(f) Advanced Emergency Medical Technician equipment, in addition to the required equipment for the EMT and the Intermediate, will carry:

(1) medication that is permitted within the AEMT scope of practice and as approved by the medical control physician;

(2) equipment and supplies that are permitted within the AEMT scope of practice and approved by the medical control physician.

- (g) Paramedic equipment, in addition to the required EMT, Intermediate, and AEMT equipment, the Paramedic level ambulance will carry:
- (1) cardiac monitor/defibrillator with printout, and appropriate pads, paddles, leads and/or electrodes (adult and pediatric). Telemetry capability is optional.
 - (2) medication with quantities to be carried on each ambulance as detailed in the formulary of agency approved protocols.
 - (3) nasogastric tubes; two (2) each 8 french to 16 french, in accordance with medical control authorization.
- (h) All ambulance vehicles, regardless of licensure level or level of care provided, shall carry:
- (1) three (3) reflectors (triangular) or battery powered warning lights;
 - (2) two (2) OSHA approved hard hats, with goggles or face shield;
 - (3) two (2) pair of heavy work gloves; and
 - (4) one (1) spring-loaded window punch or other tool that may be used to access a patient through a window.
- (i) All ambulance services shall have sufficient and appropriate rescue equipment to gain access to patients either on board the ambulance or provided through an extrication agreement with a rescue department or team.
- (j) All assessment and medical equipment utilized for patient care will be maintained in accordance with the manufacturer's guidelines. Documentation will be maintained at the agency showing that periodic tests, maintenance, and calibration are being conducted in accordance with the manufactures requirements. These types of equipment include, but are not limited to, gurneys or stretchers, suction devices, pulse oximetry, glucometers, capnography monitors, end-tidal co2 monitors, CPAP/BiPAP devices, ventilators, and blood pressure monitors.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 19 Ok Reg 386, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 19 Ok Reg 2087, eff 6-27-02 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-3-24. Medical control requirement

- (a) Each Oklahoma licensed ambulance service that initiates and responds to calls within the state shall have a physician medical director who is fully licensed, non-restricted Doctor of Medicine (M.D.) or a Doctor of Osteopathy (D.O.) by the State of Oklahoma.
- (b) Each licensed ambulance service will have a plan or policy that will address a sudden lapse of medical direction, such as a back-up or reserve medical director, which is used to ensure coverage when a medical director is not available.
- (1) The Department shall be notified the next business day of any lapse or change of medical direction by the respective agency. If the agency has made arrangements for a back-up medical director or an immediate replacement, then a lapse has not occurred.

(2) In the event of a lapse in medical direction; in that, there is not a medical director providing the authority for medical interventions for an agency's certified and licensed personnel, the agency will, pursuant to 63 O.S. Section 1-2506 relating to the medical authority to perform medical procedures:

- (A) cease all operations involving patient care,
- (B) implement mutual aid plans to ensure requests for service receive responses until the agency is able to implement their plan or policy for substitution or back-up medical direction.

(c) An agency that only provides care within the Basic Life Support scope of practice, the medical director shall:

- (1) hold a valid, non-restricted medical license,
- (2) not be restricted from obtaining or maintaining OBNDD and DEA registrations for controlled dangerous substances,
- (3) demonstrate appropriate training and experience in adult and pediatric emergency care. Demonstrated training and experience may include appropriate board training, basic life support, or pre-hospital trauma life support courses.

(d) An agency that provides Intermediate, Advanced, or Paramedic level interventions by individual protocols or licensure level, the medical director shall:

- (1) hold a valid, non-restricted medical license,
- (2) maintain current OBNDD and DEA registrations for controlled dangerous substances,
- (3) demonstrate appropriate training and competence in adult and pediatric emergency medical services, to include pediatric and adult trauma. Demonstrated training and experience may include completed residency training as well as relevant work experience with current clinical competency.

(e) The physician medical director of a ground ambulance based in another state shall not be required to be licensed to practice in the State of Oklahoma, but shall be fully licensed in good standing in the home state of that ground ambulance service. Otherwise, the medical director will meet EMS Medical Director requirements listed in this subchapter.

(f) The physician medical director for an ambulance service operated by the federal government shall be fully licensed in good standing in Oklahoma or another state. If not licensed in Oklahoma, the physician shall be actively employed by the federal agency responsible for the operation of the ambulance service or emergency medical response agency.

(g) The physician director shall:

- (1) be accessible, knowledgeable, and actively involved in quality assurance and the educational activities of the agency's personnel and supervise a quality assurance (QA) program. The appointment of a designee to assist in QA and educational activities does not absolve the medical director of their responsibility for providing oversight;
- (2) provide a written statement to the Department, which includes:

- (A) an agreement to provide medical direction and establish treatment protocols and the agency specific scope of practice for all certified and licensed agency personnel;
 - (B) the physician's primary practice address or home address if the physician does not have a practice, as well as contact information such as a phone number and email address(es);
 - (C) the current OBNDD registrant number or state equivalent, as appropriate;
 - (D) current Oklahoma medical license;
 - (E) on-line and/or off line specific licensure level medical protocols with medication formulary for patient care techniques. Protocols shall include medication to be used, treatment modalities for patient care procedures, and appropriate security procedures for controlled dangerous substances;
- (3) Attend or demonstrate participation in:
- (A) medical director training provided by the Department subject to the availability of funding. Verification of attendance or participation will be maintained at the agency;
 - (B) one hour of continuing education each year specific to providing medical oversight to EMS providers and agencies each year, provided by the Department subject to the availability of funding.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-25. Sanitation requirements

- (a) The following shall apply regarding sanitation standards for all ambulance services facilities, vehicles, and personnel:
- (1) the interior of the vehicle and the equipment within the vehicle shall be sanitary, secured and maintained in good working order, at all times;
 - (2) the exterior of the vehicle shall be clean and maintained in good working order to ensure the vehicle can operate safely and in accordance with applicable sections of Title 47 of the Oklahoma Statutes;
 - (3) linen shall be changed after each patient is transported and bagged and stored in an outside or separate compartment;
 - (4) clean linen, blankets, washcloths, and hand-towels shall be stored in a closed interior cabinet free of dirt and debris;
 - (5) freshly laundered linen or disposable linen shall be used on the cots and pillows and changed between patients;
 - (6) pillows and mattresses shall be kept clean and in good repair, and any repairs made to pillows, mattresses, and padded seats shall be permanent;
 - (7) soiled linen shall be placed in a container that deters accidental exposure. Any linen which is suspected of being

contaminated with bodily fluids or other potentially hazardous infectious waste shall be placed in an appropriately marked closed container for disposal;

(8) contaminated disposable supplies shall be placed in appropriately marked or designated containers, in a manner that deters accidental exposure;

(9) exterior and interior surfaces of vehicles shall be cleaned routinely;

(10) blankets and hand towels used in any vehicle shall be clean;

(11) implements inserted into the patient's nose or mouth shall be single-service wrapped and properly stored and handled. When multi-use items are utilized, the local health care facilities should be consulted for instructions in sanitation and handling of such items.

(b) When a vehicle has been utilized to transport a patient(s) known to the operator to have a communicable disease the vehicle shall be cleansed and all contact surfaces shall be washed with soap and water and appropriate disinfectant. The vehicle should be placed "out of service" until a thorough cleansing is conducted.

(c) All storage spaces used for storage of linens, equipment, medical supplies, and other supplies at the base station shall be kept clean.

(d) personnel shall be clean, especially hands and fingernails, and well groomed. Clothing worn by personnel shall be clean. The licensee shall provide in each vehicle a means of hand washing for the attendants.

(e) All oxygen humidifiers shall be single use;

(f) All medications, supplies, and sterile equipment with expiration dates shall be current.

(1) Expired medications, supplies, and sterile equipment shall be discarded appropriately.

(2) Tampering, removing, or altering expiration dates on medications, supplies, and equipment is prohibited.

(g) The station facility, ambulance bays, living quarters, and office areas shall be clean, orderly, free of safety and health hazards.

(h) Ambulance vehicles and ambulance service facilities shall be free of any evidence of use of lighted or smokeless tobacco products except in designated smoking areas, consistent with the provisions of 310:641-1-4.

[Source: Amended and renumbered from 310:641-3-60 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-3-26. Storage of intravenous solutions

(a) Medication and vascular fluid shall be stored in a manner that complies with manufacturer and FDA standards.

(b) Each agency shall maintain medications in a manner that deters theft and diversion of all medications.

[Source: Amended and renumbered from 310:641-3-70 at 33 Ok Reg 1529, eff 9-11-16]

PART 7. AIR AMBULANCES [REVOKED]

310:641-3-30. Air ambulance license [AMENDED AND RENUMBERED TO 310:641-13-2]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended and renumbered to 310:641-13-2 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-31. Air medical service [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-32. Air ambulance vehicles [AMENDED AND RENUMBERED TO 310:641-13-9]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-13-9 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-33. Air ambulance equipment [AMENDED AND RENUMBERED TO 310:641-13-10]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-13-10 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-34. Air ambulance medical staffing [AMENDED AND RENUMBERED TO 310:641-13- 8]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-13-8 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-35. Air medical director [AMENDED AND RENUMBERED TO 310:641-13-11]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-13-11 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-36. Operational protocols [AMENDED AND RENUMBERED TO 310:641-13-12]

[Source: Added at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-13-12 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-37. Communications [AMENDED AND RENUMBERED TO 310:641-13-13]

[Source: Added at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-13-13 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-38. Aircraft utilization [REVOKED]

[Source: Added at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-39. Rotorwing standards - certificate of the aircraft operator [REVOKED]

[Source: Added at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

PART 9. SPECIALTY CARE [REVOKED]

310:641-3-40. Specialty care [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-41. Application [AMENDED AND RENUMBERED TO 310:641-11-2]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended and renumbered to 310:641-11-2 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-42. Issuance of a specialty care license [AMENDED AND RENUMBERED TO 310:641-11-3]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended and renumbered to 310:641-11-3 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-43. Personnel [AMENDED AND RENUMBERED TO 310:641-11-8]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-11-8 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-44. Vehicles [RENUMBERED TO 310:641-11-9]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ;

Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended and renumbered to 310:641-11-9 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-45. Renewal [AMENDED AND RENUMBERED TO 310:641-11-4]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended and renumbered to 310:641-11-4 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-46. Denial and other requirements [AMENDED AND RENUMBERED TO 310:641-11-5]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended and renumbered to 310:641-11-5 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-47. Equipment [AMENDED AND RENUMBERED TO 310:641-11-12]

[Source: Added at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-11-12 at 33 Ok Reg 1529, eff 9-11-16]

PART 10. STRETCHER AID VANS [REVOKED]

310:641-3-48. Stretcher aid van license [AMENDED AND RENUMBERED TO 310:641-17-2]

[Source: Added at 19 Ok Reg 386, eff 11-19-01 (emergency); Added at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended and renumbered to 310:641-17-2 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-48.1. Stretcher aid van services [REVOKED]

[Source: Added at 19 Ok Reg 386, eff 11-19-01 (emergency); Added at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-48.2. Stretcher aid van vehicles [AMENDED AND RENUMBERED TO 310:641-17-9]

[Source: Added at 19 Ok Reg 386, eff 11-19-01 (emergency); Added at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended and renumbered to 310:641-17-9 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-48.3. Stretcher aid van equipment and supplies [AMENDED AND RENUMBERED TO 310:641-17-10]

[Source: Added at 19 Ok Reg 386, eff 11-19-01 (emergency); Added at 19 Ok Reg 1053, eff 5-13-02 ; Amended and renumbered to 310:641-17-10 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-48.4. Stretcher aid van staffing [AMENDED AND RENUMBERED TO 310:641-17-8]

[Source: Added at 19 Ok Reg 386, eff 11-19-01 (emergency); Added at 19 Ok Reg 1053, eff 5-13-02 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended and renumbered to 310:641-17-8 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-48.5. Stretcher aid van medical control [AMENDED AND RENUMBERED TO 310:641-17-11]

[Source: Added at 19 Ok Reg 386, eff 11-19-01 (emergency); Added at 19 Ok Reg 1053, eff 5-13-02 ; Amended and renumbered to 310:641-17-11 at 33 Ok Reg 1529, eff 9-11-16]

PART 11. MEDICAL CONTROL

310:641-3-50. Requirement [AMENDED AND RENUMBERED TO 310:641-3-24]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 11 Ok Reg 3843, eff 7-11-94 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-3-24 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-51. Authority to carry controlled substances on a vehicle

(a) An ambulance service, with personnel licensed to utilize such, is hereby authorized to carry a limited supply of controlled substances, secured and stored in a manner that is compliant with State and Federal statutes and regulations. The utilization, procurement, and accountability of such drugs shall be supervised by medical control for the service. An inventory shall be kept and signed according to the requirement of the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD), and the United States Department of Justice Drug Enforcement Administration (DEA). Each responsible medical director shall maintain a copy of their OBNDD certificate to the Department, for this purpose.

(b) Any loss or deficiency which occurs in the utilization, procurement, and accountability of controlled substances, shall be reported to the OBNDD and DEA through their established procedures and requirements, and to the Department, within ten (10) working days.

[Source: Amended and renumbered from 310:641-3-80 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-53. Inspections

(a) The Department shall conduct unannounced inspections of every licensed ambulance service. Inspection may include a review of any requirements of the Act and rules promulgated thereunder. The Department may require copies of such records as deemed necessary consistent with the files section of this subchapter.

- (b) All inspection reports will be sent to the agency director, license owner, and medical director.
- (c) A representative of the agency will be with the Department employee during the inspection.

[Source: Amended and renumbered from 310:641-3-90 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-55. Notice of violation

- (a) A violation of the Act or this Chapter is ground for the Department to issue a written order, sent via certified mail, citing the violation, affording the agency an opportunity to demonstrate compliance, and indicating the time no less than fifteen (15) days after receipt of the notice in which any needed correction shall be made. The fifteen-day notice period may be reduced as, in the opinion of the Department, may be necessary to render an order of compliance reasonably effectual.
- (b) Unless the Department specifies a reduced period, within thirty (30) days after receipt of the notice of violation, the agency shall submit to the Department a written demonstration of compliance and/or plan of correction.
- (c) A plan of correction shall include at least the following:
 - (1) When the correction was or will be completed;
 - (2) How the correction was or will be made;
 - (3) What measures will prevent a recurrence; and
 - (4) Who will be accountable to ensure future compliance.
- (d) The Department shall ensure that the agency is afforded due process in accordance with the Procedures of the State Department of Health, Oklahoma Administrative Code, Title 310, Chapter 2, and the Administrative Procedures Act, Title 75 O.S. Section 250 et seq.
- (e) Violations found by the Department which require immediate correction shall be handled in compliance with Title 75 of the Oklahoma Statutes, Section 314.1 and the Oklahoma Administrative Code, Title 310, Chapter 2, specifically 310:2-21-23.

[Source: Amended and renumbered from 310:641-3-91 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-57. Emergency medical services regions

- (a) Region(s), established pursuant to Section 1-2503 (21) and (22) of the Act shall not be recognized, without Department approval for this purpose. Pursuant to Title 74, O.S., Section 1006, of the "Interlocal Cooperation Act" (relating to Approval of Agreements), the Department shall exercise authority granted to approve or disapprove all matters within its jurisdiction, in addition to and in substitution for the requirement of submission to and approval by the Attorney General.
- (b) The Department shall recognize regions, which comply with the law and this Chapter.
- (c) Any regional emergency medical services system shall provide the name of the regional medical director, copies of regional standards, rules, and transport.

[Source: Amended and renumbered from 310:641-3-110 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-59. Operational protocols

(a) Authorized emergency vehicles of licensed ambulance services shall adhere to the requirements of Title 47 O.S. Section 1-101 et seq. (the "Motor Vehicle Code") for all vehicle operations.

(b) There is a required duty to act within the licensed service area upon acceptance of an ambulance service license. All licensed ambulance services shall respond appropriately; consistent with the level of licensure when called for emergency service, regardless of the patient's ability to pay. Non-emergency interfacility transfers are exempt from the statutory duty to act.

(c) If the ambulance service can not physically respond within the limits of "The Ambulance Services District" Act, then the ambulance service called has a duty to immediately call for mutual aid from a neighboring licensed ambulance service.

(d) If an ambulance service receives a call for an emergency which is in the licensed service area of another licensed ambulance service, the ambulance service called has a responsibility to immediately contact the licensed ambulance service with that licensed service area.

(1) If the emergency is in an area that is not within a licensed service area, the service that received the call will contact the closest ambulance to the call.

(2) Any licensed service that receives a call in an area that is outside of a licensed service area shall report the event to Emergency Systems within the Department.

(3) The Department will report the event to the county commissioners of the county where the call occurred.

(e) Mutual aid plans between licensed ambulance services and surrounding licensed or certified emergency medical services providers shall be developed and placed in the service files for inspection. Plans will be periodically reviewed to ensure accuracy and completeness. Licensed ambulance services shall provide mutual aid, if the capability exists without jeopardizing the primary service area.

(f) An ambulance service requesting an air ambulance shall;

(1) call the closest air ambulance to the location of the scene, or

(2) call the air ambulance service the patient or the patient family chooses to utilize.

[Source: Amended and renumbered from 310:641-3-120 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

PART 13. SANITATION

310:641-3-60. Sanitation requirements [AMENDED AND RENUMBERED TO 310:641-3-25]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended and renumbered to 310:641-3-25 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-61. Transfer protocols

(a) Department approved medical and trauma triage, transport, and transfer protocols shall adhere to the principle of delivering time-sensitive medical and trauma patients to appropriate facilities as outlined by the regional advisory boards and the Department approved protocols.

(b) Specific triage, transport, and transfer protocols or destination protocols shall be developed by medical control for the region, area, and/or local service and submitted to the Department for approval.

(c) Each agency shall designate the receiving facility(ies) that are within their reasonable service range.

(1) An agency may still transport to facilities outside of the reasonable service range on a case by case basis.

(2) Repeated transports to facilities that are outside of the agency's reasonable range will require modifications to the designated receiving facility list maintained at the Department with the agency's approved protocols.

(d) Triage, transport and transfer protocols approved by the Department shall include the following requirements:

(1) medical and trauma non- emergency transports shall be transported to the facility of the patient's choice, if within reasonable service range,

(2) emergency, non-injury related, non-life threatening transports shall be transported to the facility of the patient's choice, if within reasonable service range,

(3) emergency, injury related transports shall adhere to the Oklahoma Triage, Transport, and Transfer Guidelines as authorized in 63 O.S. 1-2530.3 and shall ensure that patients are delivered to the most appropriate classified hospital, either within their region or contiguous regions,

(4) Severely injured patients as described in the Oklahoma Triage, Transport, and Transfer Guidelines as authorized in 63 O.S. 1-2530.3 shall be transported to a hospital classified at Level I or II for trauma and emergency operative services unless a Level III facility that is identified within a regional plan is capable of providing definitive care. If time and distance factors are detrimental to patient outcomes, patients shall be transported to the closest appropriate hospital in accordance with the State approved regional trauma plan.

(5) Stable patients at risk for severe injury or with minor-to-moderate injury as described in the Oklahoma Triage, Transport, and Transfer Guidelines shall be transported to the closest appropriate facility. These patients may be transported to the hospital of the patient's or patients' legal representative's choice consistent with regional guidelines.

(6) Emergency, life threatening, non-injury transports shall be to the nearest facility that can provide evaluation and stabilization appropriate to the patient's condition.

(7) Transports or transfers from a pre-hospital setting that occur as a result of a physician order shall be transported to the facility ordered by the physician except when:

- (A) the patient or the patient's guardian chooses a different facility;
 - (B) the patient condition changes, and going to a different facility is in the best interest of the patient;
 - (C) the receiving facility's ability to receive that patient has changed;
 - (D) the facility is not within a reasonable range of the agency; or
 - (E) the Trauma Referral Center requests a change in destination or presents reasonable options for a destination.
- (e) In counties with populations of 300,000 or more and their contiguous communities, injury related transports shall be directed and coordinated by the trauma transfer and referral center for the region.
- (1) All ambulance services providing pre-hospital emergency services in these regions shall contact the trauma transfer and referral center at intervals determined by the Department to register the transport of an injured patient to a hospital.
 - (2) All ambulance services transporting injured patients on a pre-hospital basis from areas outside the region to hospitals in the region shall contact the trauma transfer and referral center before entering the region. The trauma transfer and referral center shall direct the ambulance to the appropriate hospital based on the regional plan, the severity of the injury, and the capacity status of the hospitals in the region.
 - (3) All ambulance services transferring injured patients from hospitals outside the region to hospitals in the region shall contact the trauma transfer and referral center before entering the region to advise the center of the patient transfer. The center shall maintain a record of the transfer for regional continuous quality improvement activities.
- (f) The patient has a right to refuse transport.
- (g) Each ambulance service shall ensure that the care of each patient is transferred appropriately to the receiving facility's licensed staff. The transfer of care will include verbal and written reports summarizing the assessment and treatment of the patient by the ambulance service.
- (h) All licensed ambulance services are required to participate in the regional and statewide systems of care established through statute and administered by the Department to ensure patients are transported to the appropriate facility in a timely manner to receive appropriate care.

[Source: Amended and renumbered from 310:641-3-130 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-63. Ambulance service files

- (a) All required records for licensure will be maintained for a minimum of three years.
- (b) Each licensed ambulance service shall maintain electronic or paper records about the operation, maintenance, and such other required documents, at the business office. These files shall be available for review by the Department, during normal work hours. Files which shall be

maintained include the following:

(1) Patient care records:

(A) At the time a patient is transported to a receiving facility, the following information will be, at a minimum, provided to the facility staff members at the time the patient(s) are accepted:

- (i) personal information such as name, date of birth, and address;
- (ii) patient assessment with medical history;
- (iii) medical interventions and patient responses to interventions;
- (iv) any known allergies;
- (v) other information from the medical history that would impact the patient outcomes if not immediately provided.

(B) A signature of the receiving facility health care staff member will be obtained to show the above information and the patient was received.

(2) A complete copy of the patient care report shall be sent to the receiving facility within twenty-four (24) hours of the hospital receiving the patient.

(3) Completed patient care reports shall contain demographic, administrative, legal, medical, community health and public information required by the Department through the OKEMSIS Data Dictionary;

(4) all run reports and patient care information shall be considered confidential.

(5) all licensed agencies shall maintain records on the maintenance, and regular inspections of each vehicle.

(A) Each vehicle must be inspected and a detailed equipment checklist completed after each call, or on a daily basis, whichever is less frequent; and

(B) documentation that shows routine vehicle maintenance for each vehicle as required by vehicle manufacture recommendations,

(6) all licensed agencies shall maintain a credential or licensure file for licensed and certified emergency medical personnel employed by or associated with the service that includes:

(A) Oklahoma license and certification;

(B) Basic Life Support certification or documentation of BLS cognitive objectives and psychomotor skills that meets or exceeds American Heart Association standards, and approved by the medical director ;

(C) Advanced Cardiac Life Support certification or documentation of BLS cognitive objectives and psychomotor skills that meets or exceeds American Heart Association Standards as applicable for advanced licensure level(s) and approved by the medical director;

(D) Incident Command System or National Incident Management Systems training at the 100, 200, and 700 levels or their equivalent;

(E) verification of an Emergency Vehicle Operations Course or other agency approved defensive driving course;

(F) contain a list or other credentialing document that defines or describes the medical director authorized procedures, equipment and medications for each certified or licensed member employed or associated with the agency; and

(G) a copy of the medical director credentials will be maintained at the agency.

(7) The electronic or paper copies of the licenses and credentials described in this section shall be kept separate from other personnel records to ensure confidentiality of records that do not pertain to the documents relating to patient care.

(8) Copies of staffing patterns, schedules, or staffing reports which indicate the ambulance service is maintaining twenty four (24) hour coverage, at the highest level of license;

(9) Copies of in-service training and continuing education records;

(10) Copies of the ambulance service:

(A) operational policies, guidelines, or employee handbook;

(B) medical protocols;

(C) a list of the patient care equipment that is carried on any "Class E" unit(s) will be part of the standard operating procedure or guideline manual and;

(D) OSHA and/or Department of Labor exposure plan, policies, or guidelines.

(c) A log of each request for service received and/or initiated, to include the:

(1) Disposition of the request and the reason for declining the request, if applicable;

(2) the patient care report number;

(3) date of request;

(4) patient care report times as required by the OKEMSIS data dictionary;

(5) location of the incident;

(6) nature of the call;

(7) Such other documents which may be determined necessary by the Department.

(d) Documentation that verifies an ongoing, physician involved quality assurance program.

(e) Such other documents which may be determined necessary by the Department. Such documents can only be required after a thorough, reasonable, and appropriate notification by the Department to the services and agencies.

(f) The standardized data set and an electronic submission standard for EMS data as developed by the Department shall be mandatory for each licensed ambulance service. Reports of the EMS data standard shall be forwarded to the Department by the last business day of the following month. Exceptions to the monthly reporting requirements shall be granted only by the Department, in writing.

- (g) Review and the disclosure of information contained in the ambulance service files shall be confidential, except for information which pertains to the requirements for license, certification, or investigation issued by the Department.
- (h) Department representatives shall have prompt access to files, records and property as necessary to appropriately survey the provider. Refusal to allow access by representatives of Department to records, equipment or property may result in summary suspension of licensure by the Commissioner of Health.
- (i) All information submitted and/or maintained in files for review shall be accurate and consistent with Department requirements.

[Source: Amended and renumbered from 310:641-3-160 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-3-65. Sole source ordinances

- (a) An ambulance service which operates as a sole source provider established by EMS regions, ambulance service districts or municipalities shall file with the Department a copy of the ordinance or regulation and a copy of the contract to operate as a sole source provider. This requirement shall be retroactive and includes all established sole source ambulance services.
- (b) An ambulance service which operates as a sole source provider for a "region" as established pursuant to the Oklahoma Interlocal Cooperation Act (Title 74, Section 1001 et seq.) shall file, with the Department, a copy of the interlocal agreement and any ordinance or other regulations or contract or agreement established by the region for ambulance service provision.
- (c) Violation of contracts established herein may be cause for enforcement action by the Department.

[Source: Amended and renumbered from 310:641-3-170 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-67. Suspension, revocation, probation, or non-renewal of a license

- (a) The Department may suspend or revoke a license, and/or fine or place on probation a license or licensee for the following:
- (1) violations of any of the provision of the Oklahoma Statutes, the Act or this chapter;
 - (2) permitting, aiding or abetting in any illegal act in connection with the ambulance service;
 - (3) failure to provide emergency service to any person, unless a vehicle and/or personnel is not available, and failure to summon mutual aid;
 - (4) conduct of any practice that is detrimental to the welfare of the patient or potential users of the service;
 - (5) failure to operate the service on a twenty four (24) hour basis,
 - (6) placing a vehicle into service before it is properly inspected, approved and permitted by the Department;
 - (7) failure to comply with a written order issued by the Department within the time frame specified by the Department;

(8) engaging in any act which is designed or intended to hinder, impede or obstruct the investigation of any matter governed by the Act, by any lawful authority;

(9) an ambulance service who fails to renew their Oklahoma license within the time frame and other requirements as specified in these rules, shall be considered an expired or lapsed licensee, and therefore no longer licensed as an ambulance service in the State of Oklahoma.;

(10) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(11) offering, giving, or promising anything of value or benefit, as defined in Oklahoma Statutes or Department policy to a Federal, state, or local governmental official for the purpose of influencing the employee or official to circumvent a Federal, state, or local law, rule, or ordinance governing the licensee's profession or occupations;

(12) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed; or

(13) failure to report the unprofessional conduct or non-compliance of regulations by individually licensed and certified personnel as defined in this Chapter.

(b) No person, company, governmental entity or trust authority may operate an ambulance service or emergency medical response agency except in accordance with Title 63, Section 1-2501, et seq., and the rules as promulgated by the State Board. The Commissioner, District Attorney of the county wherein a violation occurs, or the Attorney General of this State, shall have the authority to enforce provisions of the law.

(c) A license/certificate/permit holder or applicant, in connection with a license application or an investigation conducted by the Department pursuant to this rule shall not:

(1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a misapprehension known by the licensee to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Department or any designated representative thereof.

(d) If in the course of an investigation the Department determines that a license/certificate/permit holder or applicant has engaged in conduct that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the license/certificate/permit holder's license, certificate, or permit respectively. A presumption of imminent harm to the public shall exist if the Department determines probable cause exists if an agency fails to

provide emergency service to any person, unless a vehicle and/or personnel is not available, and failure to summon mutual aid, or there is conduct of any practice that is detrimental to the welfare of the patient or potential users of the service;

(e) In addition to any other penalties, a civil fine of not more than one hundred dollars (\$100.00) per violation per day may be assessed, for violations of the Act or OAC 310:641.

[Source: Amended and renumbered from 310:641-3-190 at 33 Ok Reg 1529, eff 9-11-16]

PART 15. INTRAVENOUS SOLUTIONS [REVOKED]

310:641-3-70. Storage of intravenous solutions [AMENDED AND RENUMBERED TO 310:641-3-26]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended and renumbered to 310:641-3-26 at 33 Ok Reg 1529, eff 9-11-16]

PART 17. CONTROLLED SUBSTANCES [REVOKED]

310:641-3-80. Authority to carry controlled substances on a vehicle [AMENDED AND RENUMBERED TO 310:641-3-51]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended and renumbered to 310:641-3-51 at 33 Ok Reg 1529, eff 9-11-16]

PART 19. INSPECTION, CORRECTION, ACTIONS [REVOKED]

310:641-3-90. Inspections [AMENDED AND RENUMBERED TO 310:641-3-53]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended and renumbered to 310:641-3-53 at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-91. Correction orders [AMENDED AND RENUMBERED TO 310:641-3-55]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-3-55 at 33 Ok Reg 1529, eff 9-11-16]

PART 21. WATER AMBULANCES [REVOKED]

310:641-3-100. Water ambulances [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Revoked at 23 Ok Reg 2386, eff 6-25-06]

PART 23. EMERGENCY MEDICAL SERVICES REGIONS [REVOKED]

310:641-3-110. Emergency medical services regions [AMENDED AND RENUMBERED TO 310:641-3-57]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended and renumbered to 310:641-3-57 at 33 Ok Reg 1529, eff 9-11-16]

PART 25. OPERATIONAL PROTOCOLS [REVOKED]

310:641-3-120. Operational protocols [AMENDED AND RENUMBERED TO 310:641-3-59]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended and renumbered to 310:641-3-59 at 33 Ok Reg 1529, eff 9-11-16]

PART 27. TRANSFER PROTOCOLS [REVOKED]

310:641-3-130. Transfer protocols [AMENDED AND RENUMBERED TO 310:641-3-61]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 571, eff 1-12-04 (emergency); Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended and renumbered to 310:641-3-61 at 33 Ok Reg 1529, eff 9-11-16]

PART 29. SUBSCRIPTION PROGRAMS [REVOKED]

310:641-3-140. Subscription program [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Revoked

at 33 Ok Reg 1529, eff 9-11-16]

PART 31. CERTIFIED EMERGENCY MEDICAL RESPONSE AGENCIES [REVOKED]

310:641-3-150. Certified emergency medical response agencies [AMENDED AND RENUMBERED TO 310:641-15-2]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 11 Ok Reg 3843, eff 7-11-94 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended and renumbered to 310:641-15-2 at 33 Ok Reg 1529, eff 9-11-16]

PART 33. SERVICE AND AGENCY FILES [REVOKED]

310:641-3-160. Ambulance service, emergency medical response agency and stretcher aid van files [AMENDED AND RENUMBERED TO 310:641-3-63]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 11 Ok Reg 3843, eff 7-11-94 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended and renumbered to 310:641-3-63 at 33 Ok Reg 1529, eff 9-11-16]

PART 35. SOLE SOURCE [REVOKED]

310:641-3-170. Sole source ordinances [AMENDED AND RENUMBERED TO 310:641-3-65]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended and renumbered to 310:641-3-65 at 33 Ok Reg 1529, eff 9-11-16]

PART 37. REGIONAL SYSTEM [REVOKED]

310:641-3-180. Regional emergency medical services system [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Revoked at 23 Ok Reg 2386, eff 6-25-06]

PART 39. ENFORCEMENT ACTION [REVOKED]

310:641-3-190. Suspension, revocation, probation, or non-renewal of a license [AMENDED AND RENUMBERED TO 310:641-3-67]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended and renumbered to 310:641-3-67 at 33 Ok Reg 1529, eff 9-11-16]

PART 41. SPECIAL PROVISIONS [REVOKED]

310:641-3-200. Repealer [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-201. Severance [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-3-202. Effective date [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

SUBCHAPTER 5. PERSONNEL LICENSES AND CERTIFICATION

PART 1. GENERAL PROVISIONS

310:641-5-1. Purpose

The rules of this Subchapter are promulgated to: Establish minimum standards for the issuance and renewal of certification and/or licensing of emergency medical care personnel; Provide the standards for the enforcement of the provision of the "Emergency Response Systems Development Act" and these rules.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-2. Definitions [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2948, eff 7-13-00]

PART 3. EMERGENCY MEDICAL PERSONNEL LICENSES

310:641-5-10. License requirement

- (a) No person may be employed, volunteer, present themselves, or perform as a certified or licensed emergency medical personnel at any level in Oklahoma without a valid certification or license from the Department.
- (b) While on duty, emergency medical personnel shall wear an agency identifiable uniform or agency specific picture identification.
- (c) While on duty, emergency medical personnel shall have an electronic or paper copy of their certification or license on their person or unit.
- (d) Emergency medical personnel shall present their certification or license when asked by a representative of the Department.
- (e) An individual may only possess one Oklahoma certification or license at any one time. When a level change occurs, the previous certification or license is no longer valid at the time the new license is issued by the Department.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-11. License and certification qualifications

- (a) Emergency medical personnel while on duty will have a copy of their certification or license.
- (b) Persons applying for initial certification or license shall meet the requirements for qualification, application, and procedure as follows:
 - (1) Emergency Medical Responder certification:
 - (A) Applicant shall be at least eighteen (18) years of age.
 - (B) Applicant shall submit the following:
 - (i) An appropriate State application form specifying the level of certification, true, correct, and complete information as to eligibility and character,
 - (ii) A signed "Affidavit of Lawful Presence" form,
 - (C) Completion of a Department approved Emergency Medical Responder course,
 - (D) successful completion of a National Registry practical skills examination administered by the approved training program or agency,
 - (E) successful completion of a written examination from either:
 - (i) National Registry of Emergency Medical Technicians (NREMT), or
 - (ii) Oklahoma Department of Career and Technology Education.
 - (F) First responders or Emergency Medical Responders trained in a Department approved course prior to January

1, 2000 will be required to obtain a current Emergency Medical Responder certification by September 30, 2017 by providing to the Department the following:

- (i) verification of refresher/transition course completion every two years since March 31, 2012,
- (ii) signed "Affidavit of Lawful Presence",
- (iii) verification of a practical exam of EMR skill administered during a refresher or transition course after March 31, 2012.

(G) A fee of ten (\$10.00) dollars for the line of duty death benefit as detailed in the Act.

(H) The Department shall maintain a registry of all qualified Emergency Medical Responders.

(2) Emergency Medical Technician, or EMT:

(A) Applicant shall be at least eighteen (18) years of age,

(B) Applicant shall submit the following:

- (i) an appropriate State application form specifying the level of licensure, true, correct, and complete information as to eligibility and character, and
- (ii) a signed "Affidavit of Lawful Presence",
- (iii) successful completion of an NREMT EMT psycho-motor exam,
- (iv) successful completion of an NREMT EMT cognitive exam,
- (v) submission to the Department a copy of the applicants NREMT EMT certification,
- (vi) a license fee of Seventy-five (\$75.00) dollars for licensure and an additional ten (\$10.00) dollars for the line of duty death benefit as detailed in the Act. Fees are non- refundable except if the application is rejected.

(3) Advanced EMT and Paramedic:

(A) Applicant shall be at least eighteen (18) years of age,

(B) the applicant shall submit the following:

- (i) an appropriate State application form specifying true, correct, and complete information as to eligibility and character,
- (ii) a signed "Affidavit of Lawful Presence",
- (iii) submission of the applicant's NREMT certification after completion of the NREMT cognitive and psychomotor examinations.

(I) The Department shall conduct or oversee the NREMT psycho-motor examination for the Advanced EMT and Paramedic using Department approved evaluators.

(II) AEMT candidates are required to complete and pass the endotracheal intubation exam prior to licensure.

(iv) The fee for the psycho-motor examination(s) determined by the Department, testing site, or the testing vendor for the Department.

(v) The initial license fee for Advanced EMT applicants and Paramedic applicants is seventy-five (\$75.00) dollars. The fees shall be submitted with the application. Fees shall be in an acceptable form and made payable to the Oklahoma State Department of Health. An additional ten (\$10.00) fee is required for the line of duty death benefit detailed in the Act. Fees are non-refundable except if the application is rejected.

(c) Initial licensure and certification will be from the date of issue through the second June 30 after the initial date. Subsequent licensure and certification periods will be for two years, expiring on June 30.

(d) The Department shall ensure oversight of the AEMT and Paramedic practical skills examinations conducted within the State.

(e) Any certification or license application submitted to the Department under this subchapter may be denied on the basis of a felony conviction, adjudication, or plea of guilty or nolo contendere for any of the following offenses:

(1) assault, battery, or assault and battery with a dangerous weapon; aggravated assault and battery;

(2) murder or attempted murder; manslaughter, except involuntary manslaughter;

(3) rape, incest, or sodomy; indecent exposure and indecent exhibition; pandering;

(4) child abuse; abuse, neglect, or financial exploitation of any person entrusted to his care or possession;

(5) burglary in the first or second degree; robbery in the first or second degree; robbery or attempted robbery with a dangerous weapon, or imitation firearm;

(6) arson, substance abuse, or any such other conviction, adjudication, or plea of guilty or nolo contendere, or circumstances which in the opinion of the Department would render the applicant unfit to provide emergency medical care to the public;

(7) Each decision shall be determined on a case-by-case basis.

(f) A license application may be denied on the basis of any falsification. Application for initial licensure pursuant to the Act shall constitute authorization for an investigation by the Department.

(g) Candidates for initial Oklahoma licensure shall successfully complete the NREMT certification examinations. Practical and written examinations shall adhere to current policies of NREMT and the Department. Candidates shall demonstrate competency in all required skills. The Department reserves the right to review and require additional practical examination of any candidate.

(h) An applicant may request a review of adverse decisions, made within this section, by applying in writing within thirty (30) calendar days after the notice of rejection. Review, by the Department, shall be held in accordance with the Administrative Procedures Act.

Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-5-11.1. Military reciprocity certification and license qualifications

(a) Emergency medical personnel while on duty will have a copy of their certification or license.

(b) Persons applying for a Military Reciprocity Certification or License shall submit an application to the Department using Department approved forms.

(c) Persons applying for shall meet the requirements for qualification, application, and procedure as follows:

(1) Emergency Medical Responder certification:

(A) Applicant shall be at least eighteen (18) years of age.

(B) Applicant shall submit the following documentation:

(i) A copy of their orders or their spouses orders, their honorable discharge to Oklahoma, or other evidence of their affiliation with the Department of Defense and their requirement to serve within the State of Oklahoma.

(ii) Documentation showing that the applicant is Certified or Licensed in another State or Territory as an Emergency Medical Responder.

(iii) A signed "Affidavit of Lawful Presence" form.

(iv) Documentation describing the scope of practice authorized by the State issuing the certification or license as an Emergency Medical Responder.

(2) Emergency Medical Technician, or EMT:

(A) Applicant shall be at least eighteen (18) years of age,

(B) Applicant shall submit the following documentation:

(i) A copy of their orders or their spouses orders, their honorable discharge to Oklahoma, or other evidence of their affiliation with the Department of Defense and their requirement to serve within the State of Oklahoma.

(ii) Documentation showing that the applicant is Certified or Licensed in another State or Territory as an Emergency Medical Technician.

(iii) A signed "Affidavit of Lawful Presence",

(iv) Documentation describing the scope of practice authorized by the State issuing the certification or license as an Emergency Medical Technician.

(3) Intermediate

(A) Applicant shall be at least eighteen (18) years of age,

(B) Applicant shall submit the following documentation:

(i) A copy of their orders or their spouses orders, their honorable discharge to Oklahoma, or other evidence of their affiliation with the Department of Defense and their requirement to serve within the State of Oklahoma.

- (ii) Documentation showing that the applicant is Certified or Licensed in another State or Territory as an Intermediate.
- (iii) A signed "Affidavit of Lawful Presence",
- (iv) Documentation describing the scope of practice authorized by the State issuing the certification or license as an Intermediate.

(4) Advanced EMT:

- (A) Applicant shall be at least eighteen (18) years of age,
- (B) Applicant shall submit the following documentation:
 - (i) A copy of their orders or their spouses orders, their honorable discharge to Oklahoma, or other evidence of their affiliation with the Department of Defense and their requirement to serve within the State of Oklahoma.
 - (ii) Documentation showing that the applicant is Certified or Licensed in another State or Territory as an Advanced EMT.
 - (iii) A signed "Affidavit of Lawful Presence",
 - (iv) Documentation describing the scope of practice authorized by the State issuing the certification or license as an Advanced EMT.

(5) Paramedic

- (A) Applicant shall be at least eighteen (18) years of age,
- (B) Applicant shall submit the following documentation:
 - (i) A copy of their orders or their spouses orders, their honorable discharge to Oklahoma, or other evidence of their affiliation with the Department of Defense and their requirement to serve within the State of Oklahoma.
 - (ii) Documentation showing that the applicant is Certified or Licensed in another State or Territory as an Advanced EMT.
 - (iii) a signed "Affidavit of Lawful Presence",
 - (iv) Documentation describing the scope of practice authorized by the State issuing the certification or license as Paramedic.

(d) Initial licensure and certification shall be from the date of issue through the second June 30 after the initial date.

(e) Any certification or license application submitted to the Department under this subchapter may be denied on the basis of a felony conviction, adjudication, or plea of guilty or nolo contendere for any of the following offenses:

- (1) assault, battery, or assault and battery with a dangerous weapon; aggravated assault and battery;
- (2) murder or attempted murder; manslaughter, except involuntary manslaughter;
- (3) rape, incest, or sodomy; indecent exposure and indecent exhibition; pandering;
- (4) child abuse; abuse, neglect, or financial exploitation of any person entrusted to his care or possession;

(5) burglary in the first or second degree; robbery in the first or second degree; robbery or attempted robbery with a dangerous weapon, or imitation firearm;

(6) arson, substance abuse, or any such other conviction, adjudication, or plea of guilty or nolo contendere, or circumstances which in the opinion of the Department would render the applicant unfit to provide emergency medical care to the public;

(7) Each decision shall be determined on a case-by-case basis.

(f) A license application may be denied on the basis of any falsification. Application for initial licensure pursuant to the Act shall constitute authorization for an investigation by the Department.

(g) Applicants will be notified in writing of the status of their application. The notification will be completed by either issuing the certification or license or by providing a denial to the application with an explanation of the denial and what steps are required to make the application acceptable.

(h) An applicant may request a review of adverse decisions, made within this section, by applying in writing within thirty (30) calendar days after the notice of rejection. Review, by the Department, shall be held in accordance with the Administrative Procedures Act.

(i) The Department shall maintain a registry of all qualified Emergency Medical Responders.

[Source: Added at 37 Ok Reg 1423, eff 9-11-20]

310:641-5-12. Personnel license levels [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-13. Issuance of certification or license

(a) Upon successful completion of the examinations, an Oklahoma certification or license at the respective level of emergency medical personnel shall be issued. Concurrent registration with the National Registry is included during the initial license period. NREMT certification shall be maintained by emergency medical personnel licensed after April 1, 2010. Oklahoma emergency medical personnel licenses will be extended to meet the new expiration date for a two year transition period. An exception is permitted for Oklahoma licensed Intermediates that did not test to become AEMTs. When their national certification is not renewed, they may still retain their Intermediate license subject to Oklahoma requirements for renewal.

(b) The initial expiration date of a license shall coincide with the National Registry expiration date, plus three (3) months. Subsequent license periods, if a licensee meets renewal requirements, shall be for a two (2) year period beginning July 1 and continuing through June 30 of the respective expiration year.

(c) A five (\$5.00) dollar fee shall be charged for a duplicate license, or license re-issued due to a name or address change.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-13.1. Issuance of a military reciprocity license and certification

(a) Upon successful completion of the application and submission of supporting documentation, a Military Reciprocity Certification or License shall be issued at the most appropriate Oklahoma Certification or License level that can be verified.

(b) Initial licensure and certification shall be from the date of issue through the second June 30 after the initial date.

(c) If the applicant has a current certification from the National Registry of Emergency Medical Technicians, a Military Reciprocity Certification or License may be provided to the applicant at that certification same level.

[Source: Added at 37 Ok Reg 1423, eff 9-11-20]

310:641-5-14. Renewal of certification and license requirements

- (a) An application for renewal of emergency medical personnel certifications or licenses shall be submitted to the Department. A notice of expiration for renewal shall be sent to each certificate or license holder no less than sixty (60) days prior to the expiration date each year. Directions for renewal will be made available by the Department.
- (b) Certificate and license holders are solely responsible for meeting all requirements for renewal.
- (c) Applications for renewal shall be completed using Department approved procedures and forms.
- (d) Incorrect or incomplete documentation shall be cause for rejection.
- (e) Specific renewal requirements are detailed in in this subchapter.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-14.1. Renewal requirements for non-NREMT certified licensees [AMENDED AND RENUMBERED TO 310:641-5-19]

[Source: Added at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-5-19 at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-15. Expired certification and license

(a) Any certification or license holder who fails to renew their Oklahoma emergency medical responder certification, or emergency medical personnel license, within the required time frame shall be considered to have an expired certification or license, and therefore no longer certified or licensed in the State of Oklahoma.

(b) Certifications and licenses that are expired may be renewed within the grace period without penalty. Within this thirty day period, the certificate or license holder may operate within their scope of practice.

(c) Requests for an extension due to hardships and unforeseen circumstances must be submitted to the Department in writing. Expiration date extensions may be provided without penalty and may be provided by the Department for a period not to exceed ninety (90) days after the expiration date.

(d) Licenses may not be renewed after ninety (90) days.

(e) An applicant may request a review of adverse decisions made within this section by applying in writing within thirty (30) calendar days after the notice of rejection. Review by the Department shall be held in accordance with the Administrative Procedures Act otherwise the decision shall be considered final to both parties.

(f) Pursuant to 59 O.S. Section 4100.6 (relating to automatic extensions of professional licenses and certifications), certified and licensed personnel whose certificates or licenses expired while serving on orders for military are automatically extended without penalty while the licensee is on active military duty. Any person on active military duty has one year from the date of discharge to renew the license.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-16. Inactive status [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 20 Ok Reg 2368, eff 7-11-03]

310:641-5-17. Lapsed licenses [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-18. Renewal requirements of the Emergency Medical Responder [REVOKED]

[Source: Amended and renumbered from 310:641-5-61 at 33 Ok Reg 1529, eff 9-11-16 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-5-19. Renewal requirements for certified and licensed emergency medical personnel

(a) For certified and licensed emergency medical personnel compliant with OAC 310:641-5-15 and without a current NREMT certification, the following will be submitted to the Department:

- (1) a completed EMR, EMT, Intermediate, Advanced EMT, or Paramedic renewal application;
- (2) line of duty death benefit fee as defined in 63 O.S. § 1-2505.1, 2, and 3;
- (3) renewal fee of:
 - (A) twenty (\$20.00) dollars plus the renewal death benefit fee as detailed in the Act is required for an EMT renewal;
 - (B) twenty-five (\$25.00) dollars plus the renewal death benefit fee as detailed in the Act is required for an Intermediate or Advanced EMT renewal;
 - (C) thirty (\$30.00) dollars plus the renewal death benefit fee as detailed in the Act is required for a Paramedic renewal; and
- (4) documentation showing the completion of specific continuing education courses or classes that meet or exceed the National Registry National Continued Competency Program guidelines.
 - (A) EMR applications shall submit 16 hours of continuing;
 - (B) EMT applicants shall submit 40 hours of continuing education;
 - (C) Intermediates and Advanced EMT applicants shall submit 50 hours of continuing education;
 - (D) Paramedic applicants shall submit 60 hours of continuing education.

(b) All renewing certified and licensed emergency medical personnel shall submit a current CPR certification or verification of competency that meets or exceeds American Heart Association standards.

(c) The renewing Intermediate, Advanced EMT, and Paramedic shall also submit documentation of skills review and maintenance verification completed and signed by medical control.

(d) The renewing Paramedic shall also submit a current ACLS certification or verification of ACLS Competency that meets or exceeds American Heart Association standards.

(e) Certified and Licensed emergency medical personnel with a current NREMT certification may renew by submitting:

- (1) a completed EMR, EMT, Advanced EMT, or Paramedic renewal application,
- (2) submitting the required line of duty death benefit fee as defined in 63 O.S. §§ 1-2505.1, 2, and 3, and
- (3) a renewal fee of:
 - (A) twenty (\$20.00) dollars for the Emergency Medical Technician,
 - (B) twenty-five (\$25.00) dollars, for the Intermediate and Advanced EMS renewal fee,
 - (C) Paramedic renewal fee is thirty (\$30.00) dollars, and
- (4) a current copy of the applicants NREMT certification.

(f) No more than twelve (12) hours in any one topic is permitted.

Continuing education topics include, but are not limited to:

- (1) Airway, respirations, and ventilation;
- (2) Cardiovascular;
- (3) Trauma;
- (4) Medical; and
- (5) Operations

(g) Individuals renewing with an inactive NREMT certification will be able to receive an Inactive Oklahoma Certification or License.

- (1) The certification or license will be designated as inactive.
- (2) The individuals with an inactive certification or license are not authorized to provide patient care until the license is converted to a standard certification or license.
- (3) The conversion to a standard certification or license requires the applicant to provide the Department documentation that verifies the applicant possesses an active NREMT certification.

(h) Individuals renewing their Oklahoma Intermediate or Paramedic Oklahoma License without any NREMT certification and without the Oklahoma ALS skills review and verification may receive an inactive license.

- (1) The certification or license will be designated as inactive.
- (2) The individuals with an inactive certification or license are not authorized to provide patient care until the license is converted to a standard license.
- (3) The conversion process to a standard license requires the applicant to provide to the Department documentation that an agency medical director has verified the applicants ALS skills.

(i) Certified and licensed emergency medical personnel participating in training and education courses shall be allowed to perform skills determined to be appropriate for the training level of the student with supervision, as described in 63 O.S. 1-2504 (C) and (D).

[Source: Amended and renumbered from 310:641-5-14.1 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-5-20. Scope of practice authorized by certification or licensure

(a) The Department shall establish a scope of practice for each certificate and license level.

(b) The medical control physician may limit an individual certificate or license holder's scope of practice.

(c) Certified and licensed emergency medical personnel may perform authorized skills and procedures when authorized by medical control. When emergency medical personnel are without medical control, the scope of practice for any level of emergency medical personnel is limited to first aid, CPR, and the use of the AED.

(d) Certified Emergency Medical Responders may perform to the following level or within this scope of practice:

- (1) patient assessment, including the determination of vital signs, and triage,
- (2) oxygen administration and airway management,

- (3) basic wound management, including hemorrhage controls to include the use of tourniquets; treatment of shock,
- (4) cardiopulmonary resuscitation (CPR) and the use of only adjunctive airway devices and the use of a semi-automated external defibrillator (SAED),
- (5) splinting of suspected fractures;
- (6) rescue and extrication procedures,
- (7) assistance of patient prescribed medications including sublingual nitroglycerin, epinephrine auto injector and hand held aerosol inhalers,
- (8) administration of agency supplied oral glucose, activated charcoal, aspirin, agency supplied epinephrine auto injector, albuterol or approved substitute per medical direction, and nasally administered or atomized naloxone,
- (9) such other emergency medical care skills and measures included in the instructional guidelines adopted by the Department, and,
- (10) upon the approval of the Department additional skills may be authorized upon the written request of a local medical director,

(e) A licensed Emergency Medical Technician may perform to the following level or within this scope of practice:

- (1) all skills listed for the Emergency Medical Responder,
- (2) patient assessment, determination of vital signs, diagnostic signs, and triage,
- (3) bandaging, splinting, control of hemorrhage, and shock management,
- (4) Administration of medications per medical direction and approved by the Department,
- (5) maintenance of established intravenous fluids without medications,
- (6) CPR, use of adjunctive airway devices to include supraglottic airway devices, and the use of the AED,
- (7) Upon the approval of the Department, additional skills may be authorized upon the written request of a local medical director.

(f) A licensed Intermediate may perform to the following level or within this scope of practice,

- (1) all skills listed within the Emergency Medical Responder and Emergency Medical Technician scope of practice,
- (2) establishment of vascular or intraosseous access for the administration of fluids without medications. Approved fluids include; lactated ringers, normal saline, 1/2 normal saline, dextrose 5%, and dextrose 10%,
- (3) administration of medications per medical direction and approved by the Department,
- (4) venipuncture to obtain blood samples per local medical control,
- (5) the use and placement of definitive airway adjuncts for adults, children, and infants,
- (6) all other emergency medical care skills and measures included in the instructional guidelines adopted by the Department which are not specifically listed above, and

- (7) Upon the approval of the Department, additional skills may be authorized upon the written request of a medical director.
- (g) A licensed Advanced Emergency Medical Technician may perform to the following level and within this scope of practice:
- (1) all skills listed for the Emergency Medical Responder, Emergency Medical Technician and Intermediate,
 - (2) other skills and procedures included in the instructional guidelines adopted by the Department, and
 - (3) upon approval of the Department, additional skills may be authorized upon the written request of the medical director.
- (h) A licensed Paramedic may perform to the following level or within this scope of practice:
- (1) all skills listed for the other certified or licensed emergency medical personnel
 - (2) recognitions, interpretation, treatment of cardiac arrhythmias using a cardiac monitor/defibrillator/external pacemaker,
 - (3) advanced management of pediatric emergencies, including resuscitation, airway placement, and medication,
 - (4) advanced management of obstetric and gynecologic emergency including medication administration,
 - (5) advanced interventions of psychiatric patients including medication administration,
 - (6) all other emergency medical skills and measures included in the instructional guidelines adopted by the Department, and
 - (7) upon approval of the Department, additional skills may be authorized upon the written request of a medical director.
- (i) Pursuant to 63 O.S. § 1-502.1, emergency medical personnel shall assist Good Samaritans who may have been exposed to a communicable disease. This includes, but is not limited to:
- (1) Providing OSDH information relating to communicable disease exposure, and
 - (2) Assistance with completing OSDH approved forms.
- (j) Emergency medical personnel may also consult with a Good Samaritan for potential exposures based on OSDH Guidance.
- (k) The Department will provide support to emergency medical personnel through educational material to ensure evidence based material is available.

[Source: Amended and renumbered from 310:641-5-30 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-5-20.1. Scope of practice authorized by military reciprocity certification or licensure

- (a) As part of the Military Reciprocity Certification or License Application process, the applicant is required to submit documentation that details the Scope of Practice for their level that is authorized by the source state.
- (b) The Department will review and compare the source state scope of practice with the Scope of Practice detailed in O.A.C. 310:641-5-20.
- (c) Based on the submitted documentation, the Department will issue a certification or license to the applicant that most closely matches an

OSDH Emergency Personnel certification or license as described in this subchapter.

[Source: Added at 37 Ok Reg 1423, eff 9-11-20]

PART 5. PROCEDURES AUTHORIZED

310:641-5-30. Standard of care [AMENDED AND RENUMBERED TO 310:641-5-20]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 19 Ok Reg 2087, eff 6-27-02 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended and renumbered to 310:641-5-20 at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-31. Requirement and utilization

(a) Emergency medical personnel, licensed, certified, or otherwise authorized by the act, shall comply with 63 O.S. Section 1-2506, relating to the medical authority to perform medical procedures.

(b) Emergency medical personnel may be utilized by hospitals, health care facilities, ambulance services, and emergency medical response agencies. Health care facilities may include, but not limited to, nursing homes, doctor offices or clinics, organized industrial or private health facility services, athletic training facilities, or any other organized group who may legally render patient care.

(1) While employed or associated with a hospital and/or a health care facility, emergency medical personnel shall be limited to authorized procedures of a specific written "job description" approved by a physician.

(2) While employed or associated with a licensed ambulance service or certified emergency medical response agency, emergency medical personnel may perform medical director authorized procedures not to exceed the level of license or certification without Department approval.

(c) Certified and licensed emergency medical personnel associated or employed at agencies or services shall have an authorized procedure list.

(1) The list is to define the medications, procedures, and protocols a certified and licensed person has been authorized to perform at a specific agency or service by the medical director.

(2) With medical control approval, the authorized procedure list will enable a certified or licensed agency at a lower level to utilize higher level personnel within their scope of practice,

(3) The medical control physician has the authority to limit the authorized procedures without Department approval. The authorized procedure list is to be used to document the limitations on the individual's scope of practice at the agency or service.

(4) The authorized procedure list, which establishes the individual protocols of each certified or licensed employee or associate at an

agency or service, shall be maintained at the agency or service.
(d) When certified or licensed emergency medical personnel are asked to perform or intercede in events while not on duty with their agency or facility, and without medical control, their authorized scope of practice is limited to basic first aid, CPR, and the use of an AED.

[Source: Amended and renumbered from 310:641-5-50 at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-33. Certification and licensure enforcement actions

(a) The Department may revoke, suspend, place on probation, fine, or deny any license or certificate, or renewal of any license or certificate for the following:

- (1) Violations of any provision of Oklahoma statutes, the Act, or this Chapter;
- (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;
- (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;
- (4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;
- (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;
- (6) offering, giving, or promising anything of value or benefit, as prohibited in Oklahoma law or rule, to a Federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a Federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;
- (7) conviction, adjudication, or plea of guilty or nolo contendere, for an offense involving moral turpitude, whether a misdemeanor or felony, and whether or not an appeal is pending;
- (8) permitting, aiding, or abetting any illegal act;
- (9) conduct of any practice that is detrimental to the welfare of the patient or potential users of the service;
- (10) conduct likely to deceive, defraud, or harm the public including, but not limited to, practicing while subject to a physical or mental condition which renders the licensee unable to safely engage in activities required of a licensee under this subchapter;
- (11) acting in such a manner as to present a danger to public health or safety, or to any patient including, but not limited to incompetence, negligence, malpractice, or engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health without taking adequate precautions;
- (12) engaging in any act which is designed or intended to hinder, impede, or obstruct an investigation of any matter governed by

the Act or by lawful authority;

(13) making a false or misleading statement regarding the licensee's skill in connection with the activities required of a licensee under this subchapter;

(14) use of a false, fraudulent, or deceptive statement, whether written or verbal, in connection with the activities required of a licensee under this subchapter;

(15) knowingly make a false statement of material fact;

(16) failure to disclose a fact necessary to correct a misapprehension known by the licensee to have arisen in the application or the matter under investigation;

(17) failure to respond to a demand for information made by the Department or any designated representative thereof;

(18) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(19) having been subject to disciplinary action of another state or jurisdiction against a license or other authorization, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for disciplinary action. A report from the National Practitioners Database (NPDB) or a certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct;

(20) having voluntarily relinquished or surrendered a professional or occupational license, certificate, or registration in this state or in another state;

(21) having withdrawn an application for licensure, certification, or registration while under investigation or prior to a determination of the completed application in this state or in another state or jurisdiction;

(22) failure to practice within the scope of practice of the certificate or license as established by the Department or by the medical director;

(23) failure to practice within adopted protocols and procedures established and approved by the Department and the medical director;

(24) failure to practice within the protocols set forth by the medical director and approved by the Department;

(25) habitual intemperance or excessive use of an addictive drug, alcohol, or other substance to the extent that the use impairs the user physically or mentally; this provision does not apply to a licensee who is in compliance with an approved therapeutic regimen under a physicians' care;

(26) filing a complaint with or providing information to the Department which the licensee knows, or ought to know, is false or misleading. This provision does not apply to any filing of a

complaint or providing information to the board when done in good faith;

(27) failing to report to the Department any adverse judgement or award arising from a medical liability claim or other unprofessional conduct;

(28) committing any act of sexual abuse, misconduct, or exploitation by the licensee whether or not related to the practice;

(29) failing to exercise technical competence in carrying out medically authorized skills, medication administration, or procedures related to their scope of practice;

(30) unauthorized possession of patient care reports, falsifying, or altering patient care reports, intentionally documenting patient records incorrectly, failing to document patient care records, or prepare patient care reports,

(31) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services except as authorized or required by law;

(32) diversion of a medication for any purpose or a violation of state or Federal laws governing the administration of medications;

(33) failing as a clinical preceptor or lead instructor, to supervise, manage or train students practicing under the licensee's supervision, according to:

- (A) scope of practice,
- (B) generally accepted standards of patient care,
- (C) board approved instructional guidelines,
- (D) protocols, policies, and procedures,

(34) willfully harassing, abusing, or intimidating a patient or student, either physically or verbally;

(35) practicing as an emergency medical professional at any level without a current, active Oklahoma certification or license;

(36) failing to comply with administrative orders, to include probation, suspension, or revocation orders;

(37) failure to comply with a term, condition, or limitation of a certificate or license by final order of the Department;

(38) any other act, whether specifically enumerated or not, that in fact constitutes unprofessional conduct;

(39) failing to report to the Department the unprofessional conduct or noncompliance of regulations of other certified or licensed emergency medical providers;

(40) conduct that does not meet the generally accepted standards of practice, which may be, but not required to be, supported by malpractice judgements, or tort judgements; and

(41) Failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

- (A) peer review committee;
- (B) professional association; or
- (C) local, state, Federal, territorial, provincial, or tribal government.

(b) Any license or certificate issued by the Department may voluntarily be surrendered at any time during the license period for any reason by the license/certificate holder. The voluntary surrender of a license or certificate does not preclude the Department's authority to complete any pending action against said license/certificate holder. A surrendered license/certificate shall be treated as if revoked by the Department.

(c) The Department may require a one (1) year period from the date of revocation before the license / certificate holder may apply for a license or certificate from the Department.

(d) If in the course of an investigation the Department determines that a license/certificate/permit holder or applicant has engaged in conduct that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the license/certificate/permit holder's license, certificate, or permit respectively. A presumption of imminent harm to the public shall exist if the Department determines probable cause for conduct of any practice that is detrimental to the welfare of the patient or potential users of the service exists.

(e) In addition to any other penalties, a civil fine of not more than one hundred (\$100.00) dollars per violation per day may be assessed, for violations of the Act or this Chapter.

[Source: Amended and renumbered from 310:641-5-80 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

PART 7. IN-SERVICE INSTRUCTION PROGRAM [REVOKED]

310:641-5-40. Requirements for advanced/cardiac [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 19 Ok Reg 2087, eff 6-27-02 ; Revoked at 21 Ok Reg 2755, eff 7-12-04]

PART 9. MEDICAL CONTROL [REVOKED]

310:641-5-50. Requirement and utilization [AMENDED AND RENUMBERED TO 310:641-5-31]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 19 Ok Reg 2087, eff 6-27-02 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended and renumbered to 310:641-5-31 at 33 Ok Reg 1529, eff 9-11-16]

PART 11. EMERGENCY MEDICAL PERSONNEL CERTIFICATION [REVOKED]

310:641-5-60. Emergency medical technician - defibrillation [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 17 Ok Reg 392, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2948, eff 7-13-00]

310:641-5-61. Emergency medical responder [AMENDED AND RENUMBERED TO 310:641-5- 18]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended and renumbered to 310:641-5-18 at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-61.1. First responder defibrillation [REVOKED]

[Source: Added at 11 Ok Reg 3843, eff 7-11-94 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Revoked at 18 Ok Reg 2501, eff 6-25-01]

310:641-5-62. Other certification [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Revoked at 21 Ok Reg 2755, eff 7-12-04]

PART 13. RECIPROCITY [REVOKED]

310:641-5-70. Reciprocity [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 19 Ok Reg 2087, eff 6-27-02 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Revoked at 24 Ok Reg 1991, eff 6-25-07]

PART 15. ENFORCEMENT ACTIONS [REVOKED]

310:641-5-80. Enforcement actions [AMENDED AND RENUMBERED TO 310:641-5-33]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended and renumbered to 310:641-5-33 at 33 Ok Reg 1529, eff 9-11-16]

PART 17. SPECIAL PROVISIONS [REVOKED]

310:641-5-90. Severance [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-91. Repealer [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-5-92. Effective date [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

SUBCHAPTER 7. TRAINING PROGRAMS

PART 1. GENERAL PROVISIONS

310:641-7-1. Purpose

The purpose of this subchapter is to establish minimum requirements for emergency medical services that includes:

- (1) initial and ongoing education and training programs;
- (2) instructor and educator qualifications;
- (3) evaluation, quality assurance and quality improvement.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-2. Definitions [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 18 Ok Reg 101, eff 10-30-00 (emergency); Revoked at 18 Ok Reg 2501, eff 6-25-01]

PART 3. TRAINING PROGRAMS

310:641-7-10. Training and education programs

- (a) All programs shall be in compliance with the requirements of this Subchapter.
- (b) Each program shall submit to the Department an application for approval to conduct emergency medical services training. The application shall be on forms provided by the Department. Programs must be currently certified to teach EMS related in Oklahoma before beginning courses.
- (c) Training program applicants may apply to become certified for the following levels:

- (1) Emergency Medical Responder,
 - (2) Emergency Medical Technician,
 - (3) Advanced Emergency Medical Technician, and
 - (4) Paramedic.
- (d) A separate certificate will be issued for each training level.
- (e) Approved training programs shall use a quality assurance process that is approved by the Department.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-11. Training program applications

- (a) The application process shall be completed by the applicant through the established process. The information submitted to the Department shall include but is not be limited to, the following:
- (1) name of the training program, address, telephone number, email and fax number;
 - (2) levels of training that the program anticipates being able to provide;
 - (3) the name of the Program Director and a curriculum vitae;
 - (4) the name of the Course Coordinator and curriculum vitae or resume that includes address, telephone number, fax number and an electronic mail address;
 - (5) the name of the Medical Director, a curriculum vitae or resume which includes address, telephone number, fax number, and an electronic-mail address, a current copy of their Oklahoma State medical license, and a current copy of their Oklahoma Bureau of Narcotics and Dangerous Drugs registration;
 - (6) a copy of the student grievance and appeal policy;
 - (7) list of all instructors and individual resume for each with copies of required documentation of instructor qualifications;
 - (8) of all current agreements for clinical experience locations required to conduct courses;
 - (9) of inventories of equipment and supplies;
 - (10) course plans (syllabi) and curriculum objectives for the course; and
 - (11) site applications for additional sites of instruction with required attachments.
- (b) Department personnel may make site visits, inspections or observations, to determine the training program's ability to conduct emergency medical services training in accordance with the Act and rules.
- (c) Certified training programs will have a plan or policy in place to address a sudden lapse of medical direction to ensure coverage when a medical director is not available.
- (1) The Department shall be notified the next business day of any lapse or change of medical direction by the respective program. If the agency has made arrangements for a back-up medical

director or an immediate replacement, then a lapse has not occurred.

(2) In the event of a lapse in medical direction, in that a medical director is not available, the training program will cease instruction of students until the program is able to implement their policy for a substitute or find a replacement for their medical director.

(d) minimum attendance policy, and

(e) for EMR and EMT programs, the name of the National Registry Coordinator.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-12. Training program renewal

(a) Training programs shall submit an application for renewal, at least sixty (60) days prior to the expiration of their certificate on forms provided by the Department.

(b) In addition to the renewal application, the following documentation will be submitted to the Department with the renewal application:

- (1) changes in information pertaining to the program director, course coordinator, and medical director;
- (2) copies of current clinical agreements;
- (3) current equipment and supply inventory;
- (4) changes to emergency medical services instructors affiliated with the training program;
- (5) current training site locations;
- (6) previous three years of benchmark data to include:
 - (A) NREMT cumulative pass rates in three attempts, and
 - (B) student retention based on the program policies; and
- (7) any other pertinent information requested by the Department.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-13. Training program responsibilities

(a) Each training program sponsoring emergency medical services training shall be responsible for:

- (1) course completion based on Oklahoma instructional guidelines, and
- (2) respond to and resolve student complaints and grievances.

(b) Each training program shall issue a course completion certificate and/or course transcript to each student successfully completing an approved course. The completion documentation will include:

- (1) program representative name,
- (2) course authorization number,

- (3) type of course, and
- (4) completion dates.
- (c) The minimum course attendance will be based on the training programs policy.
- (d) The student ratio for lab activities will be one (1) instructor to ten (10) students.
- (e) Records for each course offered shall be maintained by the training program for at least three (3) years. Records shall include at a minimum:
 - (1) attendance records,
 - (2) clinical experience summaries,
 - (3) student evaluations and grades,
 - (4) a record of lab assistants and their documentation of qualifications, and
 - (5) all lab documentation for the course and National Registry practical examinations.
 - (6) National Registry practical examination skill sheets are required for Emergency Medical Responder and Emergency Medical Technician courses only.
- (f) Each training program shall ensure that all Department required equipment is in good, safe, and operational condition.
 - (1) The equipment and supplies for courses must be dedicated for training purposes,
 - (2) Equipment and supplies used on live participants must meet manufacturer guidelines and recommendations;
 - (3) Equipment shall be available for inspection by Department representatives at any time during a regularly scheduled class, and
 - (4) Sufficient equipment quantities shall be made available for each course conducted.
- (g) Each training program shall ensure that a qualified preceptor supervises each student during scheduled clinical experiences.
- (h) Each training program shall administer a final written and practical examination for each course and provide National Registry's practical examinations for both Emergency Medical Responder and Emergency Medical Technician courses after course completion.
- (i) Following successful completion of all components of the course each EMR and EMT training program must provide a National Registry psychomotor examination.
- (j) The program shall require instructors to follow the Department approved course syllabus, use lesson plans, and provide instruction for all course objectives.
- (k) For all courses which require a practical examination, the training program shall follow the National Registry Practical Examination Standards established within the educational guidelines as published by the Department.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-14. Training and education program initial and ongoing approval

- (a) Any application for approval submitted by an applicant pursuant to the Act shall constitute authorization for any inspection or investigation by the Department.
- (b) A training program in compliance with all requirements shall be issued a training program certificate by the Department expiring the second June 30 after the certification date. Subsequent certifications will be valid for two (2) years.
- (c) The Department may conduct quality management visits to any training program. Visits may include, but not be limited to class visits, instructor evaluations, student surveys, review or required records, and visits to clinical sites.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-14.1. Denial of a training program renewal

A training program renewal application may be denied for programs that fail to maintain a minimum pass rate on the cognitive exam that is within:

- (1) 20% of National Registry three (3) year average, or
- (2) a minimum of 50% course retention as defined by the training program.

[Source: Added at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-15. Course approval

- (a) Each training program shall submit a written course application to the Department on forms provided by the Department. The Department may approve course requests that do not fully meet course application requirements if non-approval would be detrimental to the public.
- (b) The course application shall be submitted at least thirty (30) days prior to the course start date with exceptions at the Department discretion and shall include, but not be limited to:
 - (1) Course information including type of course, location, start and end date, class session days and times, course coordinator, instructors, and final practical examination date, and time and location as required;
 - (2) Course outline including date and time, topic, curriculum division and section number, instructor and location if different than those listed on the application for each class session, and
 - (3) A list of locations and site coordinator for each location, if multiple locations via distance learning technology are used;
- (c) Each training program conducting emergency medical services training and education shall use the Department approved course guidelines.

(d) Each training program shall ensure that course participants have access to a CPR, PALS, PEPP, and/or ACLS instructors that meet or exceed AHA standards.

(e) For each course conducted by a training program, rosters reflecting the students participating in a given course shall be submitted to the Department under the following guidelines:

(1) An initial student roster within twenty-one (21) days of the course start date. Amendments to the initial student roster may be made after the twenty-one (21) day requirement only with Department approval. In no case will a student be accepted on a final student roster that does not appear on an initial student roster for that course.

(2) A final student roster within twenty-one (21) calendar days of the course end date. This roster shall identify students who have successfully completed all course requirements, withdrawn from the course, failed the course, or whose class work was incomplete;

(3) Amendments to the final student roster for incomplete course objectives may be made after the twenty-one (21) day requirement only with Department approval. An amended final student roster will be accepted after ninety (90) calendar days of the course ending date with Department approval. A request for Department approval shall include a description of the circumstances requiring additional time.

(f) The Department may invalidate all or any portion of a course conducted where a violation of the Act or rules has been substantiated.

[Source: Added at 18 Ok Reg 101, eff 10-30-00 (emergency); Added at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 26 Ok Reg 1498, eff 6-11-09 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-16. Curriculum

The Department shall provide curricula and instructional guidelines based on the National Highway Traffic Safety Administration National Emergency Medical Services Education Standards of 2020 for Emergency Medical Responder, Emergency Medical Technician, Intermediate, Advanced Emergency Medical Technicians, and Paramedics initial, refresher, and transitional courses.

[Source: Amended and renumbered from 310:641-7-53 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-17. Notice of violation

(a) A violation of the Act or this Chapter is ground for the Department to issue a written order, sent via certified mail, citing the violation, affording the training program or instructor an opportunity to demonstrate compliance, and indicating the time no less than fifteen (15) days after receipt of the notice in which any needed correction shall be made. The fifteen-day notice period may be reduced as, in the opinion of the Department, may be necessary to render an order of compliance

reasonably effectual.

(b) Unless the Department specifies a reduced period, within thirty (30) days after receipt of the notice of violation, the training program or instructor shall submit to the Department a written demonstration of compliance and/or plan of correction.

(c) A plan of correction shall include at least the following:

- (1) When the correction was or will be completed;
- (2) How the correction was or will be made;
- (3) What measures will prevent a recurrence; and
- (4) Who will be accountable to ensure future compliance.

(d) The Department shall ensure that the training program or instructor is afforded due process in accordance with the Procedures of the State Department of Health, Oklahoma Administrative Code, Title 310, Chapter 2, and the Administrative Procedures Act, Title 75 O.S. Section 250 et seq.

(e) Violations found by the Department which require immediate correction shall be handled in compliance with Title 75 of the Oklahoma Statutes, Section 314.1 and the Oklahoma Administrative Code, Title 310, Chapter 2, specifically 310:2-21-23.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

PART 5. INSTRUCTOR QUALIFICATIONS

310:641-7-20. Instructor requirements

(a) A registry of approved emergency medical services instructors shall be maintained by the Department. Each instructor candidate shall submit to the Department an application for initial instructor certification. The application shall be on forms provided by the Department and accompanied by current documentation of qualification. This application shall constitute authorization for any inspection or investigation by the Department. The initial period for instructor certification will be concurrent with current Oklahoma Emergency Medical Personnel certification or licensure. The initial renewal requirement will be prorated based on the remaining time to the expiration date.

(1) Qualifications for a Level 1 and Level II instructor certification include:

(A) A resume or letter documenting two (2) years of direct field experience in emergency medical services within the previous five (5) years which meets or exceeds the level of training being taught;

(B)

Successful completion of a Department approved EMS Instructor Training Course or Fire Service Instructor I and/or II, with the EMS Instructor Training Bridge (ITC) Course or equivalent within the previous two (2) years. Applicants with credentials greater than two year old will need to provide documentation of classroom or instructor experience totaling eight (8) hours annually from the date

their initial credential(s) was issued, or complete a sixteen (16 hour instructor refresher to update their credential(s);
(C) Current state certification or licensure; and
(D) within three (3) years of the effective date of this regulation, the instructor identified as the lead instructor on a course authorization form of an initial paramedic course at an accredited program must possess a minimum of an associate's degree.

(2) To teach, a qualified instructor must have a letter from the director and medical director of a certified first response agency or ambulance service or the coordinator of an approved training institution, documenting affiliation. Level 1 instructors can teach at training institutions, but will be required to renew as Level 2 instructors.

(b) Emergency Medical Service Lab Instructor.

(1) An individual file for each qualified Lab Instructor shall be maintained by each training program, licensed ambulance service, or certified emergency medical response agency including documentation of qualification.

(2) Qualifications for lab assistants include:

(A)

Two (2) years of current experience in medical services which meets or exceeds the level of training being assisted or evaluated; and

(B) Any certification required for the skill being assisted or evaluated.

(c) Emergency Medical Service Level 3 Instructor certification.

(1) Instructor Training Courses (ITC) and Instructor Refresher Courses (IRC) shall be taught by a state certified Level 3 Instructor.

(2) An application for a Level 3 Instructor shall be submitted on forms provided by the Department and accompanied by current documentation of qualification.

(3) Qualifications for a Level 3 Instructor include:

(A) Affiliation with an approved training program

(B) Current Oklahoma licensure as an EMT or higher.

(C) Five (5) years experience as an EMS field provider.

(D) Current approval as an Oklahoma EMS Instructor

(E) Completion of the NHTSA/DOT EMS Instructor Training Course;

(F) Complete a minimum of 500 hours of didactic training as the lead or primary instructor in initial EMT, AEMT, or Paramedic courses; and

(G) Attendance at all mandatory meetings with the Department and other Instructor Educators.

(4) Level 3 instructor must maintain EMS instructor certification(s). A registry of approved emergency medical services instructor educators shall be maintained by the Department.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 19 Ok Reg 2087, eff 6-27-02 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 24 Ok Reg 1991, eff 6-25-07 ; Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-21. Instructor and instructor educator renewal

(a) Instructors and instructor educators shall submit an application for renewal every two (2) years.

(b) Each renewal will include verification of instructor continuing education or refresher course.

(1) Level 1 instructors are required to submit eight (8) hours of continuing education or refresher course hours.

(2) Level 2 and 3 instructors are required to submit sixteen (16) hours of continuing education or refresher course hours.

(c) Instructor continuing education may consist of, but not be limited to:

(1) technology and software utilized in instruction and tracking student activities,

(2) psycho-motor exam evaluator,

(3) objective and evaluation writing,

(4) curriculum review and utilization,

(5) classroom management,

(6) instructional theory and application,

(7) teaching initial, refresher, and continuing education classes and courses for emergency medical professionals,

(8) courses, classes, and workshops approved by the Department,

(d) Instructors are limited to a maximum of four (4) hours of actual didactic, psycho-motor, or affective domain classes in any one area or topic.

(e) Level 3 instructors providing the continuing education hours as a refresher course shall submit a course authorization request for approval.

(f) The Department may deny, refuse to renew, revoke, suspend, or place on probation any instructor or instructor educator for reasons which include, but are not limited to:

(1) Failure to attend Department required workshops or mandatory Department meetings for EMS instructor educators;

(2) Failure to follow Department rules;

(3) Failure to maintain professional license or certification qualifications;

(4) Falsification of any training document;

(5) Failure to maintain professional conduct at all times when providing EMS instruction;

(6) Failure to obtain sixteen (16) hours of instructor continuing education during the two (2) year certification period for EMS instructors or to complete a Department approved EMS Instructor Refresher.

(g) This application shall constitute authorization for any inspection or investigation by the Department.

(h) An instructor's certification expiration date is concurrent with their Oklahoma Emergency Medical Personnel Certification or License expiration date. For the initial renewal of an instructor certification, any continuing education renewal requirements will be pro-rata based on the next expiration date.

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 20 Ok Reg 2368, eff 7-11-03 ; Amended at 22 Ok Reg 2418, eff 7-11-05 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-21.1. Instructor and instructor educator re-entry requirements

(a) If expired more than two (2) years, the applicant must complete a new Department approved Instructor Training Course (ITC) and reapply as an initial candidate for EMS Instructor.

(b) If less than two (2) years, the applicant must complete a Instructor Training Course Refresher.

[Source: Added at 23 Ok Reg 2386, eff 6-25-06]

310:641-7-22. Early defibrillation instructor requirements [REVOKED]

[Source: Added at 11 Ok Reg 3843, eff 7-11-94 ; Revoked at 17 Ok Reg 392, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2948, eff 7-13-00]

310:641-7-23. Early defibrillation master trainers [REVOKED]

[Source: Added at 11 Ok Reg 3843, eff 7-11-94 ; Revoked at 17 Ok Reg 392, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2948, eff 7-13-00]

310:641-7-24. Training manager authorization

(a) Licensed ambulance services and certified emergency medical response agencies shall be authorized to conduct training based upon the need for training and continuing education activities. This agency supplied training is limited to refresher courses, emergency medical responder courses, continuing education, and other training courses as designated by the Department.

(b) Ambulance services and emergency medical response agencies must use Level 1, 2, or 3 instructors to either provide and/or oversee the training. A guest presenter may be used provided an approved instructor is present and responsible for the training session.

(c) An attendance policy or statement shall be sent with course authorization requests for approval by the Department.

(1) Attendance shall be maintained at the agency for three years.

(2) Attendance records will be provided when requested to the Department or to agencies to verify activities.

(d) The Department may attend any training or educational activity to ensure compliance.

(e) The Department may invalidate all or any portion of training conducted if a violation of the Act or rules has been substantiated.

[Source: Amended and renumbered from 310:641-7-30 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-25. Training program, instructor, and course records and files

(a) All required records will be maintained for a minimum of three years.

(b) Each training program shall maintain electronic or paper records at the business office. The files shall be available for review by the Department during normal business hours.

(c) The records to be maintained, based on level and type of instruction include:

- (1) Clinical agreements,
- (2) student handbook,
- (3) course authorization requests and approvals,
- (4) initial, amended, and final rosters,
- (5) attendance records,
- (6) psycho-motor exam guides,
- (7) instructor credential file containing the licenses, certifications, training courses, and continuing education required to maintain instructor certification,
- (8) course syllabi or course schedules
- (9) instructional guidelines and course objectives, and
- (10) agreements for support at off-campus sites.
- (11) A student portfolio or file will be maintained to reflect the work completed by the student to include classroom evaluations from the cognitive, psycho-motor, and affective learning domains.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-7-29. Suspension, revocation, probation, or non-renewal of an approved training program or instructor

(a) The Department may suspend, revoke, fine, or place on probation an instructor, training program, or agency for the following:

- (1) violations of any provision of Oklahoma Statutes, the Act, or regulations promulgated by the Board;
- (2) permitting, aiding, or abetting in any illegal act in connection with a program or agency,
- (3) conduct of any practice that is detrimental to the welfare of a patient or user of the services;
- (4) failure to comply with a written order issued by the Department within the time frame specified by the Department;
- (5) engaging in any act which is designed or intended to hinder, impede, or obstruct an investigation by the Department,
- (6) a program that fails to renew their certification within the time frame as specified in this Chapter shall be considered as expired and therefore no longer certified as a training program in Oklahoma.

(7) failing as a clinical preceptor or instructor to supervise, manage, or train students under their instruction, regarding and according to:

- (A) scope of practice;
- (B) generally accepted standards of patient care;
- (C) U.S. DOT instructional guidelines;
- (D) protocols, policies, and procedures.

(8) willfully harassing, abusing, or intimidating a patient or student,

(9) misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation,

(10) offering, giving, or promising anything of value (as defined in Oklahoma statutes or Department policy) to a Federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a Federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(11) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against, or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed,

(12) failure to report the unprofessional conduct or non-compliance of regulation of individually licensed and certified personnel as defined in this Chapter of regulation.

(b) No person, company, governmental entity or trust authority may operate a training program except in accordance with 63 O.S. Section 1-2501 et, seq., and the regulations as promulgated by the Board. The Commissioner, District Attorney of the county wherein a violation occurs, or the Attorney General of this state, shall have the authority to enforce provisions of the law.

(c) A license/certificate/permit holder or applicant, in connection with a license application or an investigation conducted by the Department pursuant to this Chapter shall not:

- (1) knowingly make a false statement of material fact;
- (2) fail to disclose a fact necessary to correct a misapprehension known by the licensee to have arisen in the application or the matter under investigation; or
- (3) fail to respond to a demand for information made by the Department or any designated representative thereof.

(d) If in the course of an investigation the Department determines that the license/certificate/permit holder or applicant has engaged in conduct that is detrimental to the health, safety, or welfare of the public, and which necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the license/certificate/permit holder's license, certificate, or permit respectively held. A presumption of imminent harm to the public shall

exist if the Department determines probable cause for any conduct that is detrimental to the welfare of the patient or potential users of the service exists;

(e) In addition to any other penalties, a civil fine of not more than one hundred (\$100.00) dollars per violation per day may be assessed, for violations of the Act or OAC 310:641.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

PART 7. IN-SERVICE INSTRUCTION PROGRAM [REVOKED]

310:641-7-30. Authorization [AMENDED AND RENUMBERED TO 310:641-7-24]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 101, eff 10-30-00 (emergency); Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 25 Ok Reg 2443, eff 7-11-08 ; Amended and renumbered to 310:641-7-24 at 33 Ok Reg 1529, eff 9-11-16]

310:641-7-31. Qualifications and approval [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Revoked at 18 Ok Reg 101, eff 10-30-00 (emergency); Revoked at 18 Ok Reg 2501, eff 6-25-01]

PART 9. APPEALS [REVOKED]

310:641-7-40. Adverse actions [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 17 Ok Reg 392, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2948, eff 7-13-00]

PART 11. SPECIAL PROVISIONS [REVOKED]

310:641-7-50. Severance [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Amended at 17 Ok Reg 392, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2948, eff 7-13-00 ; Revoked at 18 Ok Reg 101, eff 10-30-00 (emergency); Revoked at 18 Ok Reg 2501, eff 6-25-01]

310:641-7-51. Repealer [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 33 Ok Reg 1529, eff 9-11-16]

310:641-7-52. Effective date [REVOKED]

[Source: Added at 8 Ok Reg 3143, eff 7-18-91 (emergency); Added at 9 Ok Reg 1495, eff 5-1-92 ; Revoked at 17 Ok Reg 392, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2948, eff 7-13-00]

310:641-7-53. Paramedic curriculum [AMENDED AND RENUMBERED TO 310:641-7-16]

[Source: Added at 18 Ok Reg 101, eff 10-30-00 (emergency); Added at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended and renumbered to 310:641-7-16 at 33 Ok Reg 1529, eff 9-11-16]

PART 13. SEMI-AUTOMATED EXTERNAL DEFIBRILLATOR TRAINING

310:641-7-60. Approved program providers [REVOKED]

[Source: Added at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-7-61. Approved course directors and trainers

To be subject to 76 O.S. § 5A, the Department requires course directors and trainers to complete cardiopulmonary resuscitation training from the American Red Cross, American Heart Association, National Safety Council, or any other similar course that is approved by the Department.

[Source: Added at 17 Ok Reg 2948, eff 7-13-00 ; Amended at 18 Ok Reg 2501, eff 6-25-01 ; Amended at 21 Ok Reg 2755, eff 7-12-04 ; Amended at 23 Ok Reg 2386, eff 6-25-06 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

SUBCHAPTER 9. TRAUMA TRANSFER AND REFERRAL CENTERS

PART 1. GENERAL PROVISIONS

310:641-9-1. Purpose

The rules of this subchapter are promulgated to establish standards for certification of trauma transfer and referral centers.

[Source: Added at 21 Ok Reg 3113, eff 7-14-04 (emergency); Added at 22 Ok Reg 2418, eff 7-11-05]

PART 2. CERTIFICATION

310:641-9-2. Certification required

No person, partnership, company, governmental authority, or other legal entity including those established by Oklahoma Constitutional authority or trust authority shall operate, advertise or hold themselves out as providing emergency medical trauma transfer and referral center services without first obtaining a certificate from the Department.

[Source: Added at 21 Ok Reg 3113, eff 7-14-04 (emergency); Added at 22 Ok Reg 2418, eff 7-11-05]

310:641-9-3. Application

- (a) The applicant shall complete an application form approved by the Department to apply for a certificate.
- (b) The application shall contain, but not be limited to, the following:
 - (1) A description of proposed trauma, transfer and referral center operations, detailing how transfers will be processed within the region and how transfers into and out of the region will be facilitated;
 - (2) A staffing plan and roster including an estimate of call volume and distribution;
 - (3) A plan for supplemental training for trauma, transfer and referral center staff;
 - (4) An endorsement from the physician who is providing medical control for the center;
 - (5) A plan that identifies methods of communication with each emergency medical service and hospital that provides trauma care or transport within the region and/or transfers patients into or out of the region;
 - (6) The methods of data collection, confidential storage, retrieval, and reporting of requested information related to trauma transports and transfers to the Medical Audit Committee, Department and Commissioner of Health;
 - (7) A copy of the medical protocols used to triage and identify the level of trauma care needed for each patient; and
 - (8) A continuous quality improvement plan.
- (c) The Department shall approve, identify the application as incomplete or deny the application within thirty (30) days after submittal by the applicant.

[Source: Added at 21 Ok Reg 3113, eff 7-14-04 (emergency); Added at 22 Ok Reg 2418, eff 7-11-05]

310:641-9-4. Issuance of certification

- (a) A certificate shall be issued to each center found to be compliant with Department requirements and shall be valid for a period of two years following the date of issuance.
- (b) The certificate shall be issued to the legal operating entity for the service area given in the application.
- (c) A sole provider determination for any region may be made by the Department after consideration of the following factors:
 - (1) The needs of the region and state for trauma transfer and referral direction and facilitation;

- (2) The ability of the provider to provide adequate direction and facilitation; and,
- (3) The current availability of a trauma, transfer and referral center in the region.
- (d) A certificate shall be valid for the legal operating entity making application and is not assignable or transferable.

[Source: Added at 21 Ok Reg 3113, eff 7-14-04 (emergency); Added at 22 Ok Reg 2418, eff 7-11-05]

310:641-9-5. Certificate renewal

- (a) At least sixty (60) days prior to the expiration of their certificate, a certified trauma transfer and referral center shall reapply for a renewal certificate using forms approved by the Department.
- (b) The certified center shall identify any changes in operations from the original application.
- (c) The Department shall reevaluate, renew or deny the renewal certification based on the center's compliance with Department requirements for certification.

[Source: Added at 21 Ok Reg 3113, eff 7-14-04 (emergency); Added at 22 Ok Reg 2418, eff 7-11-05]

310:641-9-6. Transfer and referral center standards

- (a) **Staff.** Each center shall have adequate numbers of staff to immediately respond to all calls for trauma transfers and referrals. The center shall also have a plan to activate additional staff for peak loads, regional emergencies or disasters.
- (b) **Medical direction.** Each center shall have a qualified physician medical director who holds a current, unrestricted, Medical Doctor (M.D.) or Doctor of Osteopathy (D.O.) license for Oklahoma. The physician medical director shall provide medical oversight for center operations, approve triage and transfer protocols, and participate in quality improvement activities. The medical director shall be routinely available for consultation with center staff.
- (c) **Administration.** The governing body for each center shall appoint an administrator who shall be responsible for center operations.
- (d) **Staff training.** Training for staff shall include at least the following Department approved courses:
 - (1) Emergency Medical Dispatch Training;
 - (2) Trauma, triage, and transfer training covering current Oklahoma guidelines; and,
 - (3) A training course on use of Department supported software designed to identify hospital capability and capacity for all Oklahoma hospitals.
- (e) **Equipment.** Each center shall maintain adequate equipment to facilitate center operations and communicate with all emergency medical service providers and hospitals. Each center shall have working communications equipment including a toll-free phone service; radios with available frequencies to communicate with fire, emergency medical providers, and hospitals; and, computer equipment with high-speed Internet access for immediate electronic communications.

(f) **Records.** Records of all trauma transfers shall be maintained in an electronic format approved by the Department. The center shall also maintain voice recordings of all phone and radio transmissions for a period of at least two (2) years. Records of patient transfer shall be confidential and shall only be used for quality improvement activities or for reports to the Medical Audit Committee and the Commissioner of Health.

[Source: Added at 21 Ok Reg 3113, eff 7-14-04 (emergency); Added at 22 Ok Reg 2418, eff 7-11-05]

310:641-9-7. Revocation

The Department may revoke or suspend any trauma transfer and referral center certificate at any time for failure to comply with requirements.

[Source: Added at 21 Ok Reg 3113, eff 7-14-04 (emergency); Added at 22 Ok Reg 2418, eff 7-11-05]

SUBCHAPTER 11. SPECIALTY CARE AMBULANCE SERVICE

310:641-11-1. Purpose

(a) Subchapter 11 of this Chapter incorporates the authorization, licensure, and the minimum requirements for operating a specialty care ambulance service that exceeds the training and equipment for a paramedic service and that responds solely to interfacility requests for service with appropriately trained, certified, and licensed personnel, and (b) provide standards for the enforcement of the provisions of the Act and this Chapter.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-2. License required [REVOKED]

[Source: Amended and renumbered from 310:641-3-41 at 33 Ok Reg 1529, eff 9-11-16 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-11-3. Issuance of a specialty care ambulance license

(a) The Department shall have sole discretion to approve or deny an application for a specialty care ambulance service license based on the ability of the applicant to meet the requirements of this Chapter.
(b) A specialty care transport (SCT) is the interfacility transportation of a critically injured or ill patient by a ground or air ambulance vehicle, including the provision of medically necessary supplies and services, at a level of service beyond the scope of the Paramedic. SCT is necessary when a patient's condition requires ongoing care that must be furnished by one or more health professionals in an appropriate specialty area, for example emergency or critical care nursing, emergency medicine, respiratory care, cardiovascular care or a Paramedic with additional training.

(c) Any specialty care ambulance service licensed prior to the effective date of this Chapter shall remain in effect for the period of license issuance, except that all such specialty care ambulance services shall be subject to the Act and rules which otherwise pertain, including the requirement for renewal. At renewal, the agency must be fully compliant with all applicable regulations within this Chapter of regulation.

(d) The license is not transferable or assignable.

(e) The initial license period shall expire the second June 30th, following the date of issue. Subsequent renewal periods shall be twenty-four (24) months, or two (2) years.

(f) The specialty care license is limited to hospital to hospital transports of patients requiring care beyond the scope of practice of Paramedics, as identified in the application to include:

(1) medication formulary;

(2) patient care equipment;

(3) treatment protocol(s); and

(4) applicants will provide documentation that the medication, equipment, and treatment protocols are specific to the type or types of patients identified in the application.

(g) The original, or a copy of the original, license shall be posted in a conspicuous place in the principal business office. If an office or other public place is not available, then the license shall be available to anyone requesting to see the license during regular business hours.

[Source: Amended and renumbered from 310:641-3-42 at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-4. Renewal of a specialty care ambulance license

(a) The Department shall provide to all licensed specialty care ambulance services a "Survey/Renewal Form" each December. This form shall be considered and utilized as a renewal application, if due. The "Survey/Renewal Form" along with proof of current workers' compensation and liability insurance shall be returned to the Department by January 31st each year.

(1) Upon receipt of a complete and correct renewal application, a renewal fee statement shall be mailed by the Department to each licensee in need of renewal.

(2) A non-refundable fee for the renewal of an ambulance service license shall be one hundred dollars (\$100.00), fifty dollars (\$50.00) for each substation, plus twenty dollars (\$20.00) for each vehicle in excess of two (2).

(3) An ambulance service license shall be renewed if:

(A) The ambulance service has applied for such renewal;

(B) The ambulance service has no outstanding deficiencies or is in need of correction as may be identified during inspection of the service, and;

(C) The proper fee has been received by the Department.

(b) An ambulance service license, if not renewed by midnight June 30 of the expiration year, shall be considered non-renewed.

(1) A grace period of thirty (30) days is permitted under 63 O.S. Section 1-1702.

(2) Thereafter a new application shall be required for the continuation of any such license, and the applicant shall be subject to initial application procedures. An extension may be granted by the Department for the purpose of renewal, subject to a determination by the Department of the following:

- (A) the safety, need, and well-being of the public and general populace to be served by the ambulance service; and
- (B) the availability of personnel, equipment, and the financial ability of the applicant to meet the minimum standards of emergency medical services law.

[Source: Amended and renumbered from 310:641-3-45 at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-5. Denial for an initial license

(a) A specialty care ambulance license application may be denied for any of the following reasons:

- (1) A felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation, or the person designated to supervise the service; to include, but not be limited to, fraud, grand larceny, child abuse, sexual offense(s), drug offense(s), or a conviction, adjudication, or plea of guilty or nolo contendere which might otherwise have a bearing on the operation of the service;
- (2) Falsification of Department required information;
- (3) Ownership, management, or administration by principals of an entity whose license has been revoked; and
- (4) Licensure or re-licensure may not be in the best interest of the public as determined by the Department.

(b) An applicant shall be notified in writing within sixty (60) days from the date the Department receives a complete application of the granting or denial of a license. In the event of a denial, the specific reason(s) shall be noted, and an indication of the corrective action necessary to obtain a license or renewal shall be given, if applicable. A license application may be re-submitted, but each resubmission shall be considered an initial application.

[Source: Amended and renumbered from 310:641-3-46 at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-6. Denial of an application for renewal of license

(a) A license application for renewal may be denied for any of the following:

- (1) the failure to meet standards set forth by statute or rule,
- (2) a felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation, or the person designated to manage the service to include, but not limited to fraud, grand larceny, child abuse, sexual offense(s), or a conviction, adjudication, or plea of guilty or nolo contendere which might otherwise have a bearing on the operation of the service,

- (3) outstanding notice of violation that has not been addressed with an acceptable plan of correction,
 - (4) insufficient financial resources,
 - (5) falsification of Department required information,
 - (6) ownership, management, or administration by principles of an entity whose ambulance service license has been revoked,
 - (7) re-licensure may not be in the best interest of the public as determined by the Department,
- (b) An applicant shall be notified in writing within sixty (60) days from the date the Department receives a complete renewal application of the granting or denial of a renewed license. In the event of a denial, the specific reason(s) shall be noted, and an indication of the corrective action necessary to obtain a renewed license shall be given, if applicable. A license application may be resubmitted, but each re-submission shall be considered an initial application.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-7. Severance of action, amendment, and re-instatement

- (a) The issuance or renewal of a license after notice of a violation(s) has been given shall not constitute a waiver by the Department of its power to rely on the violation(s) for subsequent license revocation or other enforcement action which may arise out of the notice of violation(s).
- (b) Any change in the name of the service, level, service area, addition of substation, or type of specialty care provided service shall necessitate an application to amend the license and shall be accompanied by a fee of one hundred dollars (\$100.00).
- (c) Changing or moving the location of a substation requires written notification to the Department.
- (d) If an existing license is placed on probation or suspension, a fee of one hundred (\$100.00) dollars, in addition to any other provision of the action, shall be submitted prior to re-instatement of the license to full privilege.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-8. Personnel

- (a) Each licensed specialty care ambulance service shall be staffed in accordance with the agency's policy and standards.
- (1) The additional training required by the Act for licensed emergency medical personnel to conduct specialty care transports will be beyond the scope of practice of an Oklahoma licensed Paramedic.
 - (2) All Oklahoma licensed Paramedics that have completed training beyond the scope of practice of a Paramedic for the purposes of specialty care transport shall be registered with the Department.
- (b) Any changes in staffing patterns after initial licensing shall require prior written approval by the Department.

(c) In addition to the staffing requirement for patient care providers, each specialty care ambulance service shall have drivers licensed at the Emergency Medical Technician licensure level and have completed an emergency vehicle operator course within 120 days of employment. The drivers will complete an emergency vehicle operator course refresher every two years. The agency will maintain records showing competency in vehicle operations.

(d) Each specialty care ambulance service will maintain training records demonstrating competency in medical skills, patient handling, and medical equipment.

[Source: Amended and renumbered from 310:641-3-43 at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-9. Specialty care ground vehicles

Specialty care ground vehicles shall conform to 310:641-3-20, except for specifications of medical and extrication equipment required for ground ambulance vehicles. If a specialty care service has the need to utilize a vehicle for ground ambulance other than the 310:641-3-20 compliant vehicle, a written waiver may be granted upon request with the application. A determination for this exception shall be made by the Department.

[Source: Amended and renumbered from 310:641-3-44 at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-10. General provisions for ground specialty care transport vehicles

(a) Authorized emergency vehicles of licensed ambulance services shall comply at all times with the applicable requirements of Title 47, the Oklahoma Motor Vehicle Code to include audio and visual warning indicators.

(b) Authorized specialty care emergency vehicles shall be in good mechanical and serviceable condition at all times, so as not to be hazardous to the patient(s) or crewmembers. If, in the determination of the Department, a vehicle does not meet this requirement, it may be removed from service until repairs are made.

(c) Authorized specialty care emergency vehicles of licensed ambulance services shall be tested for interior carbon monoxide, in a manner acceptable to the Department. Carbon monoxide levels of more than ten parts per million (10ppm) shall be considered in excess and shall render the vehicle "out of compliance". Vehicles shall be removed from service if carbon monoxide levels exceed fifty parts per million (50ppm) and until repairs are made to reduce the amounts of carbon monoxide below ten (10ppm) parts per million.

(d) Authorized specialty care emergency vehicles of licensed specialty care ambulance services utilized for the provision of patient care shall be equipped with communication equipment (e.g. two-way radio utilizing VHF frequency 155.3400) which shall provide voice contact with the emergency department of the area and other hospitals outside of the area. Acceptable frequencies shall be approved and consistent with the Statewide Interoperability Governing Body communication plan, as

adopted under the rules of the Federal Communications Commission (FCC). No paging shall be allowed on these designated medical frequencies. Encoder numbers for Oklahoma hospitals and approval of frequencies may be obtained by contacting the Division.

(e) Authorized specialty care emergency vehicles of licensed specialty care ambulance services shall have a permit and/or inspection decal affixed or provided by the Department. These decals shall be placed in the lower left corner of a rear window unless it shall be impossible or impractical to utilize this area.

(f) The following permit classifications of vehicle permits shall be recognized as authorized emergency vehicles of ambulance services:

(1) "Temporary Permit" may be affixed by the agency and will be valid for ten (10) business days. The temporary permit will be sent to the agency by the Department in the event the vehicle cannot be inspected by Department personnel within three (3) days of the Department receiving notification that a vehicle is ready for inspection.

(A) To receive a temporary permit, the agency will send to the Department:

- (i) a completed Department inspection form;
- (ii) pictures of the interior and exterior of the vehicle;
- (iii) copies or pictures of the vehicle tag;
- (iv) copies or pictures of the insurance verification.

(B) Upon approval of the documentation, a temporary permit will be sent to the agency.

(C) Prior to the expiration of the temporary permit, the agency will make arrangements with the Department to ensure a complete inspection is conducted by the Department for the purpose of affixing a class "A" permit to the vehicle.

(2) Class "A" permit shall be affixed to an ambulance in compliance with all applicable standards. Emergency and non-emergency ambulance patients may be transported in class "A" ambulances.

(3) Class "B" permit shall be affixed to an ambulance in compliance with manufacturing, communication, safety, and Title 47 of Oklahoma Statutes requirements. Class "B" vehicles shall have the required medical equipment on board when placed in-service to respond to emergency calls or transport any ambulance patients.

(g) When a vehicle is sold or removed from service, the agency will notify the Department on an approved form, remove the permit, and return the form and permit to the Department within ten (10) days.

(h) A vehicle with any of the following deficiencies or malfunctions may not be used for any patient transports:

- (1) inadequate sanitation, including the presence of contamination by blood and or bodily fluids;
- (2) inoperable heater or air conditioner as detailed within the vehicle manufacturing standards and specifications;
- (3) inoperable AED or defibrillator;

- (4) tires that do not meet Oklahoma Statutes Title 47, Chapter 12 requirements;
 - (5) inoperable emergency lighting or siren;
 - (6) inoperable oxygen system or less than 200 psi in onboard oxygen system;
 - (7) both portable and vehicle suction apparatus are inoperable;
 - (8) carbon monoxide levels greater than fifty (50) parts per million;
 - (9) lapse of vehicle liability insurance;
 - (10) lapse of worker compensation insurance;
 - (11) inability to affix a class "A" or "B" permit on an existing permitted vehicle;
 - (12) vehicle that does not comply with statutory safety equipment found in Title 47.
- (i) If such violation is not or cannot be corrected immediately, any affected vehicle shall be removed from service and the ambulance permit shall be removed until such time the vehicle is compliant and has been re-inspected and permitted by the Department.
 - (j) Any patient care equipment and supplies carried on an ambulance that is not on the approved equipment list will need Department approval through the protocol approval process.
 - (k) All lighting, both interior and exterior, shall be fully operational, including lens caps.
 - (l) All designated seating positions in the patient compartment shall be equipped with functioning safety restraint systems appropriate for each type of seating configuration.
 - (m) All oxygen tanks, (portable and onboard) shall be secured within brackets compliant with the specification of the manufacture standards.
 - (n) Each vehicle shall not have any structural or functional defects that may adversely affect the patient, personnel, or the safe operation of the vehicle to include: windshield wipers, steering systems, brakes, seatbelts, and interior or exterior compartment doors and latches.
 - (o) Each permitted vehicle shall have an accessible copy (electronic or paper) of the agencies approved protocols.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-11. Specialty care air ambulance aircraft

- (a) An air ambulance aircraft may be fixed wing, single or multi-engine; or rotary wing, single or multi-engine.
- (b) Operations of the aircraft shall be under the appropriate provisions of the Federal Aviation Regulations (FARs).
- (c) The interior of the patient compartment of their aircraft shall have the capability of being climate controlled to avoid adverse effects on patients and medical personnel on board by a means other than flight operations and flying to an altitude.
- (d) The aircraft design and configuration shall not compromise patient stability in loading, unloading, or in-flight operation to include:
 - (1) the aircraft shall have an entry that allows loading and unloading without excessive maneuvering (no more than 45

degrees about the lateral axis and 30 degrees about the longitudinal axis) of the patient and does not compromise functioning of monitoring systems, intravenous lines, and manual or mechanical ventilation;

(2) a minimum of one stretcher shall be provided that can be carried to the patient;

(3) aircraft stretchers and the means of securing it in-flight must be consistent with applicable Supplemental Type Certificates (STCs).

(4) the type and model of stretcher indicates the maximum gross weight allowed (inclusive of patient and equipment) as labeled on the stretcher;

(5) the stretcher shall be large enough to carry an American adult male .

(6) the stretcher shall be sturdy and rigid enough that it can support cardiopulmonary resuscitation. If a backboard or equivalent device is required to achieve this, such device will be readily available;

(7) the head of the stretcher is capable of being elevated at least 30 degrees for patient care and comfort;

(8) if the ambulance stretcher is floor supported by its own wheels, there is a mechanism to secure it in position under all conditions. These restraints permit quick attachment and detachment for patient transfer.

(e) Patients transported by air will be restrained with a minimum of three straps, including shoulder straps, which must comply with FAA regulations. The following additional requirements shall apply to achieve patient stability:

(1) patients less than 60 pounds (27kg) shall be provided with an appropriately sized restraining device (for patient's height and weight) which is further secured by a locking device. All patients less than 40 pounds must be secured in a five-point safety strap device that allows good access to the patient from all sides and permits the patient's head to be raised at least 30 degrees. Velcro straps are not encouraged for use on pediatric devices;

(2) if a car seat is used, it shall have an FAA approved sticker;

(3) there shall be some type of restraining device within the isolette to protect the infant in the event of air turbulence.

(f) A supplemental lighting system shall be installed in the aircraft/ambulance in which standard lighting is insufficient for patient care, and a self-contained lighting system powered by a battery pack or portable light with a battery source must be available.

(g) An electric power outlet shall be provided with an inverter or appropriate power source of sufficient output to meet the requirements of the complete specialized equipment packages without compromising the operation of any other system or equipment. A back-up power source to enable use of equipment may be provided by an extra battery of appropriate voltage and capacity.

(h) There shall be access and necessary space to ensure any onboard patient's airway is maintained and to provide adequate ventilatory support from the secured, seat-belted position of medical transport

personnel.

(i) Medical transport personnel shall be able to determine if medical oxygen is on in the patient care area.

(1) Each gas outlet shall be clearly marked for identification.

(2) Oxygen flow shall be capable of being started and stopped at or near the oxygen source from inside the aircraft.

(3) The following indicators shall be accessible to medical transport personnel while en route:

(A) quantity of oxygen remaining; and

(B) measurement of liter flow.

(j) A variety of medical oxygen delivery devices consistent with the service's medical protocols shall be available.

(k) An appropriately secured portable medical oxygen tank with a delivery device shall be carried on the aircraft. Portable medical oxygen tank may not be secured between patient's legs while the aircraft is in motion.

(l) There shall be a back-up source of medical oxygen sufficient to allow completion of the transport in the event the main system fails. For air transports, this back-up source can be the required portable tank as long as the portable tank is accessible in the patient care area during flight.

(m) Storage of oxygen shall comply with applicable standards.

(n) Oxygen flow meters and outlets shall be located to prevent injury to medical transport personnel to the extent possible.

(o) In the event the licensee will be utilizing a substitute aircraft not previously permitted by the Department for a period of more than five (5) days, the licensee shall notify the Department to have the aircraft inspected and permitted by the Department.

(1) Licensees with a substitute aircraft utilized for periods of five (5) days or less, the licensee shall complete an agency specific equipment log documenting the transfer of all required equipment onto the substitute aircraft at the time of transfer.

(2) The agency will maintain documentation of the transfer in accordance with OAC 310:641-13-21 Air ambulance service records and files.

(p) Any vehicle initially placed in service after a purchase, lease, contract and/or refurbish shall be inspected, approved, and permitted by the Department as detailed within this section of OAC 310:641 Subchapter 11.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-11-12. Equipment for specialty care transport vehicles (air and ground)

(a) The tampering, modification, or removal of the manufacturer's expiration date is prohibited.

(b) Licensed specialty care ambulance services shall ensure that all recalled, outdated, misbranded, adulterated, or deteriorated fluids, supplies, and medications are removed from ambulances immediately.

(c) The medical control physician will authorize all equipment and medications placed on the units for patient care.

(1) The authorized equipment and medications will be detailed on a unit checklist and will match the equipment and supplies with detailed defined minimums needed to treat patients in the manner in the agency approved protocols. The checklist will also meet the requirements described in the ambulance file section of this subchapter.

(2) The medications authorized by the medical director will be detailed on the unit checklist to include the number, weight, and volume of the medication containers.

(d) At a minimum, the following equipment and supplies will be present on each specialty care unit when transported specialty care patients:

(1) age and size appropriate oropharyngeal and nasopharyngeal airways, single wrapped for sanitation purposes;

(2) functioning portable suction device with age and size appropriate tubing and tips;

(3) age and size appropriate bag-valve-mask resuscitators;

(4) portable (secured in each vehicle) and wall mounted oxygen sets, with age and size appropriate tubing cannulas and masks;

(5) spare portable oxygen cylinder, secured to manufacturing specifications;

(6) Bandaging materials to include:

(A) two (2) burn sheets clean wrapped and marked in plastic bag that need not be sterile.

(B) fifty (50) sterile 4"x4" dressings.

(C) six (6) sterile 6"x8" or 8"x10" dressings.

(D) ten (10) roller bandages, 2" or larger.

(E) four (4) rolls of tape (minimum of one (1") inch width).

(F) four (4) sterile occlusive dressings, 3" x 8" or larger.

(G) four (4) triangular bandages.

(H) one (1) pair of bandage scissors.

(7) Fracture immobilization devices to include:

(A) one (1) adult and one (1) pediatric traction splint or equivalent device capable of adult and pediatric application.

(B) two (2) upper and two (2) lower extremity splints in adult and pediatric sizes.

(C) short spine board or vest type immobilizer, including straps and accessories as described within the agency protocols.

(D) two (2) adult and one (1) pediatric size long spine board including straps and head immobilization devices.

(E) two (2) rigid or adjustable extrication collars in large, medium, small adult sizes, and pediatric sizes for children ages 2 years or older and one (1) infant collar. Collars shall not be foam or fiber filled.

(8) Miscellaneous medical equipment to include:

(A) one (1) infant, one (1) child, two (2) adult, and one (1) extra-large blood pressure cuffs;

(B) stethoscope, one (1) adult and one (1) pediatric sizes.

(C) obstetrical kit with towels, 4"x4" dressing, umbilical tape, bulb syringe, cord cutting device, clamps, sterile

gloves, aluminum foil, and blanket.

(D) universal communicable disease precaution equipment including gloves, mask, goggles, gown, and other universal precautions.

(E) blood-glucose measurement equipment per medical direction and Department approval.

(F) CPAP per medical direction and Department approval.

(9) Other mandatory equipment to include:

(A) Two (2) appropriately labeled or designated waste receptacles for:

- (i) waste that is contaminated by bodily fluids or potentially hazardous infectious waste, and
- (ii) waste that does not present a biological hazard, such as plastic or paper products that are not contaminated.

(B) two way radio communication equipment utilizing VHF frequency 155.3400 as detailed in this Chapter and through the Statewide Interoperability Governing Body.

(C) one (1) sturdy, lightweight, all-level cot for the primary patient that is compliant with the vehicle manufacturing standards in place at the time of purchase.

(D) at least three (3) strap type restraining devices (chest, hip, and knee), and compliant shoulder harness shall be provided per stretcher, cot, and litter (not less than two (2") inches wide, nylon, easily removable for cleaning, two (2) piece assembly with quick release buckles).

(E) electronic or paper patient care run reports.

(F) two (2) fire extinguishers; one (1) in the cab of the unit, and one in the patient compartment of the vehicle each mounted in a manner that allows for quick release and is compliant with the ambulance manufactures building standards. Each extinguisher is to be dry powder, ABC, and a minimum of five (5) pounds.

(G) two (2) operable flashlights;

(H) all ambulance equipment and supplies shall be maintained in accordance with sanitation requirements in this Chapter. Additionally, sterility shall be maintained on all sterile packaged items.

(I) digital or strip type thermometer and single use probes.

(J) six (6) instant cold packs.

(K) one (1) length/weight based drug dose chart or tape.

(L) a minimum of two (2) DOT approved reflective vests.

(M) As approved by local medical direction, a child restraint system or equipment for pediatric patients, as provided under the limits of the agency license.

(e) All assessment and medical equipment utilized for patient care will be maintained in accordance with the manufactures guidelines.

Documentation will be maintained at the agency showing that periodic tests, maintenance, and calibration are being conducted in accordance with the manufactures requirements. These types of equipment include, but are not limited to, gurneys or stretchers, suction devices, pulse

oximetry, glucometers, capnography monitors, end-tidal co2 monitors, CPAP/BiPAP devices, ventilators, and blood pressure monitors.

[Source: Amended and renumbered from 310:641-3-47 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-11-13. Specialty care medical control requirement

(a) Each specialty care ambulance service licensed in Oklahoma that initiates and responds to interfacility calls within the state shall have a physician medical director who is a fully licensed, non-restricted Doctor of Medicine (M.D.) or a Doctor of Osteopathy (D.O.) by the State of Oklahoma.

(b) Licensed ambulance services will have a plan or policy that describes how the agency will address a sudden lapse of medical direction, such as a back-up medical director, that is used to ensure coverage when the medical director is not available.

(1) The Department shall be notified the next business day of any lapse or change of medical direction by the respective agency. If the agency has made arrangements for a back-up medical director or an immediate replacement, then a lapse has not occurred.

(2) In the event of a lapse in medical direction; in that, there is no a medical director providing the authority for medical interventions for an agency's certified and licensed personnel, the agency will, pursuant to O.S. Section 63-1-2506:

(A) cease all operations involving patient care, and

(B) implement mutual aid plans to ensure requests for service receive responses until the agency is able to implement their plan or policy for substitution or back-up medical direction.

(c) The medical director shall:

(1) be accessible, knowledgeable, and actively involved in quality assurance and the educational activities of the agency's personnel and supervise a quality assurance (QA) program by either direct involvement or appropriate designation and surveillance of the responsible designee(s). The appointment of a designee does not absolve the medical director of their responsibility of providing oversight.

(2) Provide a written statement to the Department, which includes:

(A) an agreement to provide medical direction and establish treatment protocols and the agency specific scope of practice for all certified and licensed agency personnel;

(B) the physician's primary practice address or home address if the physician does not have a practice, and email address(es);

(C) an OBNDT registrant number or appropriate state equivalent as appropriate;

(D) current Oklahoma medical license;

- (E) appropriate training and experience in the types of patients the service will be transporting. Training may include board training and appropriate certifications or supplemental training;
- (F) the agency's on-line and/or off line specific licensure level medical protocols with medication formulary for patient care techniques. Protocols shall include medication to be used, treatment modalities for patient care procedures, and appropriate security procedures for controlled dangerous substances;
- (G) attendance or demonstrated participation in:
 - (i) medical director training provided by the Department subject to the availability of funding. Verification of attendance or participation will be maintained at the agency; and
 - (ii) one hour of continuing education specific to providing medical oversight to EMS providers and agencies each year, provided by the Department subject to the availability of funding.
- (H) A physician may be the medical director for more than one (1) service.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-14. Specialty care agency sanitation requirements

The following shall apply regarding sanitation standards for all specialty care ambulance services facilities, vehicles, and personnel:

- (1) the interior of the vehicle and the equipment within the vehicle shall be sanitary, secured and maintained in good working order at all times;
- (2) the exterior of the vehicle shall be clean and maintained in good working order to ensure the vehicle can operate safely and in accordance with applicable sections of Title 47 of the Oklahoma Statutes;
- (3) linen shall be changed after each patient is transported; and bagged and stored in an outside or separate compartment;
- (4) clean linen, blankets, washcloths, and hand-towels shall be stored in a closed interior cabinet free of dirt and debris;
- (5) freshly laundered linen or disposable linen shall be used on the cots and pillows and changed between patients;
- (6) pillows and mattresses shall be kept clean and in good repair and any repairs made to pillows, mattresses, and padded seats shall be permanent;
- (7) soiled linen shall be placed in a closed container that deters accidental exposure. Any linen which is suspected of being contaminated with bodily fluids or other potentially hazardous infectious waste shall be placed in appropriately marked or designated closed container for disposal;
- (8) contaminated disposable supplies shall be placed in appropriately marked or designated containers in a manner that

deters accidental exposure.

(9) exterior and interior surfaces of vehicles shall be cleaned routinely;

(10) blankets and hand towels used in any vehicle shall be clean;

(11) implements inserted into the patient's nose or mouth shall be single-service wrapped and properly stored and handled. When multi-use items are utilized, the local health care facilities should be consulted for instructions in sanitation and handling of such items;

(12) when a vehicle has been utilized to transport a patient(s) known to the operator to have a communicable disease the vehicle shall be cleansed and all contact surfaces shall be washed with soap and water and appropriate disinfectant. The vehicle should be placed "out of service" until a thorough cleansing is conducted;

(13) all storage spaces used for storage of linens, equipment, medical supplies, and other supplies at the base station shall be kept clean;

(14) personnel shall be clean, especially hands and fingernails, and well groomed. Clothing worn by personnel shall be clean. The licensee shall provide in each vehicle a means of hand washing for the attendants;

(15) the oxygen humidifier(s) shall be single use;

(16) All medications, supplies, and sterile equipment with expiration dates shall be current;

(17) Expired medications, supplies, and sterile equipment shall be discarded appropriately. Tampering, removing, or altering expiration dates on medications, supplies, and equipment is prohibited;

(18) The station facility, ambulance bays, living quarters, and office areas shall be clean, orderly, and free of safety and health hazards;

(19) Specialty care ambulance vehicles and service facilities shall be free of any evidence of use of lighted or smokeless tobacco products except in designated smoking areas consistent with the provisions of 310:641-1-4.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-11-15. Storage of intravenous solutions

(a) Medication and vascular fluid shall be stored in a manner that complies with manufacturer and FDA standards.

(b) Each agency shall maintain medications in a manner that deters theft and diversion of all medications.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-16. Specialty care service authority to carry controlled substances on a vehicle

(a) An ambulance service, with personnel licensed to utilize such, is hereby authorized to carry a limited supply of controlled substances, secured and stored in a manner that is compliant with State and Federal statutes and regulations. The utilization, procurement, and accountability of such drugs shall be supervised by medical control for the service. An inventory shall be kept and signed according to the requirements of the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD), and the United States Department of Justice Drug Enforcement Administration (DEA). Each responsible medical director shall maintain a copy of their OBNDD certificate to the Department for this purpose.

(b) Any loss or deficiency which occurs in the utilization, procurement, and accountability of controlled substances shall be reported the OBNDD and DEA through their procedures and requirements and to the Department, within ten (10) working days.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-17. Inspections

(a) The Department shall conduct unannounced inspections of every licensed specialty care ambulance service. Inspection may include a review of any requirements of the Act and rules promulgated thereunder. The Department may require copies of such records as deemed necessary consistent with the files section of this sub chapter.

(b) All inspection reports will be sent to the agency director, license owner, and medical director.

(c) A representative of the agency will be with the Department employee during the inspection.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-18. Specialty care notice of violation

(a) A violation of the Act or this Chapter is ground for the Department to issue a written order, sent via certified mail, citing the violation, affording the agency an opportunity to demonstrate compliance, and indicating the time no less than fifteen (15) days after receipt of the notice in which any needed correction shall be made. The fifteen-day notice period may be reduced as, in the opinion of the Department, may be necessary to render an order of compliance reasonably effectual.

(b) Unless the Department specifies a reduced period, within thirty (30) days after receipt of the notice of violation, the agency shall submit to the Department a written demonstration of compliance and/or plan of correction.

(c) A plan of correction shall include at least the following:

- (1) When the correction was or will be completed;
- (2) How the correction was or will be made;
- (3) What measures will prevent a recurrence; and
- (4) Who will be accountable to ensure future compliance.

(d) The Department shall ensure that the agency is afforded due process in accordance with the Procedures of the State Department of Health, Oklahoma Administrative Code, Title 310, Chapter 2, and the

Administrative Procedures Act, Title 75 O.S. Section 250 et seq.
(e) Violations found by the Department which require immediate correction shall be handled in compliance with Title 75 of the Oklahoma Statutes, Section 314.1 and the Oklahoma Administrative Code, Title 310, Chapter 2, specifically 310:2-21-23.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-19. Emergency medical services regions

(a) Regions established pursuant to Section 1-2503 (21) and (22) of Title 63 shall not be recognized without Department approval for this purpose. Pursuant to Title 74, O.S., Section 1006, of the "Interlocal Cooperation Act" (relating to Approval of Agreements), the Department shall exercise authority granted to approve or disapprove all matters within its jurisdiction, in addition to and in substitution for the requirement of submission to and approval by the Attorney General.

(b) The Department shall recognize regions which comply with the law and this Chapter.

(c) Any regional emergency medical services system shall provide the name of the regional medical director, copies of regional standards, rules, and transport protocols established for the regional emergency medical services system to the Department.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-20. Operational protocols

(a) Authorized emergency vehicles of licensed ambulance services shall adhere to the requirements of Title 47 O.S. Section 1-101 et seq. ("Motor Vehicle Code") for all vehicle operations.

(b) When a facility requests a specialty care transport, the specialty care agency will provide an accurate estimated time of arrival and ensure the patient needs will be able to be met for the service being requested.

(c) Mutual aid plan(s), regarding interfacility transports only, with licensed services shall be developed and placed in the agency files for inspection. Plans will be periodically reviewed to ensure accuracy and completeness. Licensed specialty care agencies shall provide mutual aid, if the agency has the capability and if the requested activity is within the licensure requirements.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-11-21. Transfer protocols

(a) As the specialty care license is limited to interfacility transfers only for specific patients, the agency shall designate as part of their protocols, the destinations to which the agency will transport to, and which facilities are within a reasonable distance.

(b) All specialty care agencies transferring patients from hospitals outside regions seven and eight to hospitals in those regions shall contact the Department approved referral center in accordance with the regional and state plans. The center shall maintain a record of the

transfers for regional continuous quality improvement activities.

(c) Each patient or legal guardian of a patient has the right to refuse treatment or transportation from a specialty care agency.

(d) Each specialty care agency shall ensure that the care of each patient is transferred appropriately to the receiving facility's licensed staff. The transfer of care will include verbal and written reports summarizing the assessment and treatment of the patient by the ambulance service.

(e) All specialty care agencies are required to participate in the regional and statewide systems established through statute and administered by the Department to ensure patients are transported to the appropriate facility in a timely manner to receive appropriate care.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-22. Specialty care ambulance service records and files

(a) All required records for licensure will be maintained for a minimum of three (3) years.

(b) Each licensed specialty care ambulance service shall maintain electronic or paper records about the operation, maintenance, and such other required documents at the business office. These files shall be available for review by the Department during normal work hours. Files which shall be maintained include the following:

(1) Patient care records:

(A) at the time a patient is transported to a receiving facility, the following information will be, at a minimum provided to the facility staff members at the time the patient is accepted:

(i) personal information such as name, date of birth, and address;

(ii) patient assessment with medical history;

(iii) medical interventions and patient responses to interventions;

(iv) any known allergies; and

(v) other information from the medical history that would impact the patient outcomes if not immediately provided.

(B) A signature of the receiving facility health care staff member will be obtained to show the above information and the patient were received.

(2) A complete copy of the patient care report shall be sent to the receiving facility within twenty-four (24) hours of the hospital receiving the patient.

(3) Completed patient care reports shall contain demographic, administrative, legal, medical, community health, and patient care information required by the Department through the OKEMSIS Data Dictionary.

(4) All run reports and patient care information shall be considered confidential.

(c) All licensed agencies shall maintain electronic or paper records on the maintenance, and regular inspections of each vehicle.

- (1) Each vehicle must be inspected and a detailed equipment checklist completed after each call, or on a daily basis, whichever is less frequent, and
 - (2) documentation that shows routine vehicle maintenance for each vehicle as required by vehicle manufacture recommendations,
- (d) All licensed agencies shall maintain a licensure or credential file for licensed and certified emergency medical personnel employed by or associated with the service to include:
 - (1) Oklahoma license and certification,
 - (2) Basic Life Support certification, or documentation of BLS cognitive objectives and psychomotor skills that meets or exceeds American Heart Association standards, and approved by the medical director;
 - (3) Advanced Cardiac Life Support certification or documentation of BLS cognitive objectives and psychomotor skills that meets or exceeds American Heart Association Standards, as approved by the medical director if applicable for the license level,
 - (4) Incident Command System or National Incident Management Systems training at the 100, 200, and 700 levels or their equivalent,
 - (5) verification of an Emergency Vehicle Operations Course or other agency approved defensive driving course,
 - (6) contain a list or other credentialing document that defines or describes the medical director authorized procedures, equipment, and medications for each certified or licensed member employed or associated with the agency, and
 - (7) a copy of the medical director credentials will be maintained at the agency.
- (e) The electronic or paper copies of the licenses and credentials described in this section shall be kept separate from other personnel records to ensure confidentiality of records that do not pertain to the documents relating to patient care.
- (f) Copies of staffing patterns, schedules, or staffing reports which indicate the ambulance service is maintaining twenty four (24) hour coverage at the highest level of license;
- (g) Copies of in-service training and continuing education records.
- (h) Copies of the ambulance service:
 - (1) operational policies, guidelines, or employee handbook;
 - (2) a list of the patient care equipment that is carried on any "Class E" unit(s) will be part of the standard operating procedure or guideline manual,
 - (3) medical protocols; and
 - (4) OSHA and/or Department of Labor exposure plan, policies, or guidelines.
- (i) A log of each request for service received and/or initiated, to include the:
 - (1) disposition of the request and the reason for declining the request if applicable,
 - (2) patient care report number,
 - (3) date of request,

- (4) patient care report times as required in the OKEMSIS Data Dictionary,
- (5) location of the incident, and
- (6) nature of the call.
- (j) Documentation that verifies an ongoing, physician involved quality assurance program.
- (k) Such other documents which may be determined necessary by the Department. Such documents can only be required after a thorough, reasonable, and appropriate notification by the Department to the services and agencies.
- (l) The standardized data set and an electronic submission standard for EMS data as developed by the Department shall be mandatory for each licensed ambulance service. Reports of the EMS data standard shall be forwarded to the Department by the last business day of the following month. Exceptions to the monthly reporting requirements shall be granted only by the Department, in writing.
- (m) Review and the disclosure of information contained in the ambulance service files shall be confidential, except for information which pertains to the requirements for license, certification, or investigation issued by the Department.
- (n) Department representatives shall have prompt access to files, records, and property as necessary to appropriately survey the provider. Refusal to allow access by representatives of Department to records, equipment, or property may result in summary suspension of licensure by the Commissioner of Health.
- (o) All information submitted and/or maintained in files for review shall be accurate and consistent with Department requirements.
- (p) A representative of the agency will be present during the record review.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-11-23. Sole source ordinances

- (a) A specialty care ambulance service which operates as a sole source provider established by EMS regions, ambulance service districts or municipalities shall file with the Department a copy of the ordinance or regulation and a copy of the contract to operate as a sole source provider. This requirement shall be retroactive and includes all established sole source ambulance services.
- (b) A specialty care ambulance service which operates as a sole source provider for a "region" as established pursuant to the Oklahoma Interlocal Cooperation Act (Title 74, Section 1001, et seq.), shall file with the Department a copy of the interlocal agreement and any ordinance or other regulations or contract or agreement established by the region for ambulance service provision.
- (c) Violation of contracts established herein may be cause for enforcement action by the Department.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-11-24. Suspension, revocation, probation, or non-renewal of a licensee

(a) The Department may suspend or revoke a license and/or fine or place on probation a license or licensee for the following:

- (1) violations of any of the provision of the Oklahoma Statutes, the Act or this chapter;
- (2) permitting, aiding or abetting in any illegal act in connection with the ambulance service;
- (3) conduct of any practice that is detrimental to the welfare of the patient or potential users of the service;
- (4) placing a vehicle into service before it is properly inspected, approved, and permitted by the Department;
- (5) failure to comply with a written order issued by the Department within the time frame specified by the Department;
- (6) engaging in any act which is designed or intended to hinder, impede, or obstruct the investigation of any matter governed by the Act or by any lawful authority;
- (7) an ambulance service who fails to renew their Oklahoma license within the time frame and other requirements as specified in these rules shall be considered an expired or lapsed licensee and therefore no longer licensed as an ambulance service in the State of Oklahoma;
- (8) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;
- (9) offering, giving, promising anything of value or benefit, as defined in Oklahoma Statutes or Department Policy to a Federal, state, or local governmental official for the purpose of influencing the employee or official to circumvent a Federal, state, or local law, rule, or ordinance governing the licensee's profession or occupations;
- (10) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;
- (11) failure to report the unprofessional conduct or non-compliance of regulations by individually licensed and certified personnel as defined in this this Chapter.

(b) No person, company, governmental entity or trust authority may operate an ambulance service or emergency medical response agency except in accordance with the Act and the rules as promulgated by the State Board. The Commissioner, District Attorney of the county wherein a violation occurs, or the Attorney General of this State, shall have the authority to enforce provisions of the law.

(c) A license/certificate/permit holder or applicant, in connection with a license application or an investigation conducted by the Department

pursuant to this rule shall not:

- (1) knowingly make a false statement of material fact;
 - (2) fail to disclose a fact necessary to correct a misapprehension known by the licensee to have arisen in the application or the matter under investigation; or
 - (3) fail to respond to a demand for information made by the Department or any designated representative thereof.
- (d) If in the course of an investigation the Department determines that a license/certificate/permit holder or applicant has engaged in conduct that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the license/certificate/permit holder's license, certificate, or permit respectively.
- (e) In addition to any other penalties, a civil fine of not more than one hundred (\$100.00) dollars per violation per day may be assessed, for violations of the Act or OAC 310:641.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

SUBCHAPTER 13. AIR AMBULANCE SERVICE

310:641-13-1. Purpose

The purpose of this Subchapter is to:

- (1) incorporate the authorization, licensure, and minimum requirements for operating a fixed wing or rotor wing Air Ambulance Service, and
- (2) provide standards for the enforcement of the provisions of the Act and this Chapter.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-2. License required [REVOKED]

[Source: Amended and renumbered from 310:641-3-30 at 33 Ok Reg 1529, eff 9-11-16 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-13-3. Issuance of an air ambulance license

- (a) The Department shall have sole discretion to approve or deny an application for an air ambulance service license based on the ability of the applicant to meet the requirements of this Chapter.
- (b) Any air ambulance service licensed prior to the effective date of these amendments to this Chapter shall remain in effect for the period of license issuance, except that all such air ambulance services shall be subject to the Act and rules which otherwise pertain including the requirement for renewal. At renewal, the agency must be fully compliant with all applicable regulations within this Chapter of regulation.
- (c) The license is not transferable or assignable.

(d) A air ambulance license may be issued for Paramedic life support or for Specialty Care.

(1) Paramedic life support means that the air ambulance vehicles are equipped with the minimum Paramedic equipment and staffed with at least one Paramedic on each request for service and may respond to both pre-hospital requests and interfacility transfers.

(2) Specialty care means the air ambulance service vehicles are equipped with the appropriate equipment and staff for each request for interfacility transfers within their licensure limits.

(3) Air ambulances providing Paramedic and Specialty care services are required to have both types of licenses.

(4) Air ambulances providing specialty care shall meet or exceed specialty care regulations as well as air ambulance regulations.

(e) The initial license period shall expire the second June 30 following the date of issue. Subsequent renewal periods shall be twenty-four (24) months, or two (2) years.

(f) The original, or a copy of the original, license shall be posted in a conspicuous place in the principal business office. If an office or other public place is not available, then the license shall be available to anyone requesting to see the license during regular business hours.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-4. Renewal of an air ambulance license

(a) The Department shall provide to all air ambulance services a "Survey/Renewal Form" in December each year. This form shall be considered and utilized as a renewal application if due. The "Survey/Renewal Form" along with proof of current workers' compensation and liability insurance shall be returned to the Department by January 31st each year.

(1) Upon receipt of a complete and correct renewal application, a renewal fee statement shall be mailed by the Department to each licensee in need of renewal.

(2) A non-refundable fee for the renewal of an specialty care air ambulance service license shall be one hundred dollars (\$100.00), fifty dollars (\$50.00) for each substation, plus twenty dollars (\$20.00) for each vehicle in excess of two (2).

(3) An air ambulance service license shall be renewed if:

(A) the air ambulance service has applied for such renewal;

(B) the air ambulance service has no outstanding deficiencies or is not in need of correction as may be identified during inspection of the service, and;

(C) The proper fee has been received by the Department.

(b) An ambulance service license, if not renewed by midnight June 30 of the expiration year shall be considered non-renewed.

(1) A grace period of thirty (30) days is permitted under 63 O.S. Section 1-1702.

(2) Thereafter a new application shall be required for the continuation of any such license, and the applicant shall be

subject to initial application procedures. An extension may be granted by the Department for the purpose of renewal subject to a determination by the Department of the following:

- (A) The safety, need, and well-being of the public and general populace to be served by the ambulance service; and
- (B) The availability of personnel, equipment, and the financial ability of the applicant to meet the minimum standards of emergency medical services law.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-5. Denial for an initial license

(a) An air ambulance license application may be denied for any of the following reasons:

- (1) A felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation, or the person designated to supervise the service; to include, but not be limited to, fraud, grand larceny, child abuse, sexual offense(s), drug offense(s), or a conviction which might otherwise have a bearing on the operation of the service;
- (2) Falsification of Department required information;
- (3) Ownership, management, or administration by principals of an entity whose license has been revoked; and
- (4) Licensure may not be in the best interest of the public as determined by the Department.

(b) An applicant shall be notified in writing within sixty (60) days from the date the Department receives a complete application of the granting or denial of a license. In the event of a denial, the specific reason(s) shall be noted, and an indication of the corrective action necessary to obtain a license or renewal shall be given if applicable. A license application may be re-submitted, but each resubmission shall be considered an initial application.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-6. Denial of an air ambulance application for renewal

(a) Any air ambulance license application for renewal may be denied for any of the following:

- (1) the failure to meet standards set forth by statute or rule,
- (2) a felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation, or the person designated to manage the service to include, but not limited to fraud, grand larceny, child abuse, sexual offense(s), or a conviction, adjudication, or plea of guilty or nolo contendere which might otherwise have a bearing on the operation of the service,
- (3) outstanding notice of violation that has not been addressed with an acceptable plan of correction,
- (4) insufficient financial resources,

- (5) falsification of Department required information,
 - (6) ownership, management, or administration by principals of an entity whose ambulance service license has been revoked,
 - (7) re-licensure may not be in the best interest of the public as determined by the Department,
- (b) An applicant shall be notified in writing within sixty (60) days from the date the Department receives a complete renewal application of the granting or denial of a renewed license. In the event of a denial, the specific reason(s) shall be noted, and an indication of the corrective action necessary to obtain a renewed license shall be given, if applicable. A license application may be resubmitted, but each re-submission shall be considered an initial application.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-7. Severance of action, amendment, and re-instatement

- (a) The issuance or renewal of a license after notice of a violation(s) has been given shall not constitute a waiver by the Department of its power to rely on the violation(s) for subsequent license revocation or other enforcement action which may arise out of the notice of violation(s).
- (b) Any change in the name of the service, level, service area, or addition or removal of substation shall necessitate an application to amend the license and shall be accompanied by a fee of one hundred dollars (\$100.00).
- (c) Changing or moving the location of a substation requires written notification to the Department.
- (d) If an existing license is placed on probation or suspension, a fee of one hundred (\$100.00) dollars, in addition to any other provision of the action, shall be submitted prior to re-instatement of the license to full privilege.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-8. Air ambulance medical staffing

- (a) Each air ambulance flight originating in Oklahoma shall have, as a minimum, one of the following aeromedical crew member attending the patient:
- (1) a physician licensed to practice in the State of Oklahoma. This crew member should at a minimum be competent in the principles supported in Advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS), Pediatric Education for the Prehospital Professional (PEPP), Advanced Trauma Life Support (ATLS), altitude physiology, and on-board treatment modalities.
 - (2) a registered nurse licensed to practice in the State of Oklahoma. This crew member should at a minimum be competent in clinical principles of care related to critical care modalities, such as obstetrics, neonatology, pediatrics, burns, cardiology, neurosurgery, toxicology and infectious disease specialties, the principles of ATLS, altitude physiology, training appropriate to

mission profile, and aviation communications.

(3) a Paramedic licensed to practice in the State of Oklahoma.

This crew member should at a minimum be competent in altitude physiology, ACLS, PALS, PEPP and Pre-hospital Trauma Life Support (PHTLS) or equivalent as approved by the Department.

(b) Aeromedical crew members are required to participate in continuing education training for, but not limited to, the following: altitude physiology, emergency medical services and aviation communications, use of patient care equipment, protocol and procedure review and legal aspects of air transportation.

(1) Didactic continuing education shall include an annual review of:

- (A) hazardous materials recognition and response.
- (B) human factors - crew resource management
- (C) infection control
- (D) State EMS rules regarding ground and air transport.
- (E) Stress recognition and management.

(2) Appropriate continuing education shall be developed and documented on an annual basis and must include:

- (A) critical care (adult, pediatric, neonatal).
- (B) emergency / trauma care.
- (C) invasive procedure labs.
- (D) emergency obstetrics
- (E) prehospital scene transports.

(c) Scene or pre-hospital transports of air ambulance service shall have as a minimum, one aeromedical crew member licensed as a Paramedic.

[Source: Amended and renumbered from 310:641-3-34 at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-9. Air ambulance vehicle

(a) An air ambulance vehicle (aircraft) may be fixed wing, single or multi-engine, or rotary wing, single or multi-engine.

(b) Operations of the aircraft shall be under the appropriate provisions of the Federal Aviation Regulations (FAR) within 14 CFR, Part 1 et seq.

(c) The interior of the patient compartment of their aircraft shall have the capability of being climate controlled to avoid adverse effects on patients and medical personnel on board by a means other than flight operations and flying to an altitude.

(d) The aircraft design and configuration shall not compromise patient stability in loading, unloading or in-flight operations.

(1) The aircraft shall have an entry that allows loading and unloading without excessive maneuvering (no more than 45 degrees about the lateral axis and 30 degrees about the longitudinal axis) of the patient, and does not compromise functioning of monitoring systems, intravenous lines, and manual or mechanical ventilation.

(2) A minimum of one stretcher shall be provided that can be carried to the patient.

(3) Aircraft stretchers and the means of securing it in-flight must be consistent with FAR's.

(4) The type and model of stretcher indicates the maximum gross weight allowed (inclusive of patient and equipment) as labeled on the stretcher.

(5) The stretcher shall be large enough to carry an American adult male.

(6) The stretcher shall be sturdy and rigid enough that it can support cardiopulmonary resuscitation. If a backboard or equivalent device is required to achieve this, such device will be readily available.

(7) The head of the stretcher is capable of being elevated at least 30 degrees for patient care and comfort.

(8) If the ambulance stretcher is floor supported by its own wheels, there is a mechanism to secure it in position under all conditions. These restraints permit quick attachment and detachment for patient transfer.

(e) Patients transported by air will be restrained with a minimum of three straps, including shoulder straps that must comply with FAA regulations. The following additional requirements shall apply to achieve patient stability.

(1) Patients less than 60 pounds (27kg) shall be provided with an appropriately sized restraining device (for patient's height and weight) which is further secured by a locking device. All patients less than 40 pounds must be secured in a five-point safety strap device that allows good access to the patient from all sides and permits the patient's head to be raised at least 30 degrees. Velcro straps are not encouraged for use on pediatric devices.

(2) If a car seat is used, it shall have an FAA approved sticker.

(3) There shall be some type of restraining device within the isolette to protect the infant in the event of air turbulence.

(f) A Supplemental lighting system shall be installed in the aircraft in which standard lighting is insufficient for patient care and a self-contained lighting system powered by a battery pack or portable light with a battery source must be available.

(g) Medical transport personnel shall be able to determine if medical oxygen is on the patient care area.

(1) Each gas outlet shall be clearly marked for identification.

(2) Oxygen flow shall be capable of being started and stopped at or near the oxygen source from inside the aircraft.

(3) The following indicators shall be accessible to medical transport personnel while en route:

(A) Quantity of oxygen remaining.

(B) Measurement of liter flow.

(h) A variety of medical oxygen delivery devices consistent with the service's medical protocols shall be available.

(i) An appropriately secured portable medical oxygen tank with a delivery device shall be carried on the aircraft. Portable medical oxygen tank may not be secured between patient's legs while the aircraft is in motion.

(j) There shall be a back-up source of medical oxygen sufficient to allow completion of the transport in the event the main system fails. For air transports, this back-up source can be the required portable tank as long as the portable tank is accessible in the patient care area during flight.

- (k) Storage of oxygen shall comply with applicable OSHA standards within 29 CFR, Part 19 D.
- (l) Oxygen flow meters and outlets shall be located to prevent injury to medical transport personnel to the extent possible.
- (m) In the event the licensee will be utilizing a substitute aircraft not previously permitted by the Department for a period of more than five (5) days, the licensee shall notify the Department to have the aircraft inspected and permitted by the Department.
- (1) Licensees with a substitute aircraft utilized for periods of five (5) days or less, the licensee shall complete an agency specific equipment log documenting the transfer of all required equipment onto the substitute aircraft at the time of transfer.
 - (2) The agency will maintain documentation of the transfer in accordance with 310:641-13-21 Air ambulance service records and files.
- (n) Any vehicle initially placed in service after a purchase, lease, contract and/or refurbish shall be inspected, approved, and permitted by the Department as detailed within this section of 310:641 Subchapter 13.

[Source: Amended and renumbered from 310:641-3-32 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-13-10. Air ambulance equipment

- (a) Medical control shall determine the patient's needs and level of care required when deciding what equipment shall be aboard each flight and the type of aircraft required for transport. Equipment kits, cases and/or packs which are carried on any given flight shall be available for the following categories: trauma, cardiac, burn, toxicologic, pediatric, neonatal, and obstetrics.
- (b) controlled substances shall be in a locked system and kept in a manner consistent with Federal and States requirements and applicable sections of this Chapter.
- (c) storage of medications shall allow for protection from extreme temperature changes if environment deems it necessary.
- (d) The following medical equipment shall be required to be on board every aircraft certified by the Department for air medical services:
- (1) readily available IV supplies and fluids, readily available;
 - (2) hangers or hooks to secure IV solutions in place and equipment to provide high flow fluids if needed. Glass IV containers shall not be used unless required by specific medications and properly secured;
 - (3) a minimum of three (3) IV infusion pumps immediately available for critical care transports;
 - (4) accessible medications, consistent with the service's medical protocols;
 - (5) a cardiac monitor, defibrillator and external pacemaker shall be secured and positioned so that displays are visible. Two (2) extra batteries or a power source shall be available for cardiac monitor / defibrillator or external pacemaker (adult and pediatric);

- (6) laryngoscope and tracheal intubation supplies, to include laryngoscope blades, bag-valve-mask, and oxygen supplies, including PEEP valves; appropriate for ages and potential needs of patient transported;
- (7) a mechanical ventilator appropriate for critical care transports;
- (8) two (2) suction units, one of which is portable and both of which are capable of delivering adequate suction to clear the airway with wide bore (1/4") tubing and rigid and soft suction catheters for adults, children, and infants;
- (9) pulse oximetry with adult and pediatric capability;
- (10) continuous waveform capnography monitoring capabilities and equipment;
- (11) automatic blood pressure device;
- (12) devices for decompressing a pneumothorax and performing an emergency cricothyroidotomy;
- (13) doppler stethoscope;
- (14) continuous/bi level positive airway pressure device as allowed by protocol; and
- (15) arterial line blood pressure monitoring as allowed by protocol.

(e) All medical equipment (including specialized equipment) and supplies shall be secured according to FAR's.

(f) All assessment and medical equipment utilized for patient care will be maintained in accordance with the manufacturer's guidelines.

Documentation will be maintained by the agency, and made available to the Department upon request, showing the periodic tests, maintenance, and calibration are being conducted in accordance with manufacturer's requirements. Equipment shall include, but not be limited to, stretcher or gurney, suction devices, pulse oximetry, glucometers, end-tidal CO₂, and capnography monitors, CPAP/BiPAP devices, ventilators, and blood pressure monitors.

[Source: Amended and renumbered from 310:641-3-33 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-13-11. Air medical director

(a) An air medical director shall be a physician, fully licensed to practice in the State of Oklahoma, with a background in flight medicine, pre-hospital and/or emergency medicine. The physician shall know the aircraft limitations for in-flight patient care.

(b) An air ambulance service based in another state may have as its air medical director a physician who is not licensed to practice in the State of Oklahoma but is fully licensed in good standing in the home state of the air ambulance service. The air medical director shall meet all other qualifications listed in this subchapter.

(c) Licensed air ambulance services will have a plan or policy describing how the agency will address a sudden lapse of medical direction, such as a back-up medical director, that is used to ensure coverage when a physician is not available.

(d) The Department shall be notified the next business day of any lapse or change of medical direction by air ambulance service. If the agency has made arrangements for a back-up medical director or an immediate replacement, then no lapse has occurred.

(e) In the event of a lapse in medical direction, in that, there is not a medical director providing the authority for the agency's licensed personnel, the agency will, pursuant to 63 O.S. Section 1-2506, relating to the medical authority to perform medical procedures

- (1) cease all operations involving patient care,
- (2) implement mutual aid plans to ensure requests for service receive responses until the agency is able to implement their plan or policy for a substitute or back-up medical director.

(f) The air ambulance service medical director shall:

- (1) Attend or demonstrate participation in:
 - (A) medical director training provided by the Department subject to the availability of funding. Verification of attendance or participation will be maintained at the agency;
 - (B) one hour of continuing education specific to providing medical oversight to EMS providers and agencies each year, provided by the Department subject to the availability of funding.

(2) demonstrate appropriate training and experience in adult and pediatric emergency medical services, which may include pediatric, adult, and trauma life support courses or equivalency. Training and experience may also include appropriate board training.

(3) be accessible, knowledgeable, and actively involved in quality assurance and the educational activities of the agency's personnel and supervise a quality assurance (QA) program by either direct involvement or appropriate designation and surveillance of the responsible designee(s). The appointment of a designee does not absolve the medical director of their responsibility for providing oversight.

(4) Each air ambulance quality assurance policy shall include, but not be limited to:

- (A) patient care interventions to ensure appropriate patient care,
- (B) policy to review air ambulance utilization,
- (C) policy to review airway management,
- (D) policy to review cardiac arrest management,
- (E) other reports not specifically identified,
- (F) a process to prove internal and external feedback of quality assurance findings.

(5) Provide a written statement to the Department, which includes:

- (A) an agreement to provide medical direction and establish treatment protocols and the agency specific scope of practice for all certified and licensed agency personnel;

- (B) the physician's primary practice address or home address if the physician does not have a practice, and email address(es);
- (C) an OBNDD registrant number or appropriate state equivalent, as appropriate;
- (D) current Oklahoma medical license;
- (E) demonstrate appropriate training and experience in the types of patients the service will be transporting. Demonstrated training may include board training and appropriate certifications or supplemental training.
- (F) Develop on-line and off-line specific medical protocols with medication formulary for patientcare techniques. Protocols shall include medication to be used, treatment modalities for patient care procedures, and appropriate security procedures for controlled dangerous substances;
- (g) A physician may be the medical director for more than one (1) service.

[Source: Amended and renumbered from 310:641-3-35 at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-12. Operational protocols

- (a) Air ambulance medical services shall be maintained to provide medical treatment, stability, and transportation to ambulance patients within the capability and capacity of the medical crew and aircraft.
- (b) Patient related policies and procedures will be maintained at the agency. Documentation reflecting crew training on policies and procedures shall be maintained.
- (c) A written policy shall be utilized for rapid patient loading and unloading if practiced.
- (d) A written protocol shall be developed and in place to address the combative patient.
 - (1) Physical and/or chemical restraints shall be available and used for combative patients who potentially endanger himself, the personnel or the aircraft.
 - (2) The written protocol shall address refusal to transport patients, family members or others who may be considered a threat to the safety of the transport personnel.
- (e) A list of contaminated materials, which could pose a threat to the medical transport team or render transport inappropriate, shall be readily available.
- (f) The LZ or aircraft operational area shall be a safe distance to avoid any downwind danger when approaching or departing.
- (g) Each air ambulance service shall have a policy regarding patient screening and under what conditions a request for service would be declined or not accepted.
- (h) Air ambulance services are not required to meet the duty to act statutory requirements or have 24/7 resource availability.
- (i) Air ambulances shall operate within a statewide emergency medical response system coordinating pre-hospital and interfacility responses with the appropriate local emergency resources through:

- (1) the use of the state designated resource status reporting and communication tool to show near real- time availability by using global positioning satellite systems to show where aircraft are located at the time of the request, and
 - (2) coordination with ground personnel to ensure the timeliest response to the patient via radio or telephone contact.
- (j) Air medical utilization protocols shall be developed and submitted to the Department for review and approval.

[Source: Amended and renumbered from 310:641-3-36 at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-13. Communications

(a) All air ambulance aircraft shall have radio capability to communicate air to ground, air to air, and ground to air. The aircraft communication system will include two-way communications:

- (1) with physician(s) who are responsible for directing patient care in transit, and
- (2) with ground personnel who coordinate the transfer of the patient by surface transportation.

(b) The aircraft shall:

- (1) have the capability to communicate between the medical attendant and pilot, and
- (2) be in compliance with the Oklahoma State Interoperability Governing Body, and provide documentation that the aircraft can communicate with hospitals utilizing VHF frequency 155.3400.

(c) All communications equipment used for transmitting patient care information shall be maintained in full operating condition and in good repair. Ambulance communications equipment shall be capable of transmitting and receiving clear and understandable voice communications to and from the base station at a reasonable distance. Radios on aircraft shall be capable of transmitting and receiving the following traffic:

- (1) Medical direction.
- (2) Communication Center.
- (3) EMS and law enforcement agencies.

(d) The medical team shall be able to communicate with each other during flight.

(e) A communication specialist shall be assigned to receive and coordinate all requests for the medical transport service. Training of the designated person shall be commensurate with the scope of responsibility and include:

- (1) EMT certification, or the equivalent in knowledge or experience which minimally includes:
- (2) medical terminology,
- (3) knowledge of EMS - roles and responsibilities of the various levels of training,
- (4) state and local regulations regarding EMS,
- (5) familiarization with equipment used in the field setting,
- (6) knowledge of Oklahoma State EMS Rules,
- (7) types of radio frequency bands used in EMS systems,

- (8) a knowledge of the hazardous materials response and recognition procedure using appropriate reference materials, and
 - (9) stress recognition and management.
- (f) Aircraft shall communicate, when possible, with ground units securing unprepared landing sites prior to landing.
- (g) A record of contact shall include, but not be limited to:
 - (1) time of call;
 - (2) name and phone number of requesting agency;
 - (3) age, diagnosis or mechanism of injury;
 - (4) referring and receiving physician and facilities (for interfacility requests); as per policy of the medical transport service.
 - (5) verification of acceptance of patient and verification of bed availability by referring physician and facility.
 - (6) destination airport, refueling stops (if necessary) location of transportation exchange and hours of operation;
 - (7) ground transportation coordination at sending and receiving areas;
 - (8) time of dispatch (time crew notified flight is a go approved, post pilot OK's flight approval);
 - (9) time depart base (time of lift-off or other site);
 - (10) number and names of persons on board;
 - (11) amount of fuel on board;
 - (12) estimated time of arrival (ETA);
 - (13) pertinent landing zone information;
 - (14) time arrive location;
 - (15) time helicopter arrives at landing zone or helipad;
 - (16) time depart location;
 - (17) time helicopter lifts off from landing zone or helipad;
 - (18) time arrive destination;
 - (19) time depart destination;
 - (20) time arrive base; and
 - (21) time aborted.
- (h) The communication center shall contain the following:
 - (1) At least one dedicated phone line for the medical transport service;
 - (2) A system for recording all incoming and outgoing telephone and radio transmissions regarding patient care with time recording and playback capabilities. Recordings are to be kept for three (3) years.
 - (3) capability to immediately notify the medical transport team and on-line medical direction (through radio, pager, telephone, etc.);
 - (4) a status board with information about pre-scheduled flights/patient transports, the medical transport team on duty, weather, and maintenance status;
 - (5) aircraft service area maps and navigation charts shall be readily available.
- (i) Each air ambulance service shall have in place a protocol to insure no delay in aircraft response.

- (1) The air ambulance service shall provide to the caller a point of origin and an accurate ETA.
- (2) In such cases where a delay is anticipated, the air ambulance service called has a responsibility to notify the caller and assist in referral to another licensed ambulance service.
- (j) The air ambulance service shall be integrated with and communicate with other public safety agencies, including ground emergency service providers. This shall include participation in regional quality improvement reviews, regional disaster planning, and mass casualty incident drills to include an integrated response to terrorist events.
- (k) Air ambulances will provide to ground agencies and receiving facilities post event reviews, feedback, or information for the purposes of improving performance or safety.

[Source: Amended and renumbered from 310:641-3-37 at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-14. Air ambulance sanitation requirements

The following shall apply regarding sanitation standards for all air ambulance services facilities, vehicles, and personnel:

- (1) the interior of the vehicle and the equipment within the vehicle shall be sanitary and maintained in good working order at all times;
- (2) linen shall be changed after each patient is transported and bagged and stored in an outside or separate compartment;
- (3) clean linen, blankets, washcloths, and hand-towels shall be stored in a closed interior cabinet free of dirt and debris,
- (4) freshly laundered linen or disposable linen shall be used on the cots and pillows and changed between patients;
- (5) pillows and mattresses shall be kept clean and in good repair and any repairs made to pillows, mattresses, and padded seats shall be permanent;
- (6) soiled linen shall be placed in a container that deters accidental exposure. Any linen which is suspected of being contaminated with bodily fluids or other potentially hazardous infectious waste shall be placed in an appropriately marked closed container disposal;
- (7) contaminated disposable supplies shall be placed in an appropriately marked or designated container in a manner that deters accidental exposure;
- (8) interior surfaces of vehicles shall be cleaned routinely;
- (9) blankets and hand towels used in any vehicle shall be clean;
- (10) implements inserted into the patient's nose or mouth shall be single-service wrapped and properly stored and handled. When multi-use items are utilized, the local health care facilities should be consulted for instructions in sanitation and handling of such items;
- (11) when a vehicle has been utilized to transport a patient(s) known to the operator to have a communicable disease the vehicle shall be cleansed and all contact surfaces shall be washed with soap and water and appropriate disinfectant. The vehicle

should be placed "out of service" until a thorough cleansing is conducted, and;

(12) all storage spaces used for storage of linens, equipment, medical supplies, and other supplies at the base station shall be kept clean;

(13) personnel shall be clean, especially hands and fingernails, and well groomed. Clothing worn by personnel shall be clean. The licensee shall provide in each vehicle a means of hand washing for the attendants;

(14) the oxygen humidifier(s) shall be single use;

(15) all medications, supplies, and sterile equipment with expiration dates shall be current;

(16) expired medications, supplies, and sterile equipment shall be discarded appropriately. Tampering, removing, or altering expiration dates on medications, supplies, and equipment is prohibited;

(17) the station facility, ambulance bays, living quarters, and office areas shall be clean, orderly, and free of safety and health hazards;

(18) air ambulance vehicles and service facilities shall be free of any evidence of use of lighted or smokeless tobacco products except in designated smoking areas, consistent with the provisions of 310:641-1-4.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-15. Storage of intravenous solutions

- (a) Medication and vascular fluid shall be stored in a manner that complies with manufacturer and FDA standards.
- (b) Each agency shall maintain medications in a manner that deters theft and diversion of all medications.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-16. Air ambulance service authority to carry controlled substances on a vehicle

(a) An air ambulance service, with personnel licensed to utilize such, is hereby authorized to carry a limited supply of controlled substances secured and stored in a manner that is compliant with State and Federal statutes and regulations. The utilization, procurement, and accountability of such drugs shall be supervised by medical control for the service. An inventory shall be kept and signed according to the requirement of the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) and the United States Department of Justice Drug Enforcement Administration (DEA). Each responsible medical director shall maintain a copy of their OBNDD certificate to the Department for this purpose.

(b) Any loss or deficiency which occurs in the utilization, procurement, and accountability of controlled substances shall be reported the OBNDD and DEA through their procedures and requirements and to the Department within ten (10) working days.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-17. Air ambulance inspections

(a) The Department shall conduct unannounced inspections of every licensed air ambulance service. Inspection may include a review of any requirements of the Act and rules promulgated thereunder. The Department may require copies of such records as deemed necessary consistent with the files section of this sub chapter.

(b) All inspection reports will be sent to the agency director, license owner, and medical director.

(c) A representative of the agency will be with the Department employee during the inspection.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-18. Air ambulance notice of violation

(a) A violation of the Act or this Chapter is ground for the Department to issue a written order, sent via certified mail, citing the violation, affording the air ambulance an opportunity to demonstrate compliance, and indicating the time no less than fifteen (15) days after receipt of the notice in which any needed correction shall be made. The fifteen-day notice period may be reduced as, in the opinion of the Department, may be necessary to render an order of compliance reasonably effectual.

(b) Unless the Department specifies a reduced period, within thirty (30) days after receipt of the notice of violation, the air ambulance shall submit to the Department a written demonstration of compliance and/or plan of correction.

(c) A plan of correction shall include at least the following:

- (1) When the correction was or will be completed;
- (2) How the correction was or will be made;
- (3) What measures will prevent a recurrence; and
- (4) Who will be accountable to ensure future compliance.

- (d) The Department shall ensure that the air ambulance is afforded due process in accordance with the Procedures of the State Department of Health, Oklahoma Administrative Code, Title 310, Chapter 2, and the Administrative Procedures Act, Title 75 O.S. Section 250 et seq.
- (e) Violations found by the Department which require immediate correction shall be handled in compliance with Title 75 of the Oklahoma Statutes, Section 314.1 and the Oklahoma Administrative Code, Title 310, Chapter 2, specifically 310:2-21-23.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-19. Emergency medical services regions [REVOKED]

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-13-20. Air Ambulance triage, transport and transfer protocols

- (a) Medical and trauma Department approved triage, transport, and transfer protocols or destination protocols shall adhere to the principle of delivering time sensitive medical and trauma patients to appropriate facilities as outlined by the regional advisory boards and Department approved protocols.
- (b) Specific triage, transport, and transfer protocols or destination protocols shall be developed by medical control for the region, area, or local service and submitted to the Department for approval.
- (c) Each patient or legal guardian of a patient has the right to refuse treatment or transportation from an air ambulance agency.
- (d) Each air ambulance agency shall ensure that the care of each patient is transferred appropriately to the receiving facility's licensed staff. The transfer of care will include verbal and written reports summarizing the assessment and treatment of the patient by the ambulance service.
- (e) All air ambulance agencies are required to participate in the regional and statewide systems, established through statute and administered by the Department, to ensure the patients are transported to the appropriate facility in a timely manner to receive appropriate care.
- (f) Each agency shall designate the receiving facilities that are within their reasonable service range.
- (1) An air agency may still transport to facilities outside of the reasonable service range on a case by case basis.
- (2) Repeated transports to facilities that are outside of the agency's reasonable range will require modifications to the designated receiving facility list maintained at the Department with the agency's approved protocols.
- (g) Triage, transport and transfer protocols approved by the Department shall include the following requirements:
- (1) medical and traumatic non-emergency transports shall be transported to the facility of the patient's choice if within reasonable service range;
- (2) emergency, non-injury related, non-life threatening transports shall be transported to the facility of the patient's choice if within

reasonable service range;

(3) emergency, injury-related transports shall adhere to the Oklahoma Triage, Transport, and Transfer Guidelines approved by the Oklahoma Trauma and Emergency Response Advisory Council and shall ensure that patients are delivered to the most appropriate classified hospital either within their region or contiguous regions;

(4) severely injured patients as described in the Oklahoma Triage, Transport, and Transfer Guidelines shall be transported to a hospital classified at Level I or II for trauma and emergency operative services unless time and distance factors are detrimental to patient care. These patients shall be transported to the next highest level trauma and emergency operative service classified hospital, unless a Department approved regional plan has been developed; in which case the regional plan shall be followed;

(5) stable patients at risk for severe injury or with minor-to-moderate injury as described in the Oklahoma Triage, Transport, and Transfer Guidelines shall be transported to the closest appropriate facility. These patients may be transported to the hospital of the patient's or patients legal representative's choice consistent with regional guidelines;

(6) emergency, life threatening, non-injury transports shall be to the nearest facility that can provide evaluation and stabilization appropriate to the patient's condition;

(7) transports or transfers from a pre-hospital setting that occur as a result of a physician order shall be transported to the facility ordered by the physician except when:

(A) the patient or the patient's guardian chooses a different facility,

(B) the patient condition changes, and going to a different facility is in the best interest of the patient,

(C) the receiving facility's ability to receive that patient has changed,

(D) the facility is not within a reasonable range of the agency,

(E) the Trauma Referral Center requests a change in destination or presents reasonable options for a destination.

(h) In counties with populations of 300,000 or more and their contiguous communities, injury related transports shall be directed and coordinated by the trauma transfer and referral center for the region.

(1) All air ambulance services providing pre-hospital emergency services in these regions shall contact the trauma transfer and referral center at intervals determined by the Department to register the transport of an injured patient to a hospital.

(2) All air ambulance services transporting injured patients on a pre-hospital basis from areas outside these regions to hospitals inside these regions shall contact the trauma transfer and referral center in a timely manner to advise the center of the patient transfer. The center shall maintain a record of the transfer for

regional continuous quality improvement activities.

(3) All air ambulance services transferring injured patients from hospitals outside these regions to hospitals inside these regions shall contact the trauma transfer and referral center in a timely manner to advise the center of the patient transfer. The center shall maintain a record of the transfer for regional continuous quality improvement activities.

(i) Each air ambulance service shall ensure that the care of each patient is transferred appropriately to the receiving facility's licensed staff. The transfer of care will include verbal and written reports summarizing the assessment and treatment of the patient by the ambulance service.

(j) All air ambulance services are required to participate in the regional and statewide systems, established through statute administered by the Department, to ensure patients are transported to the appropriate facility in a timely manner to receive appropriate care.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-13-21. Air ambulance service records and files

(a) All required records for licensure will be maintained for a minimum of three years.

(b) Each licensed air ambulance service shall maintain electronic or paper records about the operation, maintenance, and such other required documents at the business office. These files shall be available for review by the Department during normal work hours. Files which shall be maintained include the following:

(1) At the time a patient is transported to a receiving facility, the following patient care records will be, at a minimum, provided to the facility staff members at the time the patient(s) are accepted:

(A) personal information such as name, date of birth, and address,

(B) patient assessment with medical history,

(C) medical interventions and patient responses to interventions,

(D) any known allergies,

(E) other information from the medical history that would impact the patient outcomes if not immediately provided.

(2) A signature of the receiving facility health care staff member will be obtained to show the above information and the patient were received.

(3) A complete copy of the patient care report shall be sent to the receiving facility within twenty-four (24) hours of the hospital receiving the patient.

(4) Completed patient care reports shall contain demographic, administrative, legal, medical, community health, and patient care information required by the Department through the OKEMSIS Data Dictionary.

(5) All run reports and patient care information shall be considered confidential.

(c) All licensed air ambulance agencies shall maintain electronic or paper records on the maintenance and regular inspections of each vehicle. Each vehicle must be inspected and a checklist completed after each call or on a daily basis, whichever is less frequent.

(d) All licensed air ambulance agencies shall maintain a licensure or credential file for licensed and certified emergency medical personnel employed by or associated with the service to include:

- (1) Oklahoma license and certification,
- (2) Basic Life Support certification, or documentation of BLS cognitive objectives and psychomotor skills that meets or exceeds American Heart Association standards and approved by the medical director,
- (3) Advanced Cardiac Life Support certification, or documentation of BLS cognitive objectives and psychomotor skills that meets or exceeds American Heart Association Standards and approved by the medical director, as applicable for advanced licensure levels,
- (4) Incident Command System or National Incident Management Systems training at the 100, 200, and 700 levels or their equivalent,
- (5) contain a list or other credentialing document that defines or describes the medical director authorized procedures, equipment, and medications for each certified or licensed member employed or associated with the agency,
- (6) a copy of the medical director credentials will be maintained at the agency.

(e) The electronic or paper copies of the licenses and credentials described in this section shall be kept separate from other personnel records to ensure confidentiality of records that do not pertain to the documents relating to patient care.

(f) All licensed air ambulance agencies shall maintain:

- (1) copies of staffing patterns, schedules, or staffing reports which indicate the ambulance service is maintaining twenty four (24) hour coverage, at the highest level of license;
- (2) copies of in-service training and continuing education records;
- (3) copies of the air ambulance services:
 - (A) operational policies, guidelines, or employee handbook. The standard operating procedure or guideline manual will include list of the patient care equipment that is carried on any "Class E" unit(s);
 - (B) medical protocols; and
 - (C) OSHA and/or Department of Labor exposure plan, policies, or guidelines.
- (4) A log of each request for service received and/or initiated, to include the following:
 - (A) disposition of the request and the reason for declining the request, if applicable,
 - (B) the patient care report number,
 - (C) date of request,
 - (D) patient care report times as defined in the OKEMSIS Data Dictionary,
 - (E) location of the incident,

- (F) nature of the call;
- (5) Documentation that verifies an ongoing, physician-involved quality assurance program.
- (6) Such other documents which may be determined necessary by the Department. Such documents can only be required after a thorough, reasonable, and appropriate notification by the Department to the services and agencies.
- (g) The standardized data set and an electronic submission standard for EMS data as developed by the Department shall be mandatory for each licensed ambulance service. Reports of the EMS data standard shall be forwarded to the Department by the last business day of the following month. Exceptions to the monthly reporting requirements shall be granted only by the Department in writing.
- (h) Review and the disclosure of information contained in the ambulance service files shall be confidential except for information which pertains to the requirements for license, certification, or investigation issued by the Department.
- (i) Department representatives shall have prompt access to files, records, and property as necessary to appropriately survey the provider. Refusal to allow access by representatives of Department to records, equipment, or property may result in summary suspension of licensure by the Commissioner of Health.
- (j) All information submitted and/or maintained in files for review shall be accurate and consistent with Department requirements.
- (k) A representative of the agency will be present during the record review.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-13-22. Air Ambulance Suspension, revocation, probation, or non-renewal of a licensee

- (a) The Department may suspend or revoke a license and/or fine or place on probation a license or licensee for the following:
 - (1) violations of any of the provision of the Oklahoma Statutes, the Act or this chapter;
 - (2) permitting, aiding, or abetting in any illegal act in connection with the ambulance service;
 - (3) conduct of any practice that is detrimental to the welfare of the patient or potential users of the service;
 - (4) placing a vehicle into service before it is properly inspected, approved, and permitted by the Department;
 - (5) failure to comply with a written order issued by the Department within the time frame specified by the Department;
 - (6) engaging in any act which is designed or intended to hinder, impede, or obstruct the investigation of any matter governed by the Act or by any lawful authority;
 - (7) an ambulance service who fails to renew their Oklahoma license within the time frame and other requirements as specified in these rules shall be considered an expired or lapsed licensee and therefore no longer licensed as an ambulance service in the

State of Oklahoma;

(8) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(9) offering, giving, or promising anything of value or benefit, as defined in Oklahoma Statutes or Department policy to a Federal, state, or local governmental official for the purpose of influencing the employee or official to circumvent a Federal, state, or local law, rule, or ordinance governing the licensee's profession or occupations;

(10) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against, or inducement to, a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against, or inducement to, a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(11) failure to report the unprofessional conduct or non-compliance of regulations by individually licensed and certified personnel as defined in this Chapter.

(b) No person, company, governmental entity or trust authority may operate an ambulance service or emergency medical response agency except in accordance with the Act and the rules as promulgated by the State Board. The Commissioner, District Attorney of the county wherein a violation occurs, or the Attorney General of this State, shall have the authority to enforce provisions of the law.

(c) A license/certificate/permit holder or applicant in connection with a license application or an investigation conducted by the Department pursuant to this rule shall not:

(1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a misapprehension known by the licensee to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Department or any designated representative thereof.

(d) If in the course of an investigation the Department determines that a license/certificate/permit holder or applicant has engaged in conduct that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the license/certificate/permit holder's license, certificate, or permit respectively. A presumption of imminent harm to the public shall exist if the Department determines probable cause for conduct of any practice that is detrimental to the welfare of the patient or potential users of the service.

(e) In addition to any other penalties, a civil fine of not more than one hundred (\$100.00) dollars per violation per day may be assessed, for violations of the Act or this Chapter.

SUBCHAPTER 15. EMERGENCY MEDICAL RESPONSE AGENCY

310:641-15-1. Purpose

The purpose of this Subchapter is to:

- (1) incorporate the authorization, licensure, and minimum requirements for operating an emergency medical response agency, and
- (2) provide standards for the enforcement of the provisions of the Act and this Chapter.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-2. Certified pre-hospital emergency medical response agency [REVOKED]

[Source: Amended and renumbered from 310:641-3-150 at 33 Ok Reg 1529, eff 9-11-16 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-15-3. Event standby emergency medical response agency application [REVOKED]

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-15-4. Issuance of a prehospital emergency medical response agency certification

- (a) The Department shall issue a pre-hospital emergency medical response agency certification to applicants that meet certification requirements.
- (b) The certificate shall be issued for the name and service area only.
- (c) The certificate is not transferable or assignable.
- (d) The initial license period shall expire the second June 30 following the date of issue. Subsequent renewal periods shall be twenty-four (24) months, or two (2) years.
- (e) The original, or a copy of the original certification, shall be posted in a conspicuous place in the principal business office. If an office or other public place is not available, then the certificate shall be available to anyone requesting to see certification during regular business hours.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-5. Issuance of an event standby emergency medical response agency certification

- (a) The Department shall issue an event standby emergency medical response agency certification to applicants that meet certification requirements:
- (b) The certificate shall be issued for the name only.

- (c) The certificate is not transferable or assignable.
- (d) The initial certification period shall expire the second June 30 following the date of issue. Subsequent renewal periods shall be twenty-four (24) months, or two (2) years.
- (e) The original or a copy of the original certification shall be posted in a conspicuous place in the principal business office. If an office or other public place is not available then the certificate or a copy shall be available to anyone requesting to see the certification during regular business hours.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-15-6. Renewal of an emergency medical response agency certificate

(a) Each agency shall complete a renewal form in a manner prescribed by the Department. The Department shall send to all certified emergency medical response agency a "survey/renewal" form in December of each year.

(1) Upon receipt of a complete and correct renewal application, a renewal fee statement shall be provided by the Department to each certificate holder due to renew.

(2) A non-refundable fee for the renewal of any emergency medical response agency certification shall be twenty (\$20.00) dollars.

(b) An emergency medical response agency certification shall be renewed if:

- (1) the agency has applied for a renewal;
- (2) the agency has no outstanding deficiencies in need of correction as may be identified during inspection of the agency;
- (3) the fee has been received by the Department;
- (4) the safety, need, and well-being of the public and general populace is best served to by the renewal of the agency;
- (5) the availability of personnel, equipment, and the financial ability of the agency to meet the minimum standards of the Act and this Chapter;
- (6) A certificate that is not renewed by midnight June 30 of the expiration year shall be considered non- renewed.
- (7) A grace period of thirty (30) days is permitted under 63 O.S. Section 1-1702.
- (8) Within the grace period the agency may continue to operate without penalty.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-7. Denial for an initial emergency medical response agency application

(a) An application may be denied for any of the following reasons:

- (1) A felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation, or the person designated to supervise the service; to

include, but not be limited to, fraud, grand larceny, child abuse, sexual offense(s), drug offense(s), or a conviction, adjudication, or plea of guilty or nolo contendere which might otherwise have a bearing on the operation of the service;

(2) Falsification of Department required information;

(3) Ownership, management, or administration by principals of an entity whose license has been revoked; and

(4) certification may not be in the best interest of the public as determined by the Department.

(b) An applicant shall be notified in writing within sixty (60) days, from the date the Department receives a complete application, of the granting or denial of a license. In the event of a denial, the specific reason(s) shall be noted, and an indication of the corrective action necessary to obtain a license or renewal shall be given if applicable. A license application may be re-submitted, but each resubmission shall be considered an initial application.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-8. Denial of a certificate being renewed

(a) A license application for renewal may be denied for any of the following:

(1) the failure to meet standards set forth by statute or rule,

(2) a felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation, or the person designated to manage the service to include, but not limited to fraud, grand larceny, child abuse, sexual offense(s), or a conviction, adjudication, or plea of guilty or nolo contendere which might otherwise have a bearing on the operation of a service;

(3) outstanding notice of violation that has not been addressed with an acceptable plan of correction;

(4) insufficient financial resources;

(5) falsification of Department required information;

(6) ownership, management, or administration by principals of an entity whose certification has been revoked;

(7) re-certification may not be in the best interest of the public as determined by the Department;

(8) revocation or denial of a governmental letter of support as required for initial certification;

(b) An applicant shall be notified in writing within sixty (60) days, from the date the Department receives a complete renewal application, of the granting or denial of a renewed license. In the event of a denial, the specific reason(s) shall be noted, and an indication of the corrective action necessary to obtain a renewed license shall be given if applicable. A license application may be resubmitted, but each re-submission shall be considered an initial application.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-9. Severance of action, amendment, and re-instatement

- (a) The issuance or renewal of a certificate after notice of a violation(s) has been given shall not constitute a waiver by the Department of its power to rely on the violation(s) for subsequent license revocation or other enforcement action which may arise out of the notice of violation(s).
- (b) Any change in the name of the service, level, service area, addition of substation, or services provided service shall necessitate an application to amend the certification.
- (c) The addition of a substation that expands the service area shall comply with initial certification requirements such as letters of support and maps of the proposed service area.
- (d) Changing or moving the location of a substation requires written notification to the Department.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-10. Emergency medical response agency personnel

- (a) Emergency medical response agencies shall have at least one person of the responding personnel providing patient care certified or licensed by the Department.
- (b) All drivers that operate emergency vehicles for an agency shall complete an emergency vehicle operator's course prior to emergency vehicle operations. Emergency vehicle operators shall complete an emergency vehicle operator's renewal course every two (2) years.
- (c) Only emergency personnel authorized by this Act, except for a physician, shall be utilized by any emergency medical response agency.
- (d) Agencies will maintain training records demonstrating competency in medical skills, patient handling, and emergency vehicle operations for all personnel employed or associated with the agency and utilized for patient care.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-15-11. Prehospital emergency medical response agency equipment

- (a) The tampering, modification, or removal of the manufacturer's expiration date is prohibited.
- (b) Certified agencies shall ensure that all, recalled, outdated, misbranded, adulterated, or deteriorated fluids, supplies, and medications are removed from the response vehicles immediately.
- (c) The unit checklist will establish the equipment, supplies, and medications for each unit. A list of the equipment, supplies, and medication will be included in the application. For medications this is to include the number, weight, and volume of the containers.
- (d) At a minimum, the following equipment and supplies will be present on for each emergency medical response:
 - (1) one (1) each adult, pediatric, and infant size bag-valve-mask resuscitators;

- (2) one (1) complete set of oropharyngeal airways, single wrapped for sanitation purposes;
 - (3) portable oxygen system with two (2) each oxygen masks in adult, pediatric, and infant sizes;
 - (4) two (2) adult nasal cannulas;
 - (5) portable suction device with age and size appropriate tubing and tips;
 - (6) one (1) bulb syringe with saline drops, sterile, in addition to any bulb syringes in an obstetric kit;
 - (7) instant cold packs;
 - (8) sterile dressing and bandages, to include:
 - (A) sterile burn sheets,
 - (B) sterile 4"x4" dressings,
 - (C) sterile 6"x8" or 8"x10" dressings,
 - (D) roller bandages, 2" or larger,
 - (E) rolls of tape (minimum of one (1) inch width),
 - (F) sterile occlusive dressings, 3" x 8" or larger,
 - (G) triangular bandages, and
 - (H) scissors;
 - (9) blood pressure cuff kit in adult, pediatric, and infant sizes;
 - (10) obstetrics kit;
 - (11) blankets;
 - (12) universal precaution kit for each person attending a patient;
 - (13) blood-glucose measurement equipment per medical direction and Department approval;
 - (14) AED with adult and pediatric capability;
 - (15) adult and pediatric upper and lower extremity splints;
 - (16) spinal immobilization equipment per medical control authorization;
 - (17) adult traction splint per medical control authorization and;
 - (18) patient care reports.
- (e) The agency will have the equipment to support the procedures and interventions detailed within the protocols as authorized by the medical director.
- (f) An electronic or paper copy of patient care protocols will be available to responding agency members.
- (g) All assessment and medical equipment utilized for patient care will be maintained in accordance with the manufacturer's guidelines. Documentation will be maintained at the agency showing the periodic tests, maintenance, and calibration are being conducted in accordance with manufacturer's requirements. Equipment shall include, but not be limited to suction devices, pulse oximetry, glucometers, end-tidal Co2 and capnography monitors, CPAP/BiPAP devices, ventilators, and blood pressure monitors.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-15-12. Event standby emergency medical response agency equipment

- (a) The event standby agency will be equipped with the minimum equipment described for pre-hospital emergency medical response agencies.
- (b) In the event the medical control physician does not approve procedures or interventions requiring this equipment, the minimum equipment list may be modified for the applicant.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-13. Emergency medical response agency medical control requirement

- (a) Each certified emergency medical response agency certified in Oklahoma shall have a physician medical director who is a fully licensed, non-restricted Doctor of Medicine (M.D.) or a Doctor of Osteopathy (D.O.) by the State of Oklahoma.
- (b) Certified emergency medical response agencies will have a plan or policy that describes how the agency will address a sudden lapse of medical direction, such as a back-up medical director, that is used to ensure coverage when the medical director is not available.
 - (1) The Department shall be notified the next business day of any lapse or change of medical direction by the respective agency. If the agency has made arrangements for a back-up medical director or an immediate replacement, then a lapse has not occurred.
 - (2) In the event of a lapse in medical direction, in that, there is no a medical director providing the authority for medical interventions for an agency's certified and licensed personnel, the agency will, pursuant to 63 O.S. Section 1-2506 relating to the medical authority to perform medical procedures:
 - (A) may respond to a request for service to provide first aid, CPR, and the use of an AED, and
 - (B) implement mutual aid plans to ensure requests for service receive responses until the agency is able to implement their plan or policy for substitution or back-up medical direction.
- (c) The medical director shall:
 - (1) be accessible, knowledgeable, and actively involved in quality assurance and the educational activities of the agency's personnel, and supervise a quality assurance (QA) program by either direct involvement or appropriate designation and surveillance of the responsible designee(s). The appointment of a designee does not absolve the medical director of their responsibility of providing oversight.
 - (2) Provide a written statement to the Department which includes:
 - (A) an agreement to provide medical direction and establish treatment protocols and the agency specific scope of practice for all certified and licensed agency personnel;

(B) the physician's primary practice address or home address if the physician does not have a practice and email address(es);

(C) An agency that only provides care within the Basic Life Support scope of practice, the medical director shall:

- (i) hold a valid, non-restricted medical license,
- (ii) not be restricted from obtaining or maintaining OBNDD and DEA registrations for controlled dangerous substances,
- (iii) demonstrate appropriate training and experience in adult and pediatric emergency care. Demonstrated training and experience may include appropriate board training, basic life support, or pre-hospital trauma life support courses.

(D) An agency that provides Intermediate, Advanced, or Paramedic level interventions by State approved protocols, the medical director shall:

- (i) hold a valid, non-restricted medical license,
- (ii) maintain current OBNDD and DEA registrations for controlled dangerous substances,
- (iii) demonstrate appropriate training and competence in adult and pediatric emergency medical services, to include pediatric and adult trauma. Demonstrated training and experience may include completed residency training as well as relevant work experience with current clinical competency.

(E) demonstrate appropriate training and experience in the types of patients the service will be treating.

Demonstrated training may include board training and appropriate certifications or supplemental training;

(F) development of on-line or off-line protocols with medication formulary for patient care techniques.

Protocols shall include medication to be used, treatment modalities for patient care procedures, and appropriate security procedures for controlled dangerous substances;

(3) Attend or demonstrate participation in medical director training provided by the Department subject to the availability of funding. Verification of attendance or participation will be maintained at the agency.

(4) Attend or demonstrate participation in one hour of continuing education specific to providing medical oversight to EMS providers and agencies each year, provided by the Department subject to the availability of funding.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-15-14. Emergency medical response agency operational protocols

- (a) Emergency medical response agencies are not licensed or permitted to transport patients.
- (b) Emergency medical response agencies do not have a duty to act, as defined within the Act.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-15. Emergency medical response agency sanitation requirements

(a) The following shall apply regarding sanitation standards for each emergency medical response agency's equipment, facilities, vehicles, and personnel:

- (1) the interior of the vehicle and the equipment within the vehicle shall be sanitary and maintained in good working order when in service;
 - (2) the exterior of the vehicle shall be clean and maintained in good working order to ensure the vehicle can operate safely and in accordance with applicable sections of Title 47 of the Oklahoma Statutes;
 - (3) clean linen, blankets, washcloths, and hand-towels shall be stored in a manner that is free of dirt and debris,
 - (4) medical supplies and equipment shall be stored in a safe and secure manner.
- (b) soiled linen shall be placed in a closed container which may include plastic bags with ties. Any linen which is suspected of being contaminated with blood borne pathogens or other infectious disease shall be placed in a properly marked closed container for cleaning or disposal;
- (c) contaminated disposable supplies shall be placed in properly marked appropriately marked or designated containers in a manner that deters accidental exposure.
- (d) Implements inserted into the patient's nose or mouth shall be single-service wrapped and properly stored and handled. When multi-use items are utilized, the local health care facilities should be consulted for instructions in sanitation and handling of such items.
- (e) Personnel shall be clean, especially hands and fingernails, and well groomed. Clothing worn by personnel shall be clean. The licensee shall provide in each vehicle a means of hand decontamination for the attendants.
- (f) Oxygen humidifier(s) shall be single use;
- (g) All medications, supplies and sterile equipment with expiration dates shall be current.
- (h) Expired medications, supplies, and sterile equipment shall be discarded appropriately.
- (i) Tampering, removing, or altering expiration dates on medications, supplies, and equipment is prohibited.
- (j) The station facility, ambulance bays, living quarters, and office areas shall be clean, orderly, and free of safety and health hazards;
- (k) All storage spaces used for storage of linens, equipment, medical supplies, and other supplies at the base station shall be kept clean;

(l) Agency vehicles and facilities shall be free of any evidence of use of lighted or smokeless tobacco products except in designated smoking areas consistent with the provisions of 310:641-1-4.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-15-16. Emergency medical response agency storage of intravenous solutions

- (a) Medication and vascular fluid shall be stored in a manner that complies with manufacturer and FDA standards.
- (b) Each agency shall maintain medications in a manner that deters theft and diversion of all medications.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-17. Emergency medical response agency authority to carry controlled substances on a vehicle

- (a) An emergency medical response agency, with personnel licensed to utilize such, is hereby authorized to carry a limited supply of controlled substances, secured and stored in a manner that is compliant with State and Federal statutes and regulations. The utilization, procurement, and accountability of such drugs shall be supervised by medical control for the service. An inventory shall be kept and signed according to the requirement of the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) and the United States Department of Justice Drug Enforcement Administration (DEA). Each responsible medical director shall maintain a copy of their OBNDD certificate to the Department for this purpose.
- (b) Any loss or deficiency which occurs in the utilization, procurement, or accountability of controlled substances shall be reported the OBNDD and DEA through their procedures and requirements, and to the Department, within ten (10) working days.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-18. Emergency medical response agency inspections

- (a) The Department shall conduct unannounced inspections of every certified emergency medical response agency. Inspection may include a review of any requirements of the Act and rules promulgated thereunder. The Department may require copies of such records as deemed necessary consistent with the files section of this sub chapter.
- (b) All inspection reports will be sent to the agency director, certificate owner, and medical director.
- (c) A representative of the agency will be with the Department employee during the inspection.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-19. Emergency medical response agency notice of violation

- (a) A violation of the Act or this Chapter is ground for the Department to issue a written order, sent via certified mail, citing the violation, affording the agency an opportunity to demonstrate compliance, and indicating the time no less than fifteen (15) days after receipt of the notice in which any needed correction shall be made. The fifteen-day notice period may be reduced as, in the opinion of the Department, may be necessary to render an order of compliance reasonably effectual.
- (b) Unless the Department specifies a reduced period, within thirty (30) days after receipt of the notice of violation, the agency shall submit to the Department a written demonstration of compliance and/or plan of correction.
- (c) A plan of correction shall include at least the following:
- (1) When the correction was or will be completed;
 - (2) How the correction was or will be made;
 - (3) What measures will prevent a recurrence; and
 - (4) Who will be accountable to ensure future compliance.
- (d) The Department shall ensure that the agency is afforded due process in accordance with the Procedures of the State Department of Health, Oklahoma Administrative Code, Title 310, Chapter 2, and the Administrative Procedures Act, Title 75 O.S. Section 250 et seq.
- (e) Violations found by the Department which require immediate correction shall be handled in compliance with Title 75 of the Oklahoma Statutes, Section 314.1 and the Oklahoma Administrative Code, Title 310, Chapter 2, specifically 310:2-21-23.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-20. Emergency medical services regions

- (a) Regions established pursuant to Section 1-2503 (21) and (22) of the Act, shall not be recognized without Department approval for this purpose. Pursuant to Title 74, O.S., Section 1006, of the "Interlocal Cooperation Act" (relating to Approval of Agreements), the Department shall exercise authority granted to approve or disapprove all matters within its jurisdiction, in addition to and in substitution for the requirement of submission to and approval by the Attorney General.
- (b) The Department shall recognize regions which comply with the law and this Chapter.
- (c) Any regional emergency medical services system shall provide the name of the regional medical director, copies of regional standards, rules, and transport protocols established for the regional emergency medical services system to the Department.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-21. Triage, transport, and transfer protocols

- (a) Certified emergency medical response agencies, as part of their protocols, will include:
- (1) specific prioritization definitions for medical and trauma patients as defined in regional plans for statewide systems,

- (2) A process for making appropriate transportation choices to include ground and air ambulance requests,
- (3) a quality assurance plan or policy.
- (b) Emergency medical response agencies will utilize the regional medical and trauma plans for patient prioritization and implementation of transport decisions.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-15-22. Emergency medical response agency records and files

- (a) All required records for certification will be maintained for a minimum of three (3) years.
- (b) Each certified emergency medical response agency shall maintain electronic or paper records about the operation, maintenance, and such other required documents at the business office. These files shall be available for review by the Department during normal work hours. Files which shall be maintained include the following:
 - (1) Patient care records: At the time a patient care is transferred to an ambulance service, the following information will be, at a minimum, provided to the ambulance staff members at the time the patient(s) are accepted:
 - (A) personal information such as name, date of birth, and address, if known;
 - (B) patient assessment with history;
 - (C) medical interventions and patient responses to interventions,
 - (D) any known allergies; and
 - (E) other information from the medical history that would impact the patient outcome if not immediately provided.
 - (2) Certified emergency medical response agency patient care reports shall contain demographic, legal, medical, community health, and patient care information as detailed in the OKEMSIS data dictionary.
 - (3) All run reports and patient care information shall be considered confidential.
- (c) All certified emergency medical response agencies shall:
 - (1) maintain electronic or paper records on the maintenance and regular inspections of each vehicle.
 - (A) Each vehicle must be inspected and a detailed equipment checklist completed after each call or on a daily basis, whichever is less frequent.
 - (B) documentation that shows routine vehicle maintenance for each vehicle as required by vehicle manufacture recommendations,
 - (C) Event standby agencies will complete a checklist of equipment prior to scheduled events or duties.
 - (2) maintain a licensure or credential file for licensed and certified emergency medical personnel employed by or associated with the service to include:

- (3) Oklahoma license and certification,
 - (4) Basic Life Support certification, or documentation of BLS cognitive objectives and psycho-motor skills that meets or exceeds American Heart Association standards, and approved by the medical director;
 - (5) Advanced Cardiac Life Support certification, or documentation of BLS cognitive objectives and psycho motor skills that meets or exceeds American Heart Association Standards if applicable for licensure, and approved by the medical director;
 - (6) Incident Command System or National Incident Management Systems training at the 100, 200, and 700 levels or their equivalent,
 - (7) verification of an emergency vehicle operations course or other agency approved defensive driving course,
 - (8) contain a list or other credentialing document that defines or describes the medical director authorized procedures, equipment, and medications for each certified or licensed member employed or associated with the agency,
 - (9) a copy of the medical director credentials will be maintained at the agency.
- (d) The electronic or paper copies of the licenses and credentials described in this section shall be kept separate from other personnel records to ensure confidentiality of records that do not pertain to the documents relating to patient care.
- (e) Copies of in-service training and continuing education records.
- (f) Copies of the emergency medical response agency's:
- (1) operational policies, guidelines, or employee handbook;
 - (2) medical protocols;
 - (3) OSHA and/or Department of Labor exposure plan, policies, or guidelines.
- (g) A log of each request for service received and/or initiated to include the:
- (1) disposition of the request and the reason for declining the request, if applicable,
 - (2) the patient care report number,
 - (3) date of request,
 - (4) patient care report times,
 - (5) location of the incident,
 - (6) transporting ambulance agency name, and
 - (7) nature of the call;
- (h) Documentation that verifies an ongoing, physician involved quality assurance program.
- (i) Such other documents which may be determined necessary by the Department. Such documents can only be required after a thorough, reasonable, and appropriate notification by the Department to the services and agencies.
- (j) The standardized data set and an electronic submission standard for EMS data as developed by the Department shall be mandatory for each emergency medical response agency. Reports shall be forwarded to the Department by the last business day of the following month. Exceptions to the monthly reporting requirements shall be granted only by the

Department in writing.

(k) Review and the disclosure of information contained in the certified agency files shall be confidential except for information which pertains to the requirements for license, certification, or investigation issued by the Department.

(l) Department representatives shall have prompt access to files, records, and property as necessary to appropriately survey the provider. Refusal to allow access by representatives of Department to records, equipment, or property may result in summary suspension of licensure by the Commissioner of Health.

(m) All information submitted and/or maintained in files for review shall be accurate and consistent with Department requirements.

(n) A representative of the agency will be present during the record review.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 39 Ok Reg 1338, eff 9-11-22]

310:641-15-23. Suspension, revocation, probation, or non-renewal of a certification

(a) The Department may suspend or revoke a certification and/or fine or place on probation a certification or certificate holder for the following:

- (1) violations of any of the provision of the Oklahoma Statutes, the Act or this chapter;
- (2) permitting, aiding or abetting in any illegal act in connection with the ambulance service;
- (3) conduct of any practice that is detrimental to the welfare of the patient or potential users of the service;
- (4) failure to comply with a written order issued by the Department within the time frame specified by the Department;
- (5) engaging in any act which is designed or intended to hinder, impede, or obstruct the investigation of any matter governed by the Act or by any lawful authority;
- (6) an emergency medical response agency that fails to renew their Oklahoma certification within the time frame and other requirements as specified in these rules shall be considered an expired or lapsed licensee and therefore no longer certified as an service in the State of Oklahoma;
- (7) a misleading, deceptive, or false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;
- (8) offering, giving, promising anything of value or benefit, as defined in Oklahoma Statutes or Department Policy to a Federal, state, or local governmental official for the purpose of influencing the employee or official to circumvent a Federal, state, or local law, rule, or ordinance governing the licensee's profession or occupations;
- (9) interference with an investigation disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary

proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(10) failure to report the unprofessional conduct or non-compliance of regulations by individually licensed and certified personnel as defined in this Chapter.

(b) No person, company, governmental entity or trust authority may operate an emergency medical response agency except in accordance with the Act and the rules as promulgated by the State Board. The Commissioner, District Attorney of the county wherein a violation occurs, or the Attorney General of this State, shall have the authority to enforce provisions of the law.

(c) A license/certificate/permit holder or applicant, in connection with a license application or an investigation conducted by the Department pursuant to this rule shall not:

(1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a misapprehension known by the licensee to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Department or any designated representative thereof.

(d) If in the course of an investigation the Department determines that a license/certificate/permit holder or applicant has engaged in conduct that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the license/certificate/permit holder's license, certificate, or permit respectively. A presumption of imminent harm to the public shall exist if the Department determines probable cause for conduct of any practice that is detrimental to the welfare of the patient or potential users of the service.

(e) In addition to any other penalties, a civil fine of not more than one hundred (\$100.00) dollars per violation per day may be assessed, for violations of the Act or this Chapter.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

SUBCHAPTER 17. STRETCHER VAN SERVICE

310:641-17-1. Purpose

(a) This Subchapter incorporates the authorization, licensure, and minimum requirements for operating a Stretcher Van Service that transports passengers that are medically stable, but need to be transported in a reclining position, and

(b) provide standards for the enforcement of the provisions of the Act and this Chapter.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-2. Stretcher van service license required [REVOKED]

[Source: Amended and renumbered from 310:641-3-48 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20 ; Revoked at 39 Ok Reg 1338, eff 9-11-22]

310:641-17-3. Issuance of a stretcher van service license

- (a) The Department shall have sole discretion to approve or deny an application for a stretcher van service license based on the ability of the applicant to meet the requirements of this Chapter.
- (b) A license may be issued for a stretcher van service.
- (c) The license shall be issued only for the name, service area, and service provided. The license is not transferable or assignable.
- (d) The initial license period shall expire the second June 30th; following the date of issue. Subsequent renewal periods shall be twenty-four (24) months, or two (2) years.
- (e) The original, or a copy of the original, license shall be posted in a conspicuous place in the principal business office. If an office or other public place is not available, then the license shall be available to anyone requesting to see the license; during regular business hours.
- (f) The stretcher van service is limited to the transportation of stable passengers that can only be transported in a reclining position. As such, the medical interventions the staff members can provide are that of first aid, BLS CPR, and AED interventions. Agency supplied medications are prohibited for this license type.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-4. Renewal of a stretcher van license

- (a) The Department shall provide to all licensed stretcher van services a "Survey/Renewal Form" in December each year. This form shall be considered and utilized as a renewal application if due. The "Survey/Renewal Form" along with proof of the required types of insurance shall be returned to the Department by January 31st each year.
 - (1) Upon receipt of a complete and correct renewal application, a renewal fee statement shall be mailed by the Department to each licensee in need of renewal.
 - (2) A non-refundable fee for the renewal of a stretcher van service license shall be one hundred dollars (\$100.00), fifty dollars (\$50.00) for each substation, plus twenty dollars (\$20.00) for each vehicle in excess of two (2).
 - (3) A stretcher van service license shall be renewed if:
 - (A) the service has applied for such renewal;
 - (B) the service has no outstanding deficiencies or is in need of correction as may be identified during inspection of the service, and;
 - (C) the proper fee has been received by the Department.
- (b) A stretcher van service license; if not renewed by midnight June 30 of the expiration year, shall be considered non-renewed.
 - (1) A grace period of thirty (30) days is permitted under 63 O.S. Section 1-1702.

(2) Thereafter a new application shall be required for the continuation of any such license, and the applicant shall be subject to initial application procedures. An extension may be granted by the Department for the purpose of renewal, subject to a determination by the Department of the following:

- (A) the safety, need, and well-being of the public and general populace to be served by the stretcher van service;
- (B) the availability of personnel, equipment, and the financial ability of the applicant to meet the minimum standards of emergency medical services law;
- (C) the number of estimated runs to be made by the stretcher van service;
- (D) the desire of the community(ies) to be served.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-5. Denial for an initial stretcher van license

(a) A stretcher van license application may be denied for any of the following reasons:

- (1) a felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation or the person designated to supervise the service; to include, but not be limited to, fraud, grand larceny, child abuse, sexual offense(s), drug offense(s), or a conviction, adjudication, or plea of guilty or nolo contendere which might otherwise have a bearing on the operation of the service;
- (2) falsification of Department required information;
- (3) ownership, management, or administration by principals of an entity whose license has been revoked; and
- (4) licensure or re-licensure may not be in the best interest of the public as determined by the Department.

(b) An applicant shall be notified in writing within sixty (60) days from the date the Department receives a complete application of the granting or denial of a license. In the event of a denial, the specific reason(s) shall be noted and indications of the corrective action necessary to obtain a license or renewal shall be given, if applicable. A license application may be re-submitted, but each resubmission shall be considered an initial application.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-6. Denial of a license being renewed

(a) A license application for renewal may be denied for any of the following:

- (1) the failure to meet standards set forth by statute or rule;
- (2) a felony conviction, adjudication, or plea of guilty or nolo contendere of any person, member of the firm, partnership, corporation, or the person designated to manage the service to include, but not limited to fraud, grand larceny, child abuse,

sexual offense(s), or a conviction, adjudication, or plea of guilty or nolo contendere which might otherwise have a bearing on the operation of a service;

(3) outstanding notice of violation that has not been addressed with an acceptable plan of correction;

(4) insufficient financial resources;

(5) falsification of Department required information;

(6) ownership, management, or administration by principles of an entity whose certification has been revoked;

(7) re-certification may not be in the best interest of the public as determined by the Department;

(8) revocation or denial of a governmental letter of support as required for initial certification;

(b) An applicant shall be notified in writing within sixty (60) days, from the date the Department receives a complete renewal application, of the granting or denial of a renewed license. In the event of a denial, the specific reason(s) shall be noted, and an indication of the corrective action necessary to obtain a renewed license shall be given if applicable. A license application may be resubmitted, but each re-submission shall be considered an initial application.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-17-7. Severance of action, amendment, and re-instatement

(a) The issuance or renewal of a license after notice of a violation(s) has been given shall not constitute a waiver by the Department of its power to rely on the violation(s) for subsequent license revocation or other enforcement action which may arise out of the notice of violation(s).

(b) Any change in the name of the service, level, service area, or the addition of substation, shall necessitate an application to amend the license and shall be accompanied by a fee of one hundred dollars (\$100.00).

(c) Changing or moving the location of a substation requires written notification to the Department.

(d) If an existing license is placed on probation or suspension, a fee of one hundred (\$100.00) dollars, in addition to any other provision of the action, shall be submitted prior to re-instatement of the license to full privilege.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-17-8. Stretcher van staffing

(a) Each stretcher van service shall be staffed by a minimum of two (2) persons.

(b) The passenger shall be accompanied by a minimum of:

(1) an attendant that has a current Oklahoma Emergency Medical Responder certification and maintains current BLS certification and

- (2) the driver shall hold a valid Oklahoma driver's license, possess a current BLS certification, and have completed an agency defensive driving course that includes driving a vehicle similar to a stretcher van.
- (c) Under no circumstance during the transport of a stretcher van passenger shall the attendant be less than an Oklahoma certified Emergency Medical Responder.
- (d) Each stretcher van service shall provide to each attendant and driver an orientation designed to familiarize these individuals with the local and regional emergency medical system and other Oklahoma public safety resources.
- (e) Agencies will maintain training records demonstrating competency in emergency procedures, passenger handling, and vehicle operations for all personnel utilized by the agency prior to passenger contact or vehicle operations.

[Source: Amended and renumbered from 310:641-3-48.4 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-9. Stretcher van vehicles

- (a) A stretcher van vehicle may not be permitted by the Department prior to the submission and approval of all required documentation, fees, and a Department inspection.
- (b) Authorized stretcher van vehicles of licensed services shall be in good mechanical and serviceable condition at all times, so as to not be hazardous to the passenger(s) or crewmembers. If, in the determination of the Department, a vehicle does not meet this requirement, it may be removed from service until repairs are made.
- (c) Authorized stretcher van vehicles of licensed services shall be tested for interior carbon monoxide, in a manner acceptable to the Department. Carbon monoxide levels of more than ten parts per million (10ppm) shall be considered in excess and shall render the vehicle "out of compliance". Vehicles shall be removed from service if carbon monoxide levels exceed fifty parts per million (50ppm) and until repairs are made to reduce the amounts of carbon monoxide below ten parts per million (10ppm).
- (d) A class "S" permit shall be affixed to a vehicle in compliance and utilized as a stretcher van vehicle.
- (e) Stretcher van vehicles shall place a permit or inspection decal affixed by the Department. These decals shall be placed in the driver side rear window unless it is impossible or impractical to place in this area.
- (f) Stretcher van vehicles are not ambulances, and may not be authorized as emergency vehicles within Title 47, relating to definitions of emergency vehicles.
- (g) Violations that may justify immediate removal of a vehicle permit include:
 - (1) inadequate sanitation, including the presence of contamination by blood and or bodily fluids,
 - (2) inoperable heater or air conditioner as detailed within the vehicle manufacturing standards and specifications,
 - (3) inoperable AED,

- (4) tires that do not meet Oklahoma Statutes Title 47, Chapter 12 requirements,
 - (5) carbon monoxide levels greater than fifty (50) parts per million,
 - (6) lapse of vehicle liability insurance,
 - (7) lapse of worker compensation insurance,
 - (8) inability to affix a class S" permit to the vehicle,
 - (9) vehicle that does not comply with statutory safety equipment found in Title 47.
 - (10) If such violation is not or cannot be corrected immediately, any affected vehicle shall be removed from service and the ambulance permit shall be removed until such time the vehicle is compliant and has been re-inspected and permitted by the Department.
- (h) The stretcher van vehicle must utilize a stretcher or gurney and locking system that meets or manufactures standards
- (i) Stretcher van vehicles purchased after the effective date of these amendments shall comply with the following:
- (1) a mounted seat with seatbelts for the passenger attendant in the passenger compartment or area of the vehicle,
 - (2) mounted cabinets for the purpose of storing supplies and equipment,
 - (3) mounted and rear loading lights,
 - (4) the capability to contact 911 should an emergency arise while transporting a passenger, and
 - (5) display exterior markings identifying the vehicle as a stretcher van and the business name in six (6) inch letters in a contrasting color on the rear and sides of the vehicle,
 - (6) brackets or other retaining system for securing oxygen cylinders on the gurney and within the stretcher van, and
 - (7) modifications made to stretcher van vehicles after initial testing may require the vehicle to undergo new AMD 004, 012, and/or 013 standard testing.
- (j) A stretcher van shall meet Ambulance Manufacturers Division (AMD) Standards 004, 012, and 013, and shall pass corresponding safety tests. Stretcher vans must not have functioning emergency lights or sirens.
- (k) Documentation of vehicle safety testing or manufacturer certification must be maintained in agency files.

[Source: Amended and renumbered from 310:641-3-48.2 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-10. Equipment for stretcher van vehicles

Each stretcher van vehicle shall carry, at a minimum the following:

- (1) body substance isolation kits with gowns, gloves, eye protection, and masks;
- (2) latex or equivalent gloves separate from body substance isolation kits;
- (3) extra blankets, sheets, pillow cases;
- (4) two (2) five (5) pound fire extinguishers, secured, with one (1) accessible to the driver and one (1) accessible to the passenger

attendant;

(5) one (1) elevating gurney with locking equipment that complies with AMD 004;

(6) an AED with adult and pediatric capabilities if the agency transports pediatric passengers;

(7) if the agency transports children, then the agency is required to provide a child restraint system;

(8) portable and spare oxygen cylinders shall be appropriately secured;

(9) one (1) stretcher mount portable oxygen securing device; and

(10) Stretcher van agencies may carry and provide oxygen and utilize equipment necessary for the provision of oxygen as prescribed by the physician, excluding agency supplied ventilator equipment.

[Source: Amended and renumbered from 310:641-3-48.3 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-11. Stretcher van medical control

(a) As defined in 63 O.S. § 1-2503, Stretcher van agencies may carry and provide oxygen and utilize any equipment necessary for the provision of oxygen.

(b) As defined in 63 O.S. § 1-2503, Stretcher van passengers transported in or by Stretcher vans are to be medically stable, non-emergent, and do not require medical monitoring equipment or assistance during transport except oxygen.

(c) As defined in 63 O.S. § 1-2503, all passengers transported by stretcher vans must be screened by a certified medical dispatching protocol approved by the Department.

(d) Passengers that will continue oxygen during their Stretcher van transport will need to have a prescription or physician order for oxygen. This physician order or prescription completes the requirement for an agency specific medical director or medical control. This physician order completes the requirement for certified and licensed agencies and personnel to have medical control as defined in 63 O.S. § 1-2503.

[Source: Amended and renumbered from 310:641-3-48.5 at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-12. Sanitation requirements

(a) The following shall apply regarding sanitation standards for all stretcher van services facilities, vehicles, and personnel:

(1) the interior of the vehicle and the equipment within the vehicle shall be sanitary and maintained in good working order at all times;

(2) the exterior of the vehicle shall be clean and maintained in good working order to ensure the vehicle can operate safely and in accordance with applicable sections of Title 47 of the Oklahoma Statutes;

(3) linen shall be changed after each passenger is transported, and the used linen will be bagged and stored in an outside or

separate compartment;

(4) clean linen, blankets, washcloths, and hand-towels shall be stored in a closed interior cabinet free of dirt and debris;

(5) freshly laundered linen or disposable linen shall be used on the cots and pillows and changed between passenger;

(6) pillows and mattresses shall be kept clean and in good repair and any repairs made to pillows, mattresses, and padded seats shall be permanent;

(7) soiled linen shall be placed in a container that deters accidental exposure. Any linen which is suspected of being contaminated with bodily fluids or other potentially hazardous infectious waste shall be placed in an appropriately marked closed container for disposal;

(8) contaminated disposable supplies shall be placed in appropriately marked or designated containers in a manner that deters accidental exposure.

(9) exterior and interior surfaces of vehicles shall be cleaned routinely;

(10) blankets and hand towels used in any vehicle shall be clean;

(11) when a vehicle has been utilized to transport a passenger(s) known to the operator to have a communicable disease, the vehicle shall be cleansed and all contact surfaces shall be washed with soap and water and appropriate disinfectant. The vehicle should be placed "out of service" until a thorough cleansing is conducted;

(12) all storage spaces used for storage of linens, equipment, medical supplies and other supplies at the base station shall be kept clean;

(13) personnel shall:

(A) be clean, especially hands and fingernails, and well groomed;

(B) clothing worn by personnel shall be clean;

(C) while on duty, employees shall wear an identifiable uniform or agency specific photo identification;

(D) The licensee shall provide in each vehicle a means of hand washing for the attendants;

(14) expired supplies and equipment shall be discarded appropriately. Tampering, removing, or altering expiration dates on medications, supplies, and equipment is prohibited; and

(15) the station facility, ambulance bays, living quarters, and office areas shall be clean, orderly, and free of safety and health hazards.

(b) Stretcher van vehicles and service facilities shall be free of any evidence of use of lighted or smokeless tobacco products except in designated smoking areas consistent with the provisions of 310:641-1-4 (c).

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-13. Inspections

- (a) The Department shall conduct unannounced inspections of every licensed stretcher van service. Inspection may include a review of any requirements of the Act and rules promulgated thereunder. The Department may require copies of such records as deemed necessary consistent with the files section of this subchapter.
- (b) All inspection reports will be sent to the agency director and license owner.
- (c) A representative of the agency will be with the Department employee during the inspection.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-14. Stretcher van notice of violation

- (a) A violation of the Act or this Chapter is ground for the Department to issue a written order, sent via certified mail, citing the violation, affording the agency an opportunity to demonstrate compliance, and indicating the time no less than fifteen (15) days after receipt of the notice in which any needed correction shall be made. The fifteen-day notice period may be reduced as, in the opinion of the Department, may be necessary to render an order of compliance reasonably effectual.
- (b) Unless the Department specifies a reduced period, within thirty (30) days after receipt of the notice of violation, the agency shall submit to the Department a written demonstration of compliance and/or plan of correction.
- (c) A plan of correction shall include at least the following:
 - (1) When the correction was or will be completed;
 - (2) How the correction was or will be made;
 - (3) What measures will prevent a recurrence; and
 - (4) Who will be accountable to ensure future compliance.
- (d) The Department shall ensure that the agency is afforded due process in accordance with the Procedures of the State Department of Health, Oklahoma Administrative Code, Title 310, Chapter 2, and the Administrative Procedures Act, Title 75 O.S. Section 250 et seq.
- (e) Violations found by the Department which require immediate correction shall be handled in compliance with Title 75 of the Oklahoma Statutes, Section 314.1 and the Oklahoma Administrative Code, Title 310, Chapter 2, specifically 310:2-21-23.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-15. Emergency medical services regions

- (a) Regions established pursuant to 63 O.S. Section 1-2503 (21) and (22) shall not be recognized without Department approval for this purpose. Pursuant to Title 74 O.S. Section 1006, of the "Interlocal Cooperation Act" (relating to Approval of Agreements), the Department shall exercise authority granted to approve or disapprove all matters within its jurisdiction, in addition to and in substitution for the requirement of submission to and approval by the Attorney General.
- (b) The Department shall recognize regions which comply with the law and this Chapter.

(c) Any regional emergency medical services system shall provide the name of the regional medical director, copies of regional standards, rules, and transport protocols established for the regional emergency medical services system to the Department.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16]

310:641-17-16. Operational protocols

(a) Stretcher van vehicles are to be used for stretcher van passengers only.

(1) Emergency transfers are prohibited.

(2) Stretcher vans are prohibited from conducting passenger transfers or providing transportation from the pre-hospital setting.

(b) Stretcher van services are limited to providing non-emergency transportation to medically stable, nonemergent individuals who need to be transported in a reclining position on a stretcher but who do not require any type of monitoring or administration of medical care.

(c) Passenger supplied medications for self-administration are permitted.

(d) Passenger attendants are limited to first aid, BLS CPR, and AED interventions, and the continuation of oxygen.

(e) Stretcher vans shall define the days and hours of operation in which transportation is provided.

(f) When a facility requests a stretcher van, the agency will provide an accurate estimated time of arrival and ensure the passenger needs will be able to be met for the service being requested within the scope of the licensure capabilities and capacity.

(g) Stretcher van transports may be made to and from any State or Federal Veteran Centers.

(h) When a stretcher vans passenger develops an emergency condition, the service shall:

(1) contact 911 or the local emergency number;

(2) proceed to the closest hospital or to a rendezvous point;

(3) provide appropriate first aid, BLS CPR, and AED interventions;
and

(4) submit an incident report to the Department within 48 hours of the incident;

(i) Mutual aid plan(s), regarding interfacility transports only, with licensed services shall be developed and placed in the agency files for inspection. Plans will be periodically reviewed to ensure accuracy and completeness. Licensed stretcher vans agencies shall provide mutual aid if the agency has the capability and if the requested activity is within the licensure requirements.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-17. Transfer protocols

(a) Passengers transported by stretcher van services may originate from a location other than a medical setting provided the passenger's condition is appropriately screened to ensure the passenger condition is

within the service's licensure capabilities.

(b) Transports that occur between medical facilities will be screened to ensure that any care and treatment at the sending facility has been discontinued prior to discharge or transport.

(c) Direct admits from a pre-hospital setting or admissions through the emergency room at a receiving facility are prohibited.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1423, eff 9-11-20]

310:641-17-18. Stretcher van service records and files

(a) All required records for licensure will be maintained for a minimum of three years.

(b) Each licensed stretcher van service shall maintain electronic or paper records about the operation, maintenance, and such other required documents at the business office. These files shall be available for review by the Department during normal work hours. Files which shall be maintained include the following:

(1) a record of each passenger transport to include, but not be limited to:

(A) personal information such as name, date of birth and address;

(B) contact information;

(C) originating location;

(D) destination;

(E) reason for the transport; and

(F) if oxygen was continued.

(2) Records shall be submitted to the Department as required.

(c) All passenger transport reports and information shall be considered as confidential.

(d) All stretcher van agencies shall maintain electronic or paper records on the maintenance and regular inspections of each vehicle.

(1) Each vehicle must be inspected and a detailed equipment checklist completed after each call or on a daily basis, whichever is less frequent.

(2) Documentation that shows routine vehicle maintenance for each vehicle as required by vehicle manufacture recommendations.

(e) All stretcher van agencies shall maintain a licensure or credential file for licensed and certified emergency medical personnel employed by or associated with the service to include:

(1) Oklahoma license and certification,

(2) Basic Life Support certification that meets or exceeds American Heart Association standards,

(3) Incident Command System or National Incident Management Systems training at the 100, 200, and 700 levels or their equivalent,

(4) verification of an Emergency Vehicle Operations Course or other agency approved defensive driving course,

(f) The electronic or paper copies of the licenses and credentials described in this section shall be kept separate from other personnel

records to ensure confidentiality of records that do not pertain to the documents relating to the passenger.

(g) Copies of staffing patterns, schedules, or staffing reports.

(h) Copies of in-service training and continuing education records.

(i) Copies of the stretcher van service's:

(1) operational policies, guidelines, or employee handbook;

(2) OSHA and/or Department of Labor exposure plan, policies, or guidelines.

(j) A log of each request for service call received and/or initiated, to include the:

(1) disposition of the request and the reason for declining the request, if applicable;

(2) passenger care report number;

(3) date of request;

(4) location of the incident;

(5) nature of the call;

(6) time requested;

(7) time arrived;

(8) time departed;

(9) time at destination;

(10) time transport complete;

(11) unit number;

(12) staff member on transport; and

(13) medical screening documentation.

(k) Documentation that verifies an ongoing quality assurance program.

(l) Such other documents which may be determined necessary by the Department. Such documents can only be required after a thorough, reasonable, and appropriate notification by the Department to the services and agencies.

(m) The standardized data set and an electronic submission standard for EMS data as developed by the Department shall be mandatory for each licensed service as defined in the Act. Reports of the data standard shall be forwarded to the Department by the last business day of the following month. Exceptions to the monthly reporting requirements shall be granted only by the Department, in writing.

(n) Review and the disclosure of information contained in the stretcher van service files shall be confidential, except for information which pertains to the requirements for license, certification, or investigation issued by the Department.

(o) Department representatives shall have prompt access to files, records, and property as necessary to appropriately survey the provider. Refusal to allow access by representatives of Department to records, equipment, or property may result in summary suspension of licensure by the Commissioner of Health.

(p) All information submitted and/or maintained in files for review shall be accurate and consistent with Department requirements.

(q) A representative of the agency will be present during the record review.

310:641-17-19. Sole source ordinances

(a) A stretcher van service which operates as a sole source provider established by EMS regions, ambulance service districts, or municipalities shall file with the Department a copy of the ordinance or regulation and a copy of the contract to operate as a sole source provider. This requirement shall be retroactive and includes all established sole source ordinances and resolutions.

(b) A stretcher van service which operates as a sole source provider for a "region" as established pursuant to the Oklahoma Interlocal Cooperation Act (Title 74, Section 1001, et seq.), shall file with the Department, a copy of the interlocal agreement and any ordinance or other regulations or contract or agreement established by the region for ambulance service provision.

(c) Violation of contracts established herein may be cause for enforcement action by the Department.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1438, eff 9-11-20]

310:641-17-20. Suspension, revocation, probation, or non-renewal of a licensee

(a) The Department may suspend or revoke a license and/or fine or place on probation a license or licensee for the following:

- (1) violations of any of the provision of the Oklahoma Statutes, the Act, or this chapter;
- (2) permitting, aiding, or abetting in any illegal act in connection with the ambulance service;
- (3) conduct of any practice that is detrimental to the welfare of the passenger or potential users of the service;
- (4) responding to requests for service or completing transports that are not permitted by the type of license issued by the Department;
- (5) placing a vehicle into service before it is properly inspected, approved, and permitted by the Department;
- (6) failure to comply with a written order issued by the Department within the time frame specified by the Department;
- (7) engaging in any act which is designed or intended to hinder, impede, or obstruct the investigation of any matter governed by the Act or by any lawful authority;
- (8) a stretcher van service who fails to renew their Oklahoma license within the time frame and other requirements as specified in these rules shall be considered an expired or lapsed licensee and therefore no longer licensed as an ambulance service in the State of Oklahoma;
- (9) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;
- (10) offering, giving, promising anything of value or benefit, as defined in Oklahoma Statutes or Department Policy to a Federal, state, or local governmental official for the purpose of influencing the employee or official to circumvent a Federal, state, or local

law, rule, or ordinance governing the licensee's profession or occupations;

(11) interference with an investigation disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(12) failure to report the unprofessional conduct or non-compliance of regulations by individually licensed and certified personnel as defined in this Chapter.

(b) No person, company, governmental entity or trust authority may operate an ambulance service or emergency medical response agency except in accordance with the Act and the rules as promulgated by the State Board. The Commissioner, District Attorney of the county wherein a violation occurs, or the Attorney General of this State, shall have the authority to enforce provisions of the law.

(c) A license/certificate/permit holder or applicant in connection with a license application or an investigation conducted by the Department pursuant to this rule shall not:

(1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a misapprehension known by the licensee to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Department or any designated representative thereof.

(d) If in the course of an investigation, the Department determines that a license/certificate/permit holder or applicant has engaged in conduct that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the license/certificate/permit holder's license, certificate, or permit respectively. A presumption of imminent harm to the public shall exist if the Department determines probable cause for conduct of any practice that is detrimental to the welfare of the passenger or potential users of the service.

(e) In addition to any other penalties, a civil fine of not more than one hundred (\$100.00) dollars per violation per day may be assessed, for violations of the Act or this Chapter.

[Source: Added at 33 Ok Reg 1529, eff 9-11-16 ; Amended at 37 Ok Reg 1438, eff 9-11-20]

CHAPTER 642. EMERGENCY RESPONSE SYSTEMS STABILIZATION AND IMPROVEMENT REVOLVING FUND

[Authority: 63 O.S., § 1-2512.1]

[Source: Codified 7-25-10]

SUBCHAPTER 1. GENERAL PROVISIONS

310:642-1-1. Purpose

The rules in this chapter are promulgated to:

- (1) Define the process for appropriate distribution of the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund (OERSSIRF) pursuant to 63 O.S. 2008, § 1-2512.1.
- (2) Provide standards for monitoring and enforcement of the provisions of the statute and these rules.

[Source: Added at 27 Ok Reg 697, eff 2-2-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2536, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:642-1-1 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

310:642-1-2. Program Description

The Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund program is authorized by 63 O.S. 2008, § 1-2512.1. This law authorizes the Department to distribute funds for specified purposes. This Chapter interprets and implements the law authorizing the expenditure and distribution of funds by the Department. The Department's rules applicable to OERSSIRF expenditures shall be construed so as to consider only the OERSSIRF expenditures program administered by the Department.

[Source: Added at 27 Ok Reg 697, eff 2-2-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2536, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:642-1-2 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

310:642-1-3. Definitions

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

"Applicant" means a qualified entity that submits a proposal for OERSSIRF funds.

"Department" means the Oklahoma State Department of Health.

"Emergency Medical Services System" means the network of emergency medical dispatchers (EMDs), certified emergency medical responders (EMRs), licensed emergency medical technicians (EMTs), certified emergency medical response agencies (EMRAs), licensed ambulance services, EMS medical directors, recognized training institutions, and communications centers that work together to deliver prompt, effective pre-hospital emergency medical care to the citizens of Oklahoma.

"Qualified entity" means any person or organization licensed, certified or approved by the Department as part of the EMS system, such as EMS personnel, certified emergency medical response agencies, licensed ambulance services, approved training institutions, approved emergency medical dispatch agencies, approved medical directors or any combination thereof, or their associations or sponsoring organizations, such as EMS districts, cities or counties that operate certified emergency response agencies or licensed ambulance services, or education systems operating EMS training institutions.

[Source: Added at 27 Ok Reg 697, eff 2-2-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2536, eff 7-25-10]

Editor's Note: ¹ *This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:642-1-3 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

SUBCHAPTER 3. PROPOSALS

310:642-3-1. Proposal review and disposition

(a) **General procedures.** The general procedure to be followed in the funding proposal, review and consideration process for financial assistance under the OERSSIRF program shall be as follows:

(1) **Pre-proposal conference.**

(A) All potential applicants are encouraged to participate in a pre-proposal conference. The Department shall summarize available funding, areas of need identified by any state assessment, and the status of previous OERSSIRF-funded projects.

(B) At the pre-proposal conference, preliminary matters may be generally discussed to familiarize all concerned

parties with the proposal period, requirements and procedures.

(2) **Proposal.** An applicant shall initiate proposal review and consideration by submission to the Department of applicant's proposal for financial assistance. A proposal shall be submitted by the qualified entity using forms described in 310:642-7-1 (relating to content of application), within the application period specified in OAC 310:642-3-2 (relating to deadlines for filing.)

(3) **Scoring and selection.** Eligible proposals shall be scored by the following process.

(A) A public meeting shall be scheduled for the purpose of scoring the eligible OERSSIRF proposals and awarding the funds that have been identified by the Department as the balance available for distribution on the last day of the preceding calendar year.

(i) A five (5) person review panel shall be appointed by the Commissioner.

(ii) Each appointed member will sign an attestation stating the appointee has no financial or other direct personal interest in any of the project proposals before the Department.

(B) The panel shall be seated and the reviews will begin under the direction of Department staff.

(i) Department staff will distribute proposals and scoring tools, collect the completed scoring tools for each proposal from the panelists, and tally the scores for each proposal at the end of the process.

(ii) The tallied scores shall be posted as soon as the totals are computed.

(C) The project with the highest score of total points shall be selected for funding, and the projected cost of the project deducted from the balance of the fund.

(D) The project with the next highest score of total points shall be selected for funding, and the cost deducted from the balance of the fund and continuing in like manner until insufficient funds remain to fund the next highest-scoring project.

(E) Any remaining funding shall be retained by the fund and distributed the next year.

(b) Criteria applicability.

(1) The criteria set forth in subsections (c) and (d) of this Section shall constitute guidelines and standards for proposal review and consideration by the Department.

(2) The criteria and standards set forth in subsections (c) and (d) of this Section shall be applied to each proposal without exception.

(c) General approval standards and criteria. The Department shall be under a continuing obligation to ensure the following standards and criteria are satisfied before any proposal is approved for funding and may determine compliance with these standards and criteria during preliminary review, scoring and selection or during a post selection

review:

(1) **Compliance with applicable law.** The proposed project must be found to be in compliance with 63 O.S. § 1-2512.1, and applicant must possess all necessary and incidental legal rights and privileges necessary to project commencement and operation.

(2) **Eligibility.** The applicant must be a qualified entity and the proposed project must be for a qualified purpose as defined in 63 O.S. § 1-2512.1.

(3) **Local need, support and priority.** The applicant shall demonstrate that the project is needed in the area to be served and is sufficient, as proposed, to serve such needs. Applicant shall demonstrate local support, interest and commitment in and to the proposed project.

(4) **Availability of other assistance.** Applicant shall demonstrate appropriate due diligence to ensure no alternative sources of revenue could be obtained and utilized for project financing.

(5) **Economic feasibility.** The applicant shall demonstrate the overall economic viability and feasibility of the project.

(6) **Project feasibility.** The applicant shall demonstrate that the project is feasible and cost effective.

(7) **Statewide needs and public interest.** The applicant shall demonstrate the relationship between the proposed project and the overall EMS development needs within the State of Oklahoma and show that proposed project will serve the public interest and welfare.

(d) **Criteria for denying a proposal.** The Department may deny a proposal for OERSSIRF funding for any of the following reasons:

(1) The applicant is not an eligible entity.

(2) The project does not serve the goals of 63 O.S. § 1-2512.1.

(3) Insufficient availability of funding.

(4) The proposal is received after the deadline.

(e) **Department action.**

(1) After reviewing and considering the submitted proposal, the Department may take one of the following actions:

(A) The Department may approve and fund the proposal as submitted.

(B) The Department may reject and deny the proposal based upon any applicable criteria described in subsection (d) of this Section.

(2) Upon approval of a proposal, the Department may authorize the execution of all necessary funding documents and instruments, and may accordingly authorize and provide for disbursements and such further or additional action as may be necessary to complete and implement the approved transaction.

Editor's Note: ¹ *This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:642-3-1 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

310:642-3-2. Applicable law, deadline for proposals, eligible project costs, maximum award

(a) The Department shall administer proposals for OERSSIRF funds in accordance with any provisions of law applicable to such proposals and OERSSIRF funds.

(b) To be considered for and receive funding from funds available for OERSSIRF in any given fiscal year, an application must be completed in accordance with this Chapter and filed by the applicant and received by the Department on or before the thirtieth (30) calendar day after the issuance of the Request for Proposals (RFP). Any application not properly completed and filed shall not be considered for or funded from funds that may become available during that fiscal year.

(c) The Department shall issue a Request for Proposals (RFP) for the OERSSIRF each year. The submission period, including time for questions, shall not be less than thirty (30) calendar days. The Department shall identify qualified staff to ensure questions received through the RFP process are answered and posted appropriately.

(d) An OERSSIRF proposal submitted for consideration in a prior fiscal year that was not approved for funding in that prior fiscal year may be submitted again in any year.

(e) For purposes of evaluating, approving and funding proposals for OERSSIRF funds, categories of project costs which are eligible for assistance shall include those project costs described in 63 O.S. § 1-2512.1:

- (1) Funding assessment activities,
- (2) Stabilization and/or reorganization of at-risk emergency medical services,
- (3) Development of regional emergency medical services,
- (4) Training for emergency medical directors,
- (5) Access to training front line emergency medical services personnel,
- (6) Capital and equipment needs.

(f) No qualified entity shall receive more than \$500,000 in OERSSIF funding assistance in any twelve (12) month period, or for any single project.

[Source: Added at 27 Ok Reg 697, eff 2-2-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2536, eff 7-25-10]

Editor's Note: ¹ *This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting*

a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:642-3-2 was no longer effective, and remained as such until added again by permanent action on 7-25-10.

SUBCHAPTER 5. SCORING

310:642-5-1. OERSSIRF funding priority point system

Proposals shall be ranked based on the total number of points awarded by the Department consistent with this Chapter.

- (1) The following formula shall be used to rank funding proposals: $T = S + M + D + H + E + AR + PM$, where:

- (A) S = Statutory purposes
- (B) M = Multiple jurisdictions
- (C) D = Population density
- (D) H = Distance to the nearest level I or II trauma center
- (E) E = Number of project-area EMTs
- (F) AR = Amount of funding requested
- (G) PM = Project matching

- (2) Points may be awarded as described below:

- (A) **Statutory purposes (S):** Points shall be awarded for each of the relevant statutory purposes of the proposal as follows:

- (i) Funding assessment activities: 50 points
- (ii) Stabilization and/or reorganization of at-risk emergency medical services: 100 points
- (iii) Development of regional EMS: 50 points
- (iv) Training for emergency medical directors: 50 points
- (v) Access to training front line emergency medical services personnel: 100 points
- (vi) Capital and equipment needs: 50 points

- (B) **Multiple jurisdictions (M):** Points shall be awarded for projects addressing the EMS needs of multiple jurisdictions, as follows:

- (i) Two cities or towns: 25 points
- (ii) Three cities or towns: 50 points
- (iii) County wide: 100 points
- (iv) Multi-county: 150 points
- (v) State wide: 200 points

- (C) **Population density (D):** Points shall be awarded for projects encompassing areas of lowest per-mile population density as recorded by the United States Census Bureau, as follows:

- (i) 5,000.0 to 8,968.1: 0 points
- (ii) 1,000.0 to 4,999.9: 10 points
- (iii) 200.0 to 999.9: 20 points

- (iv) 79.6 to 199.9: 30 points
- (v) 30.0 to 79.5: 40 points
- (vi) 10.0 to 29.9: 50 points
- (vii) Less than 10.0: 100 points

(D) **Distance to trauma center (H):** Points shall be awarded for project areas where the average distance between the furthest and closest points within the project area to a trauma center classified by the State of Oklahoma or the American College of Surgeons as level I or II, as follows:

- (i) 0-25 miles: 0 points
- (ii) 25-49 miles: 10 points
- (iii) 50-74 miles: 20 points
- (iv) 75-99 miles: 30 points
- (v) 100-124 miles: 40 points
- (vi) 125-149 miles: 50 points
- (vii) 150 miles and over: 100 points

(E) **EMTs (E):** Points shall be awarded for proposals encompassing project areas with fewer resident licensed EMTs at any level of licensure as recorded by the Department as follows:

- (i) 100 or more resident EMTs: 0 points
- (ii) 50-99 resident EMTs: 20 points
- (iii) 25-49 resident EMTs: 40 points
- (iv) 0-24 resident EMTs: 60 points

(F) **Amount of funding requested (AR):** Points under this category for amount of funding requested are determined as follows:

- (i) \$400,001 to \$500,000: -50 points
- (ii) \$300,001 to \$400,000: -40 points
- (iii) \$200,001 to \$300,000: -30 points
- (iv) \$100,001 to \$200,000: -20 points
- (v) \$80,000 to \$100,000: 10 points
- (vi) \$60,000 to \$79,999: 20 points
- (vii) \$40,000 to \$59,999: 30 points
- (viii) \$20,000 to \$39,999: 50 points
- (ix) Any AR greater than \$500,000 shall be denied

(G) **Project matching (PM).** If the proposal proposes the use of matching funds, points shall be awarded consistent with the following formula:

- (i) 90% of the requested funds: 90 points
- (ii) 80% of the requested funds: 80 points
- (iii) 70% of the requested funds: 70 points
- (iv) 60% of the requested funds: 60 points
- (v) 50% of the requested funds: 50 points
- (vi) 40% of the requested funds: 40 points
- (vii) 30% of the requested funds: 30 points
- (viii) 20% of the requested funds: 20 points
- (ix) 10% of the requested funds: 10 points

[Source: Added at 27 Ok Reg 697, eff 2-2-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2536, eff 7-25-10 ; Revoked at 40 Ok Reg 643, eff 2-22-23 ; Amended at 40 Ok Reg 1576, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

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SUBCHAPTER 7. DISBURSEMENT

310:642-7-1. Content of proposal

(a) The proposal shall be submitted using the forms provided by the Department. The proposal form shall include the following sections:

- (1) Proposal Information, including the name of the contact person, mailing address, e-mail address, phone number and type of qualifying applicant entity.
- (2) Instructions, including an outline of the legal requirements and the priority point system.
- (3) A section requiring a narrative description of the proposed project.
- (4) A section enumerating the requirements of the OERSSIRF statute, requiring a description of the proposed project's compliance with each section.
- (5) A section requiring a narrative description of the proposed project's compliance with each of the priority point criteria.
- (6) A checklist allowing evaluation of compliance with solicitation requirements.

(b) Each proposal shall include a section setting forth the criteria that will be used to evaluate the success of the project. The criteria shall include:

- (1) Specific, objective metrics for evaluation of the project. For example: a percentage decline in response time or improvement in the number of available EMTs within a region, measured against the same metric at the start of the project.
- (2) A clear methodology and a description of data sources for computing the performance measures proposed in the project plan, for example, comparing responder response times or the total number of EMTs in a region against the same metric at the end of the project.
- (3) Benchmark measures for each of the following assessment levels:
 - (A) Significantly improved.
 - (B) Improved.
 - (C) Not Improved.
 - (D) Worsened.

[Source: Added at 27 Ok Reg 697, eff 2-2-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2536, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:642-7-1 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

310:642-7-2. Disbursement of funds

(a) **Action following Department approval and prior to disbursement of funding.**

(1) **Notification of approval.** Upon approval of an OERSSIRF proposal, the Department shall furnish to the applicant a written notice of approval. The notice shall advise the applicant that the funds approved shall be made available to the applicant by the Department for such purposes and upon conditions as provided in paragraph (2) of this subsection (relating to additional conditions prior to disbursement of funds).

(2) **Additional conditions prior to disbursement of funds.**

(A) Applicant shall establish a special and separate federally insured fund or account within applicant's accounting system in and through which the proceeds shall be administered and accounted for by the applicant.

(B) Unless otherwise provided and approved by the Department, applicant shall submit to the Department all plans, specifications and benchmark completion reports for the project for Department approval, all of which shall be complete and in sufficient detail as would be required for submission of the project to a contractor for bidding or contracting the project. If not previously provided, applicant shall provide Department with a written and verified statement setting forth:

(i) The amount of funds necessary for release and disbursement at closing needed for commencement of the project, and

(ii) The reasonable availability of all other revenue or funding sources needed to finance and complete the project.

(C) Applicant and Department, and all other necessary parties, shall have executed all necessary and incidental instruments and documents, including but not limited to a vendor agreement.

(3) **Department action on request for withdrawal of funding.**

If, prior to disbursement of the monies to the applicant, the project bids exceed the estimates or it otherwise develops that the OERSSIRF proposal amount approved by the Department, when combined with any other sources of funding, will be insufficient to complete the approved project, then the applicant may file a written request to decline funding and withdraw its proposal for the current fiscal year.

(b) **Disbursement of funding to applicant; action following disbursement.**

(1) **Disbursement contingent on completion of conditions; reduction from approved amount.** At the time of and upon compliance by the applicant with the applicable requirements in subsection (a) of this Section, the Department shall disburse the approved amount of OERSSIRF funds to the applicant for the approved project.

(2) **Disbursement in whole or part; timing.** Funds may be disbursed to the applicant in installments or in lump sum, and may be disbursed prior to, during, or upon, completion of the project, all as deemed appropriate by the Department under the

project circumstances presented. The Department shall conduct on-site inspections to confirm completion of benchmarks described in the project plan.

(3) **Post-disbursement requests for increases in funding amount.** If after disbursement of the monies to the applicant it develops that the applicant needs more money for the project than the OERSSIRF amount disbursed by the Department, the Department may evaluate remaining funds and at its discretion may increase funding no more than 10% over the original proposed amount.

(4) **Post-disbursement action regarding unexpended funding.** If following completion of the project the applicant needed less money for the project than disbursed by the Department, the applicant shall return the unexpended amount to the Department. Unused funding shall be returned to the fund and made available during the next funding year.

(5) **Reports.** The Department may require quarterly or biannual progress reports and may at any time perform on-site inspections.

(A) Applicants shall provide all requested documents at the time of the inspection, or as required by the Department.

(B) Department staff shall report any suspected misappropriation of funds to the appropriate law enforcement authority.

[Source: Added at 27 Ok Reg 697, eff 2-2-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2536, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:642-7-2 was no longer effective, and remained as such until added again by permanent action on 7-25-10.*

SUBCHAPTER 9. EVALUATION

310:642-9-1. Evaluation of Projects

The Department shall perform an evaluation of the project within six (6) months of its completion, summarizing its effectiveness using benchmark measures identified in the proposal as required by 310:642-7-1(b)(3)(relating to content of proposals).

[Source: Added at 27 Ok Reg 697, eff 2-2-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2536, eff 7-25-10]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting*

a new Section, the text of the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:642-9-1 was no longer effective, and remained as such until added again by permanent action on 7-25-10.

CHAPTER 645. EMERGENCY SERVICE DISTRICT SUPPLEMENTAL REGULATIONS [REVOKED]

[Authority: 63 O.S.1990, §§ 1-2501 et seq.]
[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:645-1-1. Purpose [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

310:645-1-2. Definitions [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

SUBCHAPTER 3. PROCEDURE TO ESTABLISH A DISTRICT [REVOKED]

310:645-3-1. Procedure [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

310:645-3-2. Application to establish a district [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

SUBCHAPTER 5. ESTABLISHMENT OF THE DISTRICT [REVOKED]

310:645-5-1. No objection(s) [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

310:645-5-2. Formal objection(s) [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

SUBCHAPTER 7. DENIAL OF A DISTRICT [REVOKED]

310:645-7-1. Denial of a district [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

310:645-7-2. Written denial format and remedy [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

310:645-7-3. New application requirement [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

**SUBCHAPTER 9. CONTRACT FOR A PROVIDER
[REVOKED]**

310:645-9-1. Provider contract requirements [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

**SUBCHAPTER 11. DISSOLUTION AND NEW
CONTRACTS [REVOKED]**

310:645-11-1. Dissolution of districts and contracts [REVOKED]

[Source: Revoked at 40 Ok Reg 1577, eff 9-11-23]

CHAPTER 650. GROUP HOME REGULATIONS [REVOKED]

Editor's Note: *Effective 11-1-96, the regulatory authority for this program was transferred from the Oklahoma State Board of Health to the Commission for Human Services. [Laws 1996, c. 155 and c. 354; 10 O.S., § 1430.1 et seq.] See rules of the Commission for Human Services at OAC 340:100-6.*

[**Authority:** 60 O.S., § 863; 63 O.S., §§ 1-818.1 and 1-818.11]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:650-1-1. Purpose [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-1-2. Definitions [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2370, eff 6-11-98]

SUBCHAPTER 3. BASIC LICENSURE STANDARDS [REVOKED]

310:650-3-1. License required [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-2. Types of licenses [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-3. Application for license or renewal [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-4. Inspections [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-5. Sanctions [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-6. Records and reports [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-7. Resident records [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-8. Resident council [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-9. Complaints [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-10. Abuse and neglect [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-11. Change of ownership [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-3-12. Closing of group home [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

SUBCHAPTER 5. CONSTRUCTION REQUIREMENTS AND PHYSICAL PLANT [REVOKED]

310:650-5-1. General criteria [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-5-2. Plumbing and electrical system [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-5-3. Location, general requirements [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-5-4. Building elements [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-5-5. Resident rooms and areas [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-5-6. Lounge area [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

SUBCHAPTER 7. ENVIRONMENTAL HEALTH AND SANITARY REQUIREMENTS [REVOKED]

310:650-7-1. Control of premises [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-7-2. Premises [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-7-3. Insect and rodent control [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-7-4. Garbage disposal [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-7-5. Housekeeping [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

SUBCHAPTER 9. DIETARY REQUIREMENTS [REVOKED]

310:650-9-1. Food service [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

SUBCHAPTER 11. PROGRAM CERTIFICATION STANDARDS [REVOKED]

310:650-11-1. Staffing requirements [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

SUBCHAPTER 13. INDIVIDUAL HABILITATION PLAN, TRAINING SERVICES [REVOKED]

310:650-13-1. Individual habilitation plan (IHP) [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-13-2. Training of the residents [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-13-3. Services [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

SUBCHAPTER 15. MEDICATION STORAGE AND ADMINISTRATION [REVOKED]

310:650-15-1. Medications [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

SUBCHAPTER 17. RESIDENTS' FUNDS [REVOKED]

310:650-17-1. Resident's contract [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-17-2. Protection of resident's funds [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

SUBCHAPTER 19. INVOLUNTARY TRANSFER OR DISCHARGE OF RESIDENT [REVOKED]

310:650-19-1. Transfer or discharge of resident [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-19-2. Notice of involuntary transfer or discharge [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

**310:650-19-3. Hearing on involuntary transfer or discharge
[REVOKED]**

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-19-4. Transfer by the department [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

**SUBCHAPTER 21. RESIDENTS' RIGHTS AND
RESPONSIBILITIES [REVOKED]**

310:650-21-1. Posting and distribution [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-21-2. Statement contents [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-21-3. Denial of care [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

310:650-21-4. Written plan and training [REVOKED]

[Source: Revoked at 15 Ok Reg 2370, eff 6-11-98]

CHAPTER 655. HEALTH MAINTENANCE ORGANIZATIONS AND PREPAID HEALTH PLANS [REVOKED]

[**Authority:** 63 O.S., §§ 1-104 and 2501 et seq.; OK Laws 2003, c.197]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:655-1-1. Purpose [REVOKED]

[**Source:** Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-1-2. Definitions [REVOKED]

[**Source:** Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-1-3. Severability [REVOKED]

[**Source:** Revoked at 14 Ok Reg 3585, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 3179, eff 7-13-98]

SUBCHAPTER 3. RATING SYSTEM [REVOKED]

310:655-3-1. Definitions [REVOKED]

[**Source:** Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-3-2. Community rating [REVOKED]

[**Source:** Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-3-3. Community rating by class [REVOKED]

[**Source:** Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-3-4. Adjusted community rating [REVOKED]

[**Source:** Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-3-5. Rates to reflect risk-sharing arrangements [REVOKED]

[Source: Added at 11 Ok Reg 1459, eff 3-21-94 (emergency); Added at 11 Ok Reg 3175, eff 6-27-94 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-3-6. Filing requirements for rating information [REVOKED]

[Source: Added at 11 Ok Reg 1459, eff 3-21-94 (emergency); Added at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 5. COMPREHENSIVE AND SUPPLEMENTAL HEALTH SERVICES [REVOKED]

310:655-5-1. Comprehensive services [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 17 Ok Reg 2980, eff 7-13-00 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-5-2. Supplemental services [REVOKED]

[Source: Amended at 17 Ok Reg 2980, eff 7-13-00 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 7. POINT OF SERVICE OPTION [REVOKED]

310:655-7-1. Definitions [REVOKED]

[Source: Amended at 16 Ok Reg 1403, eff 5-27-99 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-7-2. Purpose/scope [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 16 Ok Reg 1403, eff 5-27-99 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-7-3. Responsibilities of the HMO [REVOKED]

[Source: Added at 16 Ok Reg 1403, eff 5-27-99 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 9. LICENSE APPLICATIONS [REVOKED]

310:655-9-1. Purpose [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-9-2. Description [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Amended at 17 Ok Reg 2980, eff 7-13-00 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 11. REVIEW OF APPLICATIONS [REVOKED]

310:655-11-1. Description [REVOKED]

[Source: Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-11-2. Filings [REVOKED]

[Source: Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-11-3. Initial license review [REVOKED]

[Source: Revoked at 14 Ok Reg 3585, eff 7-18-97 through 3-23-98 (emergency)¹; Revoked at 22 Ok Reg 1135, eff 5-26-05]

Editor's Note: ¹*On 3-24-98, this emergency revocation of Section 310:655-11-3 was disapproved by the Legislature in Senate Joint Resolution 31. Upon disapproval by the Legislature of the emergency revocation on 3-24-98, the text of 310:655-11-3 reverted back to the permanent text that was effective prior to the 7-18-97 emergency revocation, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-26-05.*

310:655-11-4. License renewal review [REVOKED]

[Source: Revoked at 14 Ok Reg 3585, eff 7-18-97 through 3-23-98 (emergency)¹; Revoked at 22 Ok Reg 1135, eff 5-26-05]

Editor's Note: ¹*On 3-24-98, this emergency revocation of Section 310:655-11-4 was disapproved by the Legislature in Senate Joint Resolution 31. Upon disapproval by the Legislature of the emergency revocation on 3-24-98, the text of 310:655-11-4 reverted back to the permanent text that was effective prior to the 7-18-97 emergency revocation, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-26-05.*

310:655-11-5. Appeals [REVOKED]

[Source: Revoked at 14 Ok Reg 3585, eff 7-18-97 through 3-23-98 (emergency)¹; Revoked at 22 Ok Reg 1135, eff 5-26-05]

Editor's Note: ¹*On 3-24-98, this emergency revocation of Section 310:655-11-5 was disapproved by the Legislature in Senate Joint Resolution 31. Upon disapproval by the Legislature of the emergency revocation on 3-24-98, the text of 310:655-11-5 reverted back to the permanent text that was effective prior to the 7-18-97 emergency revocation, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-26-05.*

SUBCHAPTER 13. PUBLIC HEARINGS ON INITIAL LICENSE APPLICATIONS [REVOKED]

310:655-13-1. Procedures [REVOKED]

[Source: Revoked at 14 Ok Reg 3585, eff 7-18-97 through 3-23-98 (emergency)¹; Revoked at 22 Ok Reg 1135, eff 5-26-05]

Editor's Note: ¹*On 3-24-98, this emergency revocation of Section 310:655-13-1 was disapproved by the Legislature in Senate Joint Resolution 31. Upon disapproval by the Legislature of the emergency revocation on 3-24-98, the text of 310:655-13-1 reverted back to the permanent text that was effective prior to the 7-18-97 emergency revocation, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-26-05.*

SUBCHAPTER 15. REQUIREMENTS FOR A LICENSE [REVOKED]

310:655-15-1. License required [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-15-2. Description [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-15-3. Services to members [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-15-4. Membership [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-15-5. Individual conversion contracts [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-15-6. Premiums/co-payments [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 17 Ok Reg 2980, eff 7-13-00 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-15-7. Grievance system [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-15-8. Guaranteed renewal [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-15-9. Small group offering [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-15-10. Special enrollment periods [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 17. UTILIZATION AND QUALITY REVIEW SYSTEMS [REVOKED]

310:655-17-1. Requirement [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-17-2. Quality review system [REVOKED]

[Source: Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-17-3. Utilization review [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency)¹; Amended at 15 Ok Reg 3179, eff 7-13-98 ¹; Amended at 16 Ok Reg 2516, eff 6-25-99 ;

Revoked at 22 Ok Reg 1135, eff 5-26-05]

Editor's Note: ¹ On 5-26-98, the Legislature disapproved permanent language in subsection (d), which had been proposed by the agency to supersede emergency language that became effective 7-18-97, and extended the emergency language in subsection (d) until "July 1, 1999, or until superseded by the promulgation of a permanent rule which is consistent with legislative intent, whichever is earlier" [HJR 1104 (1998)]. The remaining amendments to this Section, which had not been disapproved by the Legislature, were promulgated by the agency and became effective 7-13-98 [see 15 Ok Reg 3179]. Permanent amendments to this Section were approved by the Legislature the following year and superseded the extended emergency language in subsection (d) on 6-25-99. For the text of subsection (d) that became effective on 7-18-97 and remained in effect until superseded by permanent action on 6-25-99, see subsection (d) of Section 310:655-17-3 published at 14 Ok Reg 3585.

310:655-17-4. First and subsequent years [REVOKED]

[Source: Revoked at 14 Ok Reg 3585, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 3179, eff 7-13-98]

310:655-17-4.1. Peer review [REVOKED]

[Source: Added at 14 Ok Reg 3585, eff 7-18-97 (emergency); Added at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-17-5. Second and subsequent years [REVOKED]

[Source: Revoked at 14 Ok Reg 3585, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 3179, eff 7-13-98]

310:655-17-6. Third and subsequent years [REVOKED]

[Source: Revoked at 14 Ok Reg 3585, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 3179, eff 7-13-98]

310:655-17-7. Fourth and subsequent years [REVOKED]

[Source: Revoked at 14 Ok Reg 3585, eff 7-18-97 (emergency); Revoked at 15 Ok Reg 3179, eff 7-13-98]

310:655-17-8. Disclosure requirements [REVOKED]

[Source: Added at 14 Ok Reg 3585, eff 7-18-97 (emergency); Added at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-17-9. Governing body oversight [REVOKED]

[Source: Added at 14 Ok Reg 3585, eff 7-18-97 (emergency); Added at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-17-10. Independent medical judgment [REVOKED]

[Source: Added at 14 Ok Reg 3585, eff 7-18-97 (emergency); Added at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-17-11. Quality of care examinations [REVOKED]

[Source: Added at 14 Ok Reg 3585, eff 7-18-97 (emergency); Added at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 19. OWNERSHIP/CONTROL OF HMO [REVOKED]

310:655-19-1. Ownership [REVOKED]

[Source: Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-19-2. Removal or transfer of property [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-19-3. Accounts, books and records [REVOKED]

[Source: Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 21. ISSUANCE OF A LICENSE [REVOKED]

310:655-21-1. Description [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-21-2. Duration of license [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 23. WITHDRAWAL OF A LICENSE [REVOKED]

310:655-23-1. Conditions for revocation/suspension [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-23-2. Suspension [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-23-3. Revocation [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 25. PROTECTION AGAINST INSOLVENCY [REVOKED]

310:655-25-1. Net worth requirement [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Amended at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-2. Minimum deposit requirements [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-3. Purpose of deposits [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-4. Reduction of deposit [REVOKED]

[Source: Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-5. Liability insurance [REVOKED]

[Source: Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-6. Provider contracts [REVOKED]

[Source: Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Amended at 17 Ok Reg 2980, eff 7-13-00 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-7. Covered and uncovered expenses [REVOKED]

[Source: Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-8. Projections [REVOKED]

[Source: Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-9. Impairment [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-10. Deposit of funds [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-25-11. Financial examination [REVOKED]

[Source: Added at 14 Ok Reg 3585, eff 7-18-97 (emergency); Added at 15 Ok Reg 3179, eff 7-13-98 ; Amended at 17 Ok Reg 2980, eff 7-13-00 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 20 Ok Reg 2379, eff 7-11-03]

310:655-25-12. Claims against deposit [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 27. TERMINATION OF MEMBERS, PROVIDERS AND CONTINUATION OF BENEFITS [REVOKED]

310:655-27-1. Termination of group or individual contracts [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 17 Ok Reg 2980, eff 7-13-00 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-27-2. Termination of providers [REVOKED]

[Source: Added at 17 Ok Reg 2980, eff 7-13-00 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-27-3. Continuation of benefits [REVOKED]

[Source: Added at 17 Ok Reg 2980, eff 7-13-00 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-27-4. Disenrollment for cause [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-27-5. Certification of creditable coverage [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 29. DISCONTINUATION OF HMO [REVOKED]

310:655-29-1. Notice [REVOKED]

[Source: Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-29-2. Replacement coverage [REVOKED]

[Source: Amended at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-29-3. Individual market [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-29-4. Group market [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-29-5. Market reentry [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 31. FAILURE TO OBTAIN LICENSE [REVOKED]

310:655-31-1. Restrictions [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-31-2. Prohibitions [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-31-3. Enforcement [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 33. REPORTS AND PERIODIC FILINGS [REVOKED]

310:655-33-1. Annual survey [REVOKED]

[Source: Revoked at 13 Ok Reg 2119, eff 6-13-96]

310:655-33-2. Application changes [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 17 Ok Reg 2980, eff 7-13-00 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-33-3. Periodic filings [REVOKED]

[Source: Amended at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Amended at 17 Ok Reg 2980, eff 7-13-00 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-33-4. Department review [REVOKED]

[Source: Amended at 17 Ok Reg 2980, eff 7-13-00 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 35. REQUIREMENTS FOR GROUP CONTRACT, INDIVIDUAL CONTRACT AND EVIDENCE OF COVERAGE [REVOKED]

310:655-35-1. Purpose [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-35-2. Contents of contract [REVOKED]

[Source: Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-35-3. Evidence of coverage [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-35-4. Examination period [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-35-5. Department review [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-35-6. Benefit changes [REVOKED]

[Source: Added at 11 Ok Reg 1459, eff 3-21-94 (emergency); Added at 11 Ok Reg 3175, eff 6-27-94 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-35-7. Identification cards [REVOKED]

[Source: Amended at 17 Ok Reg 2980, eff 7-13-00 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 37. CONFIDENTIALITY OF MEDICAL INFORMATION AND LIABILITY [REVOKED]

310:655-37-1. Responsibility of HMO [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-37-2. Responsibility of the Department [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 39. POWERS OF HEALTH MAINTENANCE ORGANIZATIONS [REVOKED]

310:655-39-1. Powers of an HMO [REVOKED]

[Source: Amended at 11 Ok Reg 1459, eff 3-21-94 (emergency); Amended at 11 Ok Reg 3175, eff 6-27-94 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Amended at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-39-2. Transactions between affiliates [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 41. MISCELLANEOUS PROVISIONS [REVOKED]

310:655-41-1. Examinations [REVOKED]

[Source: Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-41-2. Request for assistance [REVOKED]

[Source: Amended at 14 Ok Reg 3585, eff 7-18-97 (emergency); Amended at 15 Ok Reg 3179, eff 7-13-98 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-41-3. Coordination of benefits [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-41-4. Other requirements [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 43. EX PARTE CONTACTS [REVOKED]

310:655-43-1. Purpose [REVOKED]

[Source: Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 45. GEOGRAPHIC SERVICE AREA VARIATIONS [REVOKED]

310:655-45-1. Accessibility of providers [REVOKED]

[Source: Added at 11 Ok Reg 1459, eff 3-21-94 (emergency); Added at 11 Ok Reg 3175, eff 6-27-94 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-45-2. Marketing and enrolling [REVOKED]

[Source: Added at 11 Ok Reg 1459, eff 3-21-94 (emergency); Added at 11 Ok Reg 3175, eff 6-27-94 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-45-3. Required filings [REVOKED]

[Source: Added at 11 Ok Reg 1459, eff 3-21-94 (emergency); Added at 11 Ok Reg 3175, eff 6-27-94 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 47. REIMBURSEMENT OF CLAIMS [REVOKED]

310:655-47-1. Purpose [REVOKED]

[Source: Added at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 16 Ok Reg 1403, eff 5-27-99 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-2. Requirement to reimburse claims for point of service [REVOKED]

[Source: Added at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 16 Ok Reg 1403, eff 5-27-99 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-3. Responsibilities [REVOKED]

[Source: Added at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 16 Ok Reg 1403, eff 5-27-99 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-4. Reimbursement criteria [REVOKED]

[Source: Added at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 16 Ok Reg 1403, eff 5-27-99 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-5. Deadline for claim payment [REVOKED]

[Source: Added at 13 Ok Reg 2119, eff 6-13-96 ; Amended at 16 Ok Reg 1403, eff 5-27-99 ; Amended at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-6. Claims payment report [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-7. Elements of a clean claim [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-8. Disclosure requirements [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-9. Disclosure of processing procedures [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-10. Failure to promptly pay [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-11. Date of claim receipt [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-47-12. Terms of contracts [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 49. ADMINISTRATIVE PENALTIES [REVOKED]

310:655-49-1. Purpose [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-49-2. Determining seriousness of violation [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-49-3. Available remedies [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-49-4. Categories of remedies [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-49-5. Notice of penalty or other remedy [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-49-6. Effective date and duration of penalty or other remedy [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 51. COORDINATION WITH STATE INSURANCE COMMISSIONER [REVOKED]

310:655-51-1. Purpose [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-51-2. Exchange of information [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-51-3. Complaints [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-51-4. Recommendations [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-51-5. Review and analysis functions [REVOKED]

[Source: Added at 18 Ok Reg 2519, eff 6-25-01 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 53. EXAMINATIONS [REVOKED]

310:655-53-1. Definitions [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-53-2. Nature and frequency of examinations [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-53-3. Appointment of examiner [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-53-4. Payment of charges [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-53-5. Report of examination [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

SUBCHAPTER 55. [REVOKED]

SUBCHAPTER 57. RISK BASED CAPITAL [REVOKED]

310:655-57-1. Purpose [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-57-2. Phase in of risk-based capital [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-57-3. Adoption by reference [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-57-4. [RESERVED]

[Source: Reserved at 20 Ok Reg 2379, eff 7-11-03]

310:655-57-5. Actions of department [REVOKED]

[Source: Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

310:655-57-6. Limitations [REVOKED]

[**Source:** Added at 20 Ok Reg 2379, eff 7-11-03 ; Revoked at 22 Ok Reg 1135, eff 5-26-05]

CHAPTER 656. MANAGED CARE AND UTILIZATION REVIEW [REVOKED]

[**Authority:** 63 O.S., § 2525.4; OK Laws 2003 c.197]
[**Source:** Codified 5-27-99]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:656-1-1. Purpose [REVOKED]

[**Source:** Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-1-2. Definitions [REVOKED]

[**Source:** Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

SUBCHAPTER 3. MANAGED CARE PLANS [REVOKED]

310:656-3-1. Applicability to plans [REVOKED]

[**Source:** Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-3-2. Exception for accredited plan [REVOKED]

[**Source:** Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-3-3. Plan description [REVOKED]

[**Source:** Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-3-4. Access to providers [REVOKED]

[**Source:** Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-3-5. Financial requirements [REVOKED]

[**Source:** Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-3-6. Quality assurance and utilization review systems [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-3-7. Claim reimbursement [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-3-8. Grievance system [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-3-9. Discontinuation of managed care plan [REVOKED]

[Source: Added at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-3-10. Administrative penalty [REVOKED]

[Source: Added at 19 Ok Reg 2093, eff 6-27-02 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

SUBCHAPTER 5. QUALIFIED UTILIZATION REVIEW PROGRAMS [REVOKED]

310:656-5-1. Exception for accredited program [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-5-2. Utilization review systems [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-5-3. Financial requirements [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-5-4. Claim reimbursement [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-5-5. Grievance system [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

SUBCHAPTER 7. NATIONAL PRIVATE ACCREDITATION PROGRAMS [REVOKED]

310:656-7-1. Applicability of accreditation reviews [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-7-2. Accepted accreditation programs [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

SUBCHAPTER 9. APPLICATIONS [REVOKED]

310:656-9-1. Application required [REVOKED]

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[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-9-2. Deadlines for filing [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-9-3. Description of application form [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-9-4. Renewal application [REVOKED]

[Source: Added at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

SUBCHAPTER 11. APPROVAL OR DENIAL OF APPLICATION [REVOKED]

310:656-11-1. Conditions for approval [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-11-2. Duration of license or qualification [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-11-3. License or qualification transfer [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-11-4. Denial of application [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

SUBCHAPTER 13. TERMINATION OF LICENSE OR QUALIFICATION [REVOKED]

310:656-13-1. Conditions to terminate certification [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-13-2. Request for assistance [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-13-3. Application after termination [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

SUBCHAPTER 15. QUALITY EXAMINATIONS [REVOKED]

310:656-15-1. Periodic examinations [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-15-2. Examinations by accreditation programs [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

SUBCHAPTER 17. RESTRICTED ACTS, PROHIBITED ACTS AND ENFORCEMENT [REVOKED]

310:656-17-1. Restricted acts [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-17-2. Prohibited acts [REVOKED]

[Source: Added at 15 Ok Reg 2944, eff 5-4-98 (emergency); Added at 16 Ok Reg 1405, eff 5-27-99 ; Amended at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-17-3. Enforcement [REVOKED]

[Source: Added at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

SUBCHAPTER 19. REPORTS, PERIODIC FILINGS AND RECORDS [REVOKED]

310:656-19-1. Application changes [REVOKED]

[Source: Added at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-19-2. Periodic filings [REVOKED]

[Source: Added at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-19-3. Changes in contracts and marketing materials [REVOKED]

[Source: Added at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-19-4. Department review [REVOKED]

[Source: Added at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

310:656-19-5. Books and records [REVOKED]

[Source: Added at 17 Ok Reg 2986, eff 7-13-00 ; Revoked at 22 Ok Reg 1166, eff 5-26-05]

CHAPTER 657. CERTIFIED WORKPLACE MEDICAL PLANS

[Authority: 85 O.S., § 14.3]
[Source: Codified 6-13-96]

SUBCHAPTER 1. GENERAL PROVISIONS

310:657-1-1. Purpose

This chapter provides for certification of the workplace medical plan under three (3) laws. Those laws are 85 O.S. Supp. 1996, Section 14.3, 63 O.S. Supp. 1996, Sections 1-101 et seq. (Oklahoma Public Health Code), and 75 O.S. Supp. 1996, Sections 250.1 through 323 (Administrative Procedures Act).

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97]

310:657-1-2. Definitions

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

"**Act**" means the Workers' Compensation Act, Title 85 of the Oklahoma Statutes.

"**Commissioner**" means the Commissioner of Health.

"**Department**" means the Oklahoma State Department of Health.

"**Facility**" means a licensed, certified or accredited institution or health care setting which renders prescribed medical or health care service.

"**Health professional**" means an individual who is licensed or otherwise authorized under applicable laws, rules or standards to deliver medical or health services.

"**Insurer**" means a self-insured employer, a group self-insurance association plan, or an employer's workers' compensation insurance carrier.

"**Peer**" means a health professional who holds a non-restricted license in Oklahoma or another state and practices a similar specialty as typically manages the service under review.

"**Person**" means an individual, partnership, association, corporation, or other public or private legal entity including an agency.

"**Plan**" means a workplace medical plan.

"**Provider**" means any health professional, facility or other entity licensed or otherwise authorized under applicable laws, rules or standards to furnish medical or health service.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-1-3. Severability

If any subchapter or paragraph of OAC 310:657 shall be ruled invalid, such judgment shall not affect any other subchapter or

paragraph. The remaining subchapters and paragraphs shall remain in full force.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

SUBCHAPTER 3. PROVIDER CREDENTIALING

310:657-3-1. General considerations

The Plan's credentialing program shall ensure that each provider is competent and qualified to offer medical or health services. A Plan may use other criteria in deciding which of the properly credentialed providers shall be selected to participate in the Plan.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-3-2. Credentialing responsibilities

(a) The Plan shall credential each provider under written policies, and shall complete credentialing before the provider's contract becomes effective. The Plan shall not list the provider in the provider directory or marketing materials until credentialed.

(b) The Plan shall establish a body of professional peers to review and approve the Plan's credentialing policies. A health professional designated by the Plan shall oversee credentialing.

(c) The Plan shall obtain proof of the applicant's current authority to practice a health profession. Proof shall be based on evidence from the source issuing the credential. The Plan shall retain all records and documents on a provider for at least five (5) years. Nothing in OAC 310:657-3 requires public disclosure of information which is confidential following applicable law.

(d) At least once every five (5) years, the Plan shall verify the professional's authority to practice.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-3-3. Provider review process

(a) A provider who is subject to credentialing shall have the right to review all credentialing information obtained by the Plan, and to review the credentialing procedures.

(b) The Plan shall advise the provider of any information that does not meet the Plan's credentialing standards.

(c) Each Plan shall have an appeal process by which a provider may submit additional information and request further review.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

SUBCHAPTER 5. QUALITY ASSURANCE

310:657-5-1. Purpose and intent

The Plan shall assure the quality of its services using, at least, a system of quality assessment and quality improvement. The Plan shall ensure that all providers participate in quality assurance activities.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-5-2. Quality assessment and quality improvement

(a) The Plan, either directly or through contract, shall maintain a quality assessment and improvement system. The system shall have at least these features:

- (1) Systematic collection and analysis of data, including measures of provider performance; and
- (2) Activities to foster continuous improvement of services provided to injured workers, including:
 - (A) identifying practices which result in positive health outcomes; and
 - (B) integrating information sources such as service management, claims processing, worker satisfaction and grievances.
- (3) Organizational support for the system with input from the medical director;
- (4) Methods of evaluating performance improvement activities.

(b) The quality assessment and improvement system shall include the following functions, done at least annually:

- (1) An analysis of care patterns in the following priority areas:
 - (A) Services likely to affect many injured workers;
 - (B) Procedures that could place the health of injured workers at risk;
 - (C) Variations in practice patterns; and
 - (D) Underuse and overuse of medical and health services;
- (2) An evaluation of access to medical and health services.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-5-3. Reporting and disclosure requirements

The Plan, either directly or through contract, shall document and communicate information about quality assurance.

- (1) In marketing materials the Plan shall include a summary of its quality assurance activities.
- (2) The Plan shall make available to the employee, a description of its quality assurance process and a statement of employee rights in the Plan.
- (3) The Plan shall share information with its regulatory agencies, providers and the public about its quality assurance activities and progress.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-5-4. Inspections

(a) For purposes of conducting the site visit, the Department may inspect any person, or the business of any person, insofar as such inspection is necessary or material to the investigation of the Plan.

(b) The refusal of any Plan by its officers, directors, employees or agents to submit to the inspection or to comply with any reasonable written request of the inspectors shall be grounds for suspension, revocation or nonrenewal of any certification or authority held by the Plan to engage in business subject to the Department's jurisdiction.

(c) In the case of a annual site visit, the Department may provide advance notice of not longer than 15 working days to the Plan by telephone and/or written means of communication.

(1) Such notification may include a request for the Plan to provide case, dispute and/or grievance listings to the Department to allow Department consideration and possible selection of samples prior to arriving at the Plan's office.

(2) In advance of an announced site visit or upon arrival of an unannounced site visit, the Department may request to have Plan materials and personnel available which includes, but not limited to the following:

(A) Current Organizational Chart;

(B) Listing of current personnel and those person's direct-dial telephone numbers or extensions;

(C) Assignment of a single Plan representative to serve as the Department's primary contact during the course of the on-site inspection;

(D) Current Master Client Report, or other comprehensive listing of contracts currently or previously in place, including counts of CWMP participants;

(E) Current listing of contracted Insurers and/or Insureds; and

(F) Assignment of one or more persons to:

(i) Conduct a preliminary walk-through tour of the offices;

(ii) Explain to the Department staff how physical files are arranged;

(iii) Explain to the Department staff what files are electronic only and will require a Department request to the Plan's primary contact person for printing or visual inspection;

(iv) Explain the process for entering or leaving the Plan's office;

(v) Explain how case management is assigned;

(vi) Explain how the Plan monitors caseloads;

(vii) Explain how the Plan receives cases from the payer.

(G) Provision for Departmental file reviews, of any written:

(i) Case management policies and procedures;

(ii) Utilization review policies and procedures;

(iii) Case management forms;

- (iv) Utilization review forms;
- (v) Case management form letters;
- (vi) Utilization review letters;
- (vii) Communication standards;
- (viii) Account specific instructions;
- (ix) List of all routine audits or other QA procedures; and
- (x) List of the prior periods' explicit Medical Director or Peer Reviews.

(H) Specific personnel, by title, that the Department initially anticipates interviewing during the course of the site visit to ensure that those persons will be available.

(I) Such other material that the Department requires to be assembled for inspection such as Policies and Procedures changed since the last application for certification or renewal.

(d) The Department is not required to provide advance notice of a site visit to a Plan in an instance where the Department has reason to believe that the Plan is either:

(1) Not operating in accordance with its application, the Act, or OAC 310:657; or

(2) Not adequately providing a claimant(s) with medical services or medical management.

(e) Upon the completion of the site visit and review of the findings, the Department shall prepare a report with a determination that a Plan is or is not operating in accordance with its latest application. This report may also include recommendations for follow-up and/or corrective actions.

(f) The Plan shall not issue marketing or solicitation materials that advertise, identify or judge the results of an investigation completed by the Department.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

SUBCHAPTER 7. UTILIZATION REVIEW

310:657-7-1. Purpose and intent

(a) The Plan's utilization review program shall assist the manager in providing services to an individual injured worker and shall assist administrators in delivering services to all employees.

(b) Nothing in OAC 310:657-7 restrains a Plan or provider from supplying information to any person required by the Act.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-7-2. Scope and content of utilization review

(a) The Plan shall implement a utilization review program that describes all delegated and nondelegated review activities for covered services.

The program shall include:

- (1) Procedures to evaluate service need, appropriateness and efficiency, with processes to detect service underuse and overuse;
 - (2) Data sources and review criteria used to determine the need for, and appropriateness of, medical and health services;
 - (3) Processes for resolving disputes on medical or health services;
 - (4) Consistent application of criteria and decisions;
 - (5) Data collection and analytical methods that may be used to assess use of health care services;
 - (6) Provisions for ensuring confidentiality of information;
 - (7) Reports to the governing body or its designee; and
 - (8) Day-to-day program management.
- (b) The Plan shall file with the Commissioner an annual report summarizing utilization review activities. The data shall preserve the confidentiality of information about individual workers. The Commissioner may request additional information based on material in the report.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-7-3. Operational requirements

- (a) The utilization review program shall have criteria that are based on evidence and regularly evaluated.
- (1) Practicing providers shall be involved in developing the review criteria.
 - (2) After refusing to authorize a service, the Plan shall provide the review criteria for that service upon request to affected providers, the injured worker, and the Commissioner.
- (b) Qualified providers shall supervise the utilization review program. A licensed, board-certified clinical provider shall evaluate the appropriateness of any decision to deny a service to an injured worker.
- (c) Decisions on whether or not to authorize services shall be issued following the requirements of OAC 310:657-7-4.
- (1) Decisions shall be made using pertinent information and consulting with the treating provider.
 - (2) The Plan shall ensure that reviewers consistently apply criteria.
- (d) The Plan shall routinely assess the effectiveness of the utilization review program.
- (e) Data systems shall be sufficient to support utilization review activities.
- (f) If the Plan delegates any activities to a utilization review organization, adequate oversight shall be maintained that includes:
- (1) A description of utilization review organization activities, including reporting requirements;
 - (2) Formal approval of the utilization review organization's program by the Plan; and
 - (3) Evaluations of the utilization review organization.
- (g) Utilization review shall be coordinated with other medical management activities.

(h) The Plan or its utilization review organization shall provide toll-free telephone access to its staff during normal business hours.

(i) When conducting utilization review, the Plan or utilization review organization shall collect only information necessary for assessing the appropriateness of, and need for, services.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-7-4. Utilization review decision

(a) The Plan shall complete any individual decision to authorize or deny a non-emergency service within two (2) working days after obtaining all necessary information. Necessary information includes any clinical evaluation of an injured worker by a provider other than the one originally recommending a proposed service.

(b) The Plan shall notify the provider by telephone within twenty-four (24) hours after the decision to authorize or deny a service. The Plan shall send confirmation of the decision within two (2) working days after deciding.

(c) If the injured worker is an inpatient or undergoing treatment, the Plan shall communicate to the provider any decision to authorize or deny the service by telephone within twenty-four (24) hours after the decision. The Plan shall send confirmation to the provider within two (2) working days after deciding. A decision on an extended stay shall identify the additional number of days or services approved.

(d) A decision to authorize or deny coverage for an emergency service shall be based on the patient's presenting symptoms.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-7-5. Denial of service

(a) A decision to deny a service shall be clearly documented, including specific bases for the action. Confirmation shall be sent to the provider within two (2) working days after the decision. If the Plan is aware that the request for service was initiated by the injured worker, the Plan shall send written notice to the injured worker within two (2) working days after the decision.

(b) A decision to deny a service after the service has been provided to an injured worker shall be issued in writing within five (5) working days after obtaining all necessary information.

(c) Written notice of a decision to deny a service shall describe the dispute resolution procedures.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97]

310:657-7-6. Dispute resolution procedures

(a) The Plan shall have procedures for dispute resolution on issues related to medical care under the Plan. This procedure may be different than the grievance procedure for resolving matters not directly related to

medical care under the Plan. A dispute resolution procedure shall be available to the injured worker and to the attending or ordering provider. (b) The Plan's procedure shall be designed to resolve each dispute within ten (10) days after receipt, unless information is not available in the normal course of business.

(c) Each dispute shall be evaluated by an appropriate peer or another licensed health professional as mutually agreed by the parties. The evaluating professional shall not have been involved in the initial decision to deny a service.

(d) The Plan shall notify the injured worker and affected provider of its decision.

(e) An injury requiring emergency services shall be treated immediately, without regard for the ten (10) day dispute resolution period.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-7-7. Disclosure requirements

(a) In materials provided to insurers, insureds and employees, the Plan shall include a summary of its utilization review procedures.

(b) The Plan shall clearly disclose employee rights and responsibilities relating to quality assurance and utilization review.

(c) The Plan shall provide to employees a toll-free telephone number for information about the Plan's utilization review program.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

SUBCHAPTER 9. GEOGRAPHIC SERVICE AREAS

310:657-9-1. Access to providers

(a) The Commissioner shall presume a proposed service area to be reasonable if the mean travel time is thirty (30) minutes or less from six (6) points on the area boundary to the nearest primary care delivery sites in that area, and sixty (60) minutes or less to specialty service providers.

(b) The Commissioner may approve a service area with travel times of greater than thirty (30) minutes to primary services, or sixty (60) minutes to specialty services, based on the following:

- (1) Providers are not available in the area;
- (2) Providers are available but do not meet the Plan's reasonable credentialing requirements;
- (3) Providers are unwilling or unable to enter a reasonable health services contract with the Plan;
- (4) Residents of the area customarily travel longer times to reach medical and health providers; or
- (5) Providers have access to air ambulance services to transport injured workers.

(c) OAC 310:657-9 shall be construed to foster Plans in all areas of Oklahoma. These provisions shall not be interpreted to threaten the

health and safety of employees or to impair the present system of service delivery in Oklahoma.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-9-2. Required filings

(a) The Plan shall provide the information required in OAC 310:657-9 in its initial application. Before any change of the service area, the Plan shall file the revised information in an application to amend or renew the certificate. All marketing materials produced by the Plan shall specify the approved geographic service area.

(b) The Plan shall describe its proposed service area using zip codes or other geographic units.

(c) The Plan shall provide a map of the service area showing the area boundaries, main traffic arteries and physical barriers. The Plan shall show the locations of primary and specialty providers. The Plan shall mark six (6) points along the boundary. The Plan shall calculate mean travel time from those points to the nearest primary care service sites. The Plan also shall calculate the mean travel time from the six (6) points to the nearest specialty care service sites.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-9-3. Access to services

(a) Medical and health services shall be provided or arranged in the service area by the Plan.

(b) Services shall be available to the Plan's employees with reasonable promptness considering:

(1) Geographic location, hours of operation, and provisions for after-hours services; and

(2) Staffing patterns and types of providers.

(c) A Plan whose service area is located in a nonmetropolitan area may provide service outside its area if:

(1) The service is not primary or emergency care; and

(2) Providers in the area are not sufficient to offer the service.

(d) The Plan shall ensure continuity of services using at least the following:

(1) A provider responsible for coordinating the employee's services; and

(2) A system to report on eligibility and services rendered to the injured worker.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

SUBCHAPTER 11. GRIEVANCE SYSTEM

310:657-11-1. Grievance system required

Each Plan shall maintain a system to resolve grievances.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-11-2. Grievance forms

A Plan shall provide a grievance form for any enrollee, employer, insurer, insured or provider who wishes to file a written grievance. The form shall include information about the grievance system to help the person in completing and filing the form. Nothing in OAC 310:657 prevents a Plan from using other methods, such as a toll-free telephone line, to correct problems before the employee files a written grievance.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-11-3. Time frames

The grievance system shall require an initial response within seven (7) days after a grievance is filed with the Plan. A grievance shall be resolved or finally determined by the Plan within ninety (90) days after the grievance is filed. This period may be extended if the Plan encounters a delay in obtaining the documents or records necessary to reach a decision on the grievance. The ninety (90) day time frame may be extended also by written agreement between the Plan and the person filing the grievance.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-11-4. Effect of arbitration

If a grievance may be resolved through arbitration, the person filing the grievance shall be notified of the terms of arbitration. Any Plan that makes binding arbitration a condition of a contract shall fully disclose this requirement in the contract and in any summaries.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-11-5. Request for assistance

The Commissioner shall provide a form which any person may use to register dissatisfaction with the Plan. The Commissioner shall review such filings and consider whether or not the Plan complies with the Act and OAC 310:657. If the Commissioner has no reason to believe that a Plan violated the Act or OAC 310:657, the Plan's action shall be upheld. If the Commissioner has reason to believe that a violation exists, then the Commissioner shall consider the matter under 310:657-25.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

SUBCHAPTER 13. OWNERSHIP AND CONTROL OF A PLAN

310:657-13-1. Ownership

The Plan's ownership, control and management shall have the knowledge, skills and experience that will make the Plan's operation beneficial to employees. The Commissioner shall not grant or renew a certificate when the Plan's ownership, control, or management is under the control of any person whose operations are or have been marked by the following:

- (1) business practice or conduct that is to the detriment of the public, stockholders, investors, or creditors; or
- (2) improper manipulation of assets or accounts.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-13-2. Removal or transfer of property

- (a) No Plan shall remove its property or business from Oklahoma without the Commissioner's written approval.
- (b) No Plan shall attempt to transfer its property or merge with any other person without first obtaining the Commissioner's written approval.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-13-3. Accounts, books and records

Each Plan shall maintain proper accounting controls including correct and complete records of accounts. Such records shall be available to the Commissioner during normal business hours.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-13-4. Governing body oversight

The Plan's governing body or its designee shall be responsible for quality assurance, quality improvement, and utilization review actions. The governing body or designee shall approve and regularly evaluate these programs. If the Plan contracts with other entities to operate these programs, then the governing body or designee may consider reports from those entities instead of conducting its own evaluations. The governing body or designee shall receive reports of quality assurance, quality improvement and utilization review actions at least once every six (6) months.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-13-5. Ownership and control safeguards

The Plan shall safeguard the fairness and equity of medical and health service delivery if an insurer or an insured:

- (1) Directly participates in the Plan's formation or certification;
- (2) Occupies a position as the Plan's director, governing member, officer, agent, or employee;
- (3) Has any ownership, financial or investment interest in the Plan;

- (4) Has any contract with the Plan that limits the Plan's ability to accept business from any other source; or
- (5) Has any relationship with a Plan, other than a contract for provision of medical and health services under the Act.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97]

SUBCHAPTER 15. FINANCIAL REQUIREMENTS

310:657-15-1. Net worth requirement

- (a) The Plan's net worth shall be calculated as assets minus liabilities, plus fully subordinated debt.
- (b) The Plan shall maintain a positive net worth and shall maintain working capital to meet its obligations as they become due.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-15-2. Applicability

The financial requirements in OAC 310:657-15-3 through OAC 310:657-15-10 shall apply to a Plan unless it demonstrates that a requirement does not apply. To decide if a requirement applies, the Commissioner shall consider the Plan's organizational structure, financial arrangements, fiduciary responsibilities, accounting controls and risk sharing arrangements.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-15-3. Errors and omissions policy

- (a) Each Plan shall file evidence of an errors and omissions policy to protect insurers, insureds and enrollees financially from the Plan's errors.
 - (1) The policy shall be no less than five hundred thousand dollars (\$500,000) annual aggregate for all claims made during the policy period.
 - (2) The policy shall remain in force for at least two (2) years after certification ends.
- (b) Such policy shall be issued by an entity licensed or approved by the Oklahoma Insurance Commissioner, to:
 - (1) Do business in this state; and
 - (2) Issue errors and omissions policies.
- (c) Such policy shall be continuous in form, or renewed annually. If renewed annually, evidence of renewal shall be provided to the Commissioner each year. The Plan shall ensure that the Commissioner is notified of:
 - (1) Any lapse in coverage; or
 - (2) Termination of coverage at least thirty (30) days before termination.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97]

310:657-15-4. Fidelity bond [REVOKED]

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Revoked at 23 Ok Reg 2404, eff 6-25-06]

310:657-15-5. Preference of claims [REVOKED]

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Revoked at 23 Ok Reg 2404, eff 6-25-06]

310:657-15-6. Liability insurance

In addition to the errors and omissions insurance policy each Plan shall have liability insurance coverage to protect the interests of injured workers. The insurance may include excess or stop loss, medical malpractice, and general liability coverage.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-15-7. Provider contracts [REVOKED]

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Revoked at 23 Ok Reg 2404, eff 6-25-06]

310:657-15-8. Projections

(a) The Commissioner may require a Plan to submit updates of projections required by OAC 310:657-21-4(1)(K). Each update shall explain any significant variance between operating results and previously forecast amounts.

(b) The Commissioner may request a revision of a financial projection that is inconsistent with the Plan's historic performance.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-15-9. Impairment

(a) A Plan with less than the minimum required net worth shall be considered an impaired Plan.

(b) The Commissioner shall determine the amount of impairment. The amount of impairment may be based on a financial statement made by a Plan or on an examination report. The Commissioner shall require the Plan to eliminate the impairment within ninety (90) days. If the Plan does not eliminate the impairment, the Commissioner may revoke the Plan's certificate.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

SUBCHAPTER 17. CONTRACTS AND SERVICE EXPLANATIONS

310:657-17-1. Purpose

The purpose of this subchapter is to ensure that a Plan furnishes to each insurer, insured, or provider a complete and understandable copy of their agreement. The contract shall not contain unjust, unfair, misleading or deceptive provisions.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-17-2. Contents of the insurers' or insureds' contract

Each contract shall contain a clear statement of the following:

- (1) Plan's name and address;
- (2) Eligibility requirements;
- (3) Medical and health services in the area;
- (4) Emergency care services and procedures for authorizing emergency services by non-Plan providers;
- (5) Out of area services;
- (6) Limits and excluded items;
- (7) Employee termination;
- (8) Employee reinstatement;
- (9) Claims procedures, if any;
- (10) Dispute resolution and grievance procedures;
- (11) Continuing coverage;
- (12) Extension of benefits;
- (13) Substitution of creditors;
- (14) Geographic service area;
- (15) Entire contract provision;
- (16) Term of coverage;
- (17) Renewing contract;
- (18) Canceling contract;
- (19) Reinstatement of contract;
- (20) Grace period; and
- (21) Conformity with state law.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-17-3. Provider directory

- (a) The Plan shall ensure that each insurer or insured with which it contracts receives a copy of the directory of providers.
- (b) The provider directory may be filed as part of the contract to satisfy the Plan's obligation to provide a statement of services, procedures and requirements.
- (c) The provider directory shall not contain summaries, provisions or statements which are unfair, unjust, misleading or deceptive.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97]

310:657-17-4. Commissioner review

- (a) No contract, provider directory or amendment shall be delivered or issued unless the Commissioner has approved its form.
- (b) Each contract form shall be filed with the Commissioner at least thirty (30) days before delivery or issue. The Commissioner may extend the period for review for an additional thirty (30) days. The form is approved if the Commissioner takes no action at the end of the review period. The Plan shall notify the Commissioner in writing before using a form approved by the Commissioner's lack of action.
- (c) After at least thirty (30) days notice, the Commissioner may withdraw approval of any form for cause shown.
- (d) When a filing is disapproved or when approval is withdrawn, the Commissioner shall give the Plan written notice of the reasons for disapproval. The notice shall inform the Plan that within thirty (30) days after receipt of the notice the Plan may request a hearing. The hearing shall be conducted under the Administrative Procedures Act.
- (e) The Commissioner may require supporting information in determining whether to approve or disapprove a filing.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-17-5. Service changes

Each Plan shall provide a notice of any service changes to each insurer or insured with which it contracts. The notice shall identify the proposed services which differ from the current services. Such notice shall be provided at least thirty (30) days before the effective date of the change.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-17-6. Provider contracts

- (a) Each contract between a Plan and a participating provider shall be in writing. The contract shall state that an injured worker shall not owe any sums otherwise due from the Plan, insurer or insured under the contract.
- (b) The contract shall set penalties against any provider who attempts to collect from an injured worker any sums owed by the Plan, insurer or insured under the contract.

(c) No participating provider, agent, trustee or assignee shall attempt to collect from an injured worker any sum owed by the Plan, insurer or insured under the contract.

[Source: Added at 23 Ok Reg 2404, eff 6-25-06]

SUBCHAPTER 19. CONFIDENTIALITY

310:657-19-1. Responsibility of Plan

(a) Worker-specific injury information and provider-specific performance data are confidential and the Plan shall implement procedures to ensure that confidentiality. The procedures shall include:

- (1) Safeguards to protect against unauthorized disclosure; and
- (2) Provisions that any party making information available to the public is responsible for failure to comply with a standard of due care.

(b) Information about the diagnosis, treatment or health of any injured worker shall be disclosed only to authorized persons. Release of information shall be permitted only with the written consent of the injured worker, or as needed for the Commissioner to enforce the Act and OAC 310:657. Nothing in OAC 310:657 shall prevent disclosure as otherwise required by law.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97]

310:657-19-2. Responsibility of Commissioner

(a) The Commissioner shall hold in confidence any information about an injured worker and the information shall not be disclosed to any person except under these circumstances:

- (1) When necessary to administer OAC 310:657;
- (2) Upon the written consent of the worker;
- (3) Following law or court order for the production or discovery of evidence; or
- (4) When a claim or dispute between the worker and the Plan makes such information pertinent.

(b) Information considered by a medical or health services review committee and its records which are used by the Commissioner shall be confidential.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

SUBCHAPTER 21. APPLYING FOR A CERTIFICATE

310:657-21-1. Application required

(a) Each Plan shall apply for a certificate on forms provided by the Commissioner.

(b) The person responsible for providing or arranging all required Plan services shall be the applicant for the certificate.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-21-2. Deadlines for filing

- (a) The application shall be filed by the Plan and approved by the Department before beginning operations.
- (b) The application shall be filed at least thirty (30) days before a transfer of ownership of an existing Plan.
- (c) The Plan shall apply to renew the certificate every five (5) years. The application to renew a certificate shall be filed at least thirty (30) days before the certificate expires.
- (d) The Commissioner shall notify the applicant of incomplete items within thirty (30) days after receipt of the application. The applicant shall provide additional information within ninety (90) days after receipt of the notice. Failure to submit the requested information shall result in dismissal of the application. The Commissioner and the applicant may mutually agree to extend the deadline up to ninety (90) days.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-21-3. Where to file

The application and the filing fee shall be delivered or mailed to the Department. The effective date of filing shall be the date the application and fee are received by the Department.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-21-4. Description of application form

Each application for a certificate shall be accompanied by a non-refundable filing fee. The filing fee shall be the fee set in the Act. The fee shall be paid by check to the Oklahoma State Department of Health.

- (1) The application for a certificate requests the following:
 - (A) A general description of the Plan and its operations, including the locations, types, and hours of providers;
 - (B) A copy of the Plan's basic organizational document, such as the articles of incorporation or association, partnership or trust agreement, and all amendments;
 - (C) A copy of bylaws or similar document, regulating the Plan's conduct;
 - (D) A list of names, addresses, and official capacities of all persons responsible for the Plan, including:
 - (i) Each corporate officer and director of a corporation; each manager of Limited Liability Company; those owners of a corporation, the partners or associates of a partnership or association, or members of a Limited Liability Company that own five percent (5%) or more of the

- stock or controlling interest in the Plan, Corporation, Partnership, Association, or Limited Liability Company; and of the person who will be the day-to-day Plan administrator; and
 - (ii) Disclosure of any contracts or arrangements between them and the Plan, including any appearance of a conflict of interest;
 - (E) The medical director's name, address, phone number, Oklahoma license number, and biographical information and address;
 - (F) The name and biographical information of the person who will be the day-to-day Plan administrator and address;
 - (G) A description of the geographic areas to be served;
 - (H) A description of any facilities to be used;
 - (I) The categories and names of all participating providers and facilities;
 - (J) The policies for credentialing and selection of providers;
 - (K) Projections for five (5) years which include employee population, primary physician to employee ratios, specialty care, laboratory, x-ray and hospital services, and revenues and expenses;
 - (L) A financial statement for the Plan prepared in accordance with accounting principles generally accepted in the United States of America, and related documents showing the Plan's financial capabilities;
 - (M) Forms of all provider and service contracts;
 - (N) Forms of all contracts with insurers and insureds, showing the services to which employees are entitled;
 - (O) Proposed marketing or advertising materials;
 - (P) Descriptions of the case management, utilization review and quality assurance processes, including treatment protocols, adopted by the Plan;
 - (Q) A description of the Plan's or providers' medical record system;
 - (R) Policies for developing and reporting data;
 - (S) Policies for dispute resolution and grievance reviews;
 - (T) A plan for an employee education program;
 - (U) A description of the financial incentives to be used to reduce costs and control use;
 - (V) A description of the Plan's workplace health and safety consultative services for employers;
 - (W) The provider directory;
 - (X) Contact person's name, address and telephone number; and,
 - (Y) Such other information as may be prescribed by the Commissioner in the application for a certificate.
- (2) The application to renew a certificate requests the following:
- (A) Any changes in the information provided in OAC 310:657-21-4; and

(B) Data on the Plan's experience, including revenues and expenses, changes in financial position, employee population per month, hospital days and ambulatory encounters per injured worker, encounters by type of health professional, disputes and grievances processed, peer review, quality control, medical records and utilization review systems.

(3) The Commissioner may require such other information as necessary to decide on the application.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

SUBCHAPTER 23. APPROVAL OR DENIAL OF APPLICATION

310:657-23-1. Conditions for approval

The Commissioner shall issue or renew a certificate when the Commissioner finds that the Plan meets the requirements of the Act and OAC 310:657.

(1) Necessary medical and health services shall be provided by the Plan as guaranteed in the Plan's contracts with insurers and insureds and in the provider directory.

(A) These services shall be provided without bias for, or against, any type of provider.

(B) The Commissioner shall review services available considering employee population and characteristics, and locations and hours of providers.

(C) The Plan may offer necessary medical and health services directly, or may arrange services through contracts or arrangements with providers, or may both offer and arrange services.

(2) All providers shall practice under licensing, certification or credentialing requirements of applicable laws, rules and professional standards.

(3) Medical and health services shall be available within the Plan's service area, considering the geographic location of the Plan and its providers, hours of operation, and population density.

(4) The Plan shall appoint a medical director qualified under the licensing or credentialing requirements of Oklahoma.

(5) The Plan shall maintain or arrange quality assurance, peer review, utilization review, dispute and grievance resolution, case management, and workplace health and safety consulting services.

(A) The Commissioner may consider the Plan's compliance with the standards of a recognized voluntary reviewing entity. Before accepting findings from another entity, the Commissioner shall affirm that the standards in use by the entity meet or exceed the standards set by the

Commissioner.

(B) The Commissioner may approve a reasonable phase-in of these systems, based on the length of time the Plan has operated and the number of employees.

(C) The Commissioner shall consider a license, certificate or approval granted by an agency of the State of Oklahoma or the federal government.

(6) The persons responsible for the Plan have knowledge, skills and experience to operate the Plan.

(7) The Plan shall demonstrate financial responsibility and may reasonably be expected to meet its obligations to injured workers. The Commissioner shall consider the resources of the Plan's owner and may also consider the following:

(A) The financial soundness of any arrangements for paying providers, the accounting methods to control any funds paid to the Plan for providers, and the schedule of charges;

(B) Working capital; or

(C) Any agreement with providers for services.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-23-2. Duration of certificate

The Commissioner may issue a certificate to a Plan for five (5) years. The Commissioner may specify conditions on an initial certificate which shall be satisfied before the Plan offers medical and health services to employees.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-23-3. Certificate transfer

No certificate shall be issued to any person other than the person making application. A certificate shall not be transferred in whole or part to another person.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-23-4. Denial of Application

(a) An application for certification may be denied for one (1) or more of the following:

- (1) Failure to meet any of the standards in the Act or OAC 310:657; or
- (2) Failure to provide timely additional information required under OAC 310:657-21-2.

(b) Within ten (10) days after denial, the Department shall send written notice to the applicant. The notice of denial shall include a statement of the deficiencies on which denial was based and notice of the opportunity for hearing.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-23-5. Appeals

Any party who disagrees with the Commissioner's decision to deny the application may request a hearing, or may appeal directly to district court as provided in the Administrative Procedures Act.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

SUBCHAPTER 25. WITHDRAWAL OF A CERTIFICATE**310:657-25-1. Conditions to revoke or suspend**

The Commissioner may revoke or suspend a certificate issued to a Plan, or take such other steps as appropriate, if the Plan:

- (1) Is not in compliance with the Act or OAC 310:657;
- (2) Violated its health service contracts;
- (3) Is unable to fulfill its obligations under outstanding contracts for the benefit of employees;
- (4) Attempted to merchandise its services in such a manner as to misrepresent its services or capacity for service or has engaged in deceptive, misleading, or unfair practices in advertising, merchandising or promoting towards providers, employees, insurers or insureds;
- (5) Did not correct an impairment as required under OAC 310:657-15-6; or
- (6) Knowingly uses or has knowingly used a provider who does not have a license, certificate or other authority to practice or furnish medical or health services.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-25-2. Suspended certificate

(a) While a Plan's certificate is suspended, the Plan shall not, advertise or solicit additional business.

(b) The order suspending the certificate shall specify the period of suspension and conditions to be met for reinstatement.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-25-3. Revoked certificate

(a) The Plan shall conduct no business except as may be essential to the orderly conclusion of its affairs when a Plan's certificate is revoked. The Commissioner may order such operations as needed to afford employees a practical opportunity for medical and health services.

(b) The Plan shall not apply for certification for at least two (2) years after a certificate is revoked. The Plan shall follow the procedures for an initial application specified at OAC 310:657-21 and shall submit evidence that the conditions causing the revocation have been corrected.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-25-4. Person requesting action

An action to revoke or suspend a certificate may be requested by the Commissioner, the Department, or any other person.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

SUBCHAPTER 27. REPORTS AND FILINGS

310:657-27-1. Annual reports

(a) By May 1 of each year, the Plan shall file:

(1) Financial statements which exhibit the Plan's financial condition on December 31 of the prior year and its income and expenses that year. These statements shall be prepared in accordance with accounting principles generally accepted in the United States of America. The Plan shall supplement the statements with any information requested by the Commissioner. Such statements shall be subscribed and sworn to by the president, secretary and other officers, with original signatures. A statement of financial condition shall include:

(A) A balance sheet; and

(B) Revenues and expenses;

(2) Summaries of the grievance and dispute resolution activities in the preceding year.

(b) By May 1 of each year, the Plan shall report:

(1) Service volume for the prior year;

(2) Results of the quality assurance procedures;

(3) Providers as of December 31 of the prior year; and

(4) Number of employees by zip code of residence or work site as of December 31 of the prior year.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-27-2. Application form changes

Any material change in the information submitted in the application shall be submitted to the Department, including:

- (1) The approved geographic service area or the organizational structure, including owner or operator;
- (2) Provider agreements which may affect services available to employees, at least thirty (30) days before execution or termination of such agreements;
- (3) Any request for changes in the approved quality assurance program, at least thirty (30) days before the proposed change;
- (4) The chief executive officer or medical director, to be reported upon the termination or starting of employment, with biographical information for the new appointee;
- (5) Ten (10) percent or more in provider hours of operation;
- (6) Essential content in marketing materials, before issuance;
- and,
- (7) Approval issued by a voluntary body or agency and relied upon by the Commissioner under OAC 310:657-23.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-27-3. Commissioner review

The Commissioner shall have thirty (30) days after receipt to approve or deny proposed changes or required filings.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-27-4. Maintenance of records

A Plan shall maintain records or information used to prepare required reports for at least five (5) years.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

310:657-27-5. Documents as public record

All applications shall be available for public inspection in the Department offices during normal working hours. This applies to applications reviewed or under review by the Commissioner. All applications, filings and reports required under OAC 310:657 shall be public documents, except those containing trade secrets, privileged commercial or financial information, or confidential quality or utilization review materials. Financial information required under OAC 310:657-27 shall not be privileged information.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

SUBCHAPTER 29. RESTRICTED AND PROHIBITED ACTS

310:657-29-1. Restricted provision of services

A Plan which has been granted a certificate to operate shall provide services only those persons who work, reside, or work and reside in its approved geographic service area.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-29-2. Prohibited acts

(a) No person may operate a Plan in Oklahoma, nor use the phrase "workplace medical plan," nor imply that it is a workplace medical plan, unless that person first obtains a certificate.

(b) No Plan shall imply that certification qualifies the Plan to provide services except as authorized under the Act and OAC 310:657.

(c) A Plan, its employees and agents shall not:

(1) Pay claims reviewers based on reductions, unless the reductions are based on uniformly applied protocols designed to detect billing errors and duplicate charges;

(2) Compel an injured worker or a provider to:

(A) Accept less than the full settlement of a claim;

(B) File suit to obtain full settlement;

(C) Accept a lesser, interim figure as a premature final settlement; or

(3) Knowingly misrepresent reimbursement criteria and time frames to employees, a provider, an insurer, an insured, or their representatives.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-29-3. Enforcement

If a person violates OAC 310:657-29, the Commissioner shall send written notice to the person to cease and desist the violation. If any person continues the violation, the Commissioner may seek an injunction to prohibit the continued offering of service.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

SUBCHAPTER 31. TERMINATING AND CONTINUING SERVICES

310:657-31-1. Terminating services

(a) A Plan shall notify an insurer, an employer, providers, and open cases at least sixty (60) days before terminating services or not renewing the

insurer's, employer's or provider's contract.

(b) Before terminating services, a plan shall make all necessary arrangements to provide the employer/payer with the medical records and all open or recent cases that have not previously been provided.

(c) An agreement between a provider and a Plan shall require the provider to notify the Plan at least sixty (60) days before termination of the agreement.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-31-2. Bankruptcy strategy [REVOKED]

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Revoked at 23 Ok Reg 2404, eff 6-25-06]

310:657-31-3. Dismissal from the Plan for cause

A Plan may request dismissal from the Plan of an employee for documented abusive, disruptive or threatening behavior which impairs the Plan's ability to provide services. Dismissal shall comply with the insurer's or insured's contract.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-31-4. Notice

A Plan shall notify the Commissioner in writing at least ninety (90) days before any cessation of business. The Plan shall submit all notices and agreements before their release and effective dates.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

SUBCHAPTER 33. POWERS OF A PLAN

310:657-33-1. Powers

The powers of a Plan include the following:

- (1) Making transactions between affiliated entities, including loans and the transfer of responsibility under all contracts between affiliates or between the Plan and its parent;
- (2) Furnishing medical and health services through providers, associations or agents which contract with or are employed by the Plan;
- (3) Contracting with any person for the performance on its behalf of functions such as marketing and administration; and
- (4) Marketing of products with an insurer or insured, if the company offering each product is clearly identified.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96 ; Amended at 14 Ok Reg 2264, eff 6-12-97 ; Amended at 23 Ok Reg 2404, eff 6-25-06]

310:657-33-2. Notice of exercise of powers

A Plan shall file notice and supporting information with the Department before the exercise of any power under OAC 310:657-33. The Commissioner shall disapprove an exercise of power if it will affect the Plan's financial soundness and endanger its ability to meet its obligations. The Commissioner shall have no more than thirty (30) days to act on the notice.

[Source: Added at 12 Ok Reg 2977, eff 6-16-95 (emergency); Added at 13 Ok Reg 2127, eff 6-13-96]

**SUBCHAPTER 35. ENROLLMENT AND ELECTION
PROCESS [REVOKED]****310:657-35-1. Obligations of Plan and insurer or insured
[REVOKED]**

[Source: Added at 16 Ok Reg 683, eff 1-5-99 (emergency); Added at 16 Ok Reg 1410, eff 5-27-99 ;
Revoked at 23 Ok Reg 2404, eff 6-25-06]

**310:657-35-2. Description of the notice and election form
[REVOKED]**

[Source: Added at 16 Ok Reg 683, eff 1-5-99 (emergency); Added at 16 Ok Reg 1410, eff 5-27-99 ;
Revoked at 23 Ok Reg 2404, eff 6-25-06]

CHAPTER 658. INDEPENDENT REVIEW ORGANIZATION CERTIFICATION RULES [REVOKED]

Editor's Note: *Effective 8-26-11, the authority for promulgating the rules in this Chapter 658 was transferred to the Insurance Department from the Oklahoma State Department of Health [see Laws 2011, c. 278 and c. 360]. The Insurance Department promulgated emergency rules on 9-12-11 [see 29 Ok Reg 16], and subsequently superseded the emergency rules with permanent rules at OAC 365:10-29-1 through 365:10-29-10 on 7-14-12. The Department of Health later revoked the rules in this Chapter [OAC 310:658], effective 9-12-14.*

[**Authority:** 63 O.S., § 1-104]
[**Source:** Codified 6-12-00]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:658-1-1. Purpose [REVOKED]

[**Source:** Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-1-2. Definitions [REVOKED]

[**Source:** Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

SUBCHAPTER 3. APPLYING FOR A CERTIFICATE [REVOKED]

310:658-3-1. Application required [REVOKED]

[**Source:** Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-3-2. Description of application form [REVOKED]

[**Source:** Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

SUBCHAPTER 5. STANDARDS FOR INDEPENDENT REVIEW ORGANIZATIONS [REVOKED]

310:658-5-1. Procedures for informed consent [REVOKED]

[**Source:** Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-5-2. Independence and objectivity of review organization and process [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-5-3. Independence and objectivity of health care professionals [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-5-4. Identity of physician [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-5-5. Confidentiality of records and information [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-5-6. Expedited appeals [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-5-7. Fair business practices [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-5-8. Other duties of independent review organizations [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

SUBCHAPTER 7. ISSUANCE OR DENIAL OF CERTIFICATE [REVOKED]

310:658-7-1. Conditions for issuance or renewal [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-7-2. Duration of certificate [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-7-3. Denial or nonrenewal of application [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-7-4. Certificate transfer [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

SUBCHAPTER 9. DUTIES OF HEALTH BENEFIT PLANS [REVOKED]

310:658-9-1. Information provided to the Department [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-9-2. Information provided to independent review organization [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

SUBCHAPTER 11. FORMS FOR USE BY INSURED PERSONS [REVOKED]

310:658-11-1. Request for external review form [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-11-2. Medical records release form [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-11-3. Informed consent form [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

SUBCHAPTER 13. DEPARTMENT PROCEDURES [REVOKED]

310:658-13-1. Request for external review form [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-13-2. List of certified independent review organizations [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

SUBCHAPTER 15. REPORTING REQUIREMENTS [REVOKED]

310:658-15-1. Records [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-15-2. Annual reports [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

310:658-15-3. Decision filings [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

SUBCHAPTER 17. PROHIBITED ACTS [REVOKED]

310:658-17-1. Prohibited acts [REVOKED]

[Source: Added at 17 Ok Reg 688, eff 12-16-99 (emergency); Added at 17 Ok Reg 2056, eff 6-12-00 ; Revoked at 31 Ok Reg 1615, eff 9-12-14]

CHAPTER 659. HEALTH MAINTENANCE ORGANIZATIONS [REVOKED]

[**Authority:** 36 O.S., §§ 6901 et seq.; 63 O.S., §§ 1-104, 1-105e, and 1-106.1]
[**Source:** Codified 7-12-04]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:659-1-1. Purpose [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

310:659-1-2. Definitions [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

310:659-1-3. Application materials [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

310:659-1-4. Filing fee [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

310:659-1-5. Governing body oversight [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

310:659-1-6. Managed care referral and non-formulary drugs [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

310:659-1-7. Administrative penalties [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

SUBCHAPTER 3. EXAMINATIONS [REVOKED]

310:659-3-1. Purpose [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

310:659-3-2. Independent quality examiner [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

310:659-3-3. Reports [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

310:659-3-4. Conflict of interest [REVOKED]

[**Source:** Added at 21 Ok Reg 2782, eff 7-12-04 ; Revoked at 40 Ok Reg 1580, eff 9-11-23]

CHAPTER 660. HIV LABORATORY TESTING REGULATIONS [REVOKED]

[**Authority:** 63 O.S., § 2550]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:660-1-1. Purpose [REVOKED]

[**Source:** Revoked at 17 Ok Reg 2061, eff 6-12-00]

310:660-1-2. Definitions [REVOKED]

[**Source:** Amended at 10 Ok Reg 4223, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3847, eff 7-11-94 ; Revoked at 17 Ok Reg 2061, eff 6-12-00]

SUBCHAPTER 3. LICENSURE [REVOKED]

310:660-3-1. Fees [REVOKED]

[**Source:** Revoked at 17 Ok Reg 2061, eff 6-12-00]

310:660-3-2. Laboratories eligible for licensure [REVOKED]

[**Source:** Amended at 10 Ok Reg 4223, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3847, eff 7-11-94 ; Revoked at 17 Ok Reg 2061, eff 6-12-00]

310:660-3-3. Tests and standards [REVOKED]

[**Source:** Amended at 10 Ok Reg 4223, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3847, eff 7-11-94 ; Revoked at 17 Ok Reg 2061, eff 6-12-00]

310:660-3-4. Personnel [REVOKED]

[**Source:** Revoked at 17 Ok Reg 2061, eff 6-12-00]

310:660-3-5. Procedures for licensure [REVOKED]

[**Source:** Revoked at 17 Ok Reg 2061, eff 6-12-00]

310:660-3-6. Revocation and reinstatement [REVOKED]

[**Source:** Amended at 10 Ok Reg 4223, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3847, eff 7-11-94 ; Revoked at 17 Ok Reg 2061, eff 6-12-00]

310:660-3-7. Inspections [REVOKED]

[**Source:** Added at 10 Ok Reg 79, eff 10-5-92 (emergency); Added at 10 Ok Reg 1703, eff 6-1-93 ;
Revoked at 17 Ok Reg 2061, eff 6-12-00]

CHAPTER 661. HOSPICE

[**Authority:** 63 O.S., §§ 1-103a.1, 1-104, 1-860.1 et seq., and 1-862]

[**Source:** Codified 6-11-92]

SUBCHAPTER 1. GENERAL PROVISIONS

310:661-1-1. Purpose

This Chapter establishes the minimum criteria for the issuance and renewal of a hospice license and the procedure for enforcement of the Act.

[**Source:** Added at 9 Ok Reg 1985, eff 6-11-92]

310:661-1-2. Definitions

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

"Act" means the Oklahoma Hospice Licensing Act, 63 O.S. 1991, §§ 1-860.1 et seq.

"Alternate Administrative Office" means an approved location from which the hospice provides the same full range of hospice care and services that is required of the hospice issued, stores supplies, and/or is used for documentation and meets the requirements of 310:661-2-1(f)(2). Each location shall meet all of the applicable requirements of Chapter 661. Hospice.

"Attending physician" means a doctor of medicine or osteopathy, identified by the patient or representative at the time the patient or representative elects to receive hospice care, as having the most significant role in the determination and delivery of the patient's medical care.

"Bereavement counseling" means emotional, psychosocial, and spiritual support and services provided before and after the death of the patient to assist with issues related to grief, loss, and adjustment.

"Clinical note" means a notation of a contact with the patient and/or the family that is written and dated by any person providing services and that describes signs and symptoms, treatments and medications administered, including the patient's reaction and/or response, and any changes in physical, emotional, psychosocial or spiritual condition during a given period of time.

"Comprehensive assessment" means an evaluation of the patient's physical, psychosocial, emotional and spiritual status related to the terminal illness and related conditions. This includes an evaluation of the caregiver's and family's willingness and capability to care for the patient.

"Continuous care" means nursing care that is provided by a skilled nurse or a qualified hospice aide for as much as 24-hours a day during periods of medical crisis as necessary to maintain a hospice patient at their place of residence.

"Department" means the Oklahoma State Department of Health.

"Dietary counseling" means education and interventions provided to the patient and family regarding nutritional intake as the patient's condition changes. Dietary counseling is provided by qualified individuals, which may include a registered nurse or dietitian, when identified in the patient's plan of care.

"Employed" means contracting with a person for services, regardless of compensation. This term also includes volunteers.

"Employee" means a person who: (1) Works for the hospice and for whom the hospice is required to issue a W-2 form on his or her behalf; (2) if the hospice is a subdivision of an agency or organization, an employee of the agency or organization who is assigned to the hospice; or (3) is a volunteer under the jurisdiction of the hospice.

"Fast-track" The process where advance approval may be secured for construction starts while design details are completed.

"First-year license" means a license issued for the initial twelve (12) month license period.

"Follow-up inspection" means the inspection by representatives of the Department that shall occur after a hospice has provided hospice services for at least six (6) months.

"Governing body" means a person, persons, or legal entity that is legally responsible for the conduct of the facility as an institution and carries out the functions, ownership, and governance in accordance with these regulations and the laws of this state.

"Initial assessment" means an evaluation of the patient's physical, psychosocial and emotional status related to the terminal illness and related conditions to determine the patient's immediate care and support needs.

"License" means a first-year or permanent hospice license issued pursuant to the Act and these rules.

"Licensed independent practitioner" means any individual permitted by law and by the licensed hospice to provide care and services, without direct supervision, within the scope of the individual's license and consistent with clinical privileges individually granted by the licensed hospice. Licensed independent practitioners may include advanced practice nurses with prescriptive authority, physician assistants, dentists, podiatrists, optometrists, chiropractors, and psychologists.

"Medical Crisis" means an event or situation in which a registered nurse, through direct assessment of the hospice patient, determines that the patient has entered into a period of crisis which requires a physician's intervention and continuous nursing care to achieve palliation or management of acute medical symptoms. Peaceful symptom controlled death is an expected patient outcome and is not considered a medical crisis. A medical crisis would include, but not be limited to the following: uncontrolled terminal agitation as demonstrated by hallucinations, confusion, and combativeness; uncontrolled pain; uncontrolled respiratory distress; uncontrolled nausea and vomiting; hemorrhaging; uncontrolled seizures; family distress as a result of ongoing symptom management for the patient requiring administration of medications to maintain the patient's comfort; and, any uncontrolled symptom that requires the administration of medications with ongoing

assessment of the effectiveness and adjustment of the medication regimen to achieve control of symptoms.

"Palliative care" means patient and family-centered care that optimizes quality of life by anticipating, preventing, and treating suffering. Palliative care throughout the continuum of illness involves addressing physical, intellectual, emotional, social, and spiritual needs and to facilitate patient autonomy, access to information, and choice.

"Permanent license" means a license first issued to a hospice program after the first-year license period has been completed and the required follow-up inspection has been conducted.

"Physician designee" means a doctor of medicine or osteopathy designated by the hospice who assumes the same responsibilities and obligations as the medical advisor when the medical advisor is not available.

"Registered nurse" means a person who is currently licensed to practice registered nursing in the State of Oklahoma.

"Representative" or **"Court appointed guardian"** means a person who is authorized in accordance with State law to execute or revoke an election for hospice care or terminate medical care on behalf of the terminally ill individual.

"Skilled nurse" means a person who is currently licensed to practice registered nursing or practical nursing in the State of Oklahoma.

"Social worker" means a person who has a degree from a school accredited or approved by the Council on Social Work Education and conforms to the requirements of the State Licensure Laws of Oklahoma for Social Workers.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 19 Ok Reg 2094, eff 6-27-02 ; Amended at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 23 Ok Reg 2412, eff 6-25-06 ; Amended at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 40 Ok Reg 1582, eff 9-11-23]

310:661-1-3. Applicability

No public or private agency or person shall establish, conduct or maintain a hospice or hold itself out to the public as a hospice without first obtaining a license from the State Department of Health.

[Source: Added at 10 Ok Reg 77, eff 10-5-92 (emergency); Added at 10 Ok Reg 1705, eff 6-1-93 ; Amended at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2269, eff 6-12-97]

SUBCHAPTER 2. LICENSES

310:661-2-1. Licensure

(a) **Applicant.** Any public or private agency or person desiring to establish a hospice in Oklahoma shall apply for and obtain a license from the Department.

(b) **Application.** An application for a hospice license shall be filed on a form prescribed by the Department and shall be accompanied by the information required by the Act.

(c) **Plan of delivery.** The initial application shall be accompanied by a plan of delivery of home and inpatient hospice services to patients and their families. The plan shall include, but not be limited to, those items listed in the Act.

(d) **Expiration/renewal.**

(1) **First-year license.**

(A) The first-year license shall expire one (1) year from the date of issuance unless suspended or revoked. A hospice holding a first-year license is required to successfully complete an initial inspection by representatives of the Department prior to the provision of services and shall be subject to a follow-up inspection after providing hospice services for at least six (6) months. The Department may require any hospice to renew the first-year license for one additional year. A hospice shall not hold a first-year license for more than twenty-four (24) months.

(B) A follow-up survey that demonstrates compliance with the Act and these rules shall be required prior to a hospice program being issued a permanent license.

(2) **Permanent license.** The permanent license shall expire one (1) year from the date of issuance, unless suspended or revoked. An application for renewal shall be submitted according to the Act. Only hospice programs in compliance with the Act and these rules shall be issued a permanent license.

(e) **Base of operation.** Every hospice providing hospice services shall operate from a place of business which is accessible to the public and physically located in Oklahoma. Staff providing services from the hospice shall be supervised.

(f) **Eligibility for license.**

(1) A hospice making appropriate application that has been determined to be compliant with this Chapter and the Act is eligible for a license.

(2) A hospice may operate alternate administrative offices under one (1) license as long as the following requirements are met:

(A) The alternate administrative offices shall be operated under the same administration and governing body as an extension site for services of the main hospice. These offices shall operate under the same name(s) as the licensee.

(B) An application for license, or renewal thereof, to establish or operate each hospice alternate administrative office of an agency licensed in the State of Oklahoma shall be accompanied by a nonrefundable licensing fee of five hundred dollars (\$500.00) and application at least thirty (30) days before beginning operations.

(g) **Compliance with Federal, State and local laws and regulations.** The hospice and its staff shall operate and furnish services that comply with all applicable Federal, State, and local laws and rules. The hospice shall ensure that staff comply with applicable State practice acts and rules in the provision of hospice services.

(h) **Hospice inpatient facility.**

(1) Each licensed hospice program may operate one (1) hospice inpatient facility with twelve (12) or fewer inpatient beds as long as the facility complies with hospice inpatient facility service requirements at OAC 310:661-6 and hospice inpatient facility physical plant requirements at OAC 310:661-8.

(2) A hospice inpatient facility may not be independently licensed as a hospice unless the hospice provides a full continuum of hospice program services to patients in their homes and temporary places of residence including the inpatient hospice facility.

[Source: Amended and renumbered from 310:661-3-1 at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended and renumbered from 310:661-3-1 at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 23 Ok Reg 2412, eff 6-25-06 ; Amended at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22 ; Amended at 40 Ok Reg 1582, eff 9-11-23]

310:661-2-2. Deadlines for applications

The license application must be filed in accordance with the following deadlines:

(1) A first-year hospice license is filed at least thirty (30) days before beginning operations.

(2) License application following a transfer of ownership or operation, is filed at least thirty (30) days prior to the transfer. If the Department finds that an emergency exists which threatens the welfare of patients, the thirty (30) day advance filing notice may be waived.

(3) Renewal of an existing licensed hospice is filed at least sixty (60) days prior to the expiration date of the license.

(4) If relocation is considered, the hospice must file an amended application with the address change at least thirty (30) days prior to the intended relocation. No fee for processing the license address change will be required.

(5) Incomplete first-year license applications received by the Department will be summarily dismissed after thirty (30) days of applicant notification of an incomplete application. Thereafter, a new application and initial fee will be required.

[Source: Added at 14 Ok Reg 2106, eff 4-7-97 (emergency); Added at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 23 Ok Reg 2412, eff 6-25-06 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-2-3. Where to file

The application and the license fee must be submitted to the Department. The effective date will be the date a complete application and fee are received. All fees are non-refundable.

[Source: Added at 14 Ok Reg 2106, eff 4-7-97 (emergency); Added at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-2-4. Transfer of ownership of a licensed hospice

(a) The license of a hospice shall not be subject to sale, assignment, or other transfer, voluntary or involuntary.

(b) If an entity is considering acquiring a licensed hospice, then it must submit to the Department 30 days before the effective date of the acquisition:

- (1) an application [See OAC 310:661-2-5];
- (2) a non-refundable two thousand dollars (\$2,000) fee [See OAC 310:661-2-6];
- (3) a copy of the executed sales agreement; and
- (4) an additional five hundred dollars (\$500) for each alternate administrative office operated by the agency, if applicable.

(c) The following actions will not be considered a transfer of ownership or change in control requiring this subsection to apply:

- (1) Change of a corporate or limited liability company licensee's name through amendments of the articles of incorporation or membership agreement.
- (2) Sale of stock of a corporation.
- (3) Sale or merger of a corporation that owns the hospice operating entity.
- (4) Sale of membership interest of a limited liability company.

[Source: Added at 14 Ok Reg 2106, eff 4-7-97 (emergency); Added at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 23 Ok Reg 2412, eff 6-25-06 ; Amended at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-2-5. License application form

The applicant for a license must file the following application form: Application for License to Operate a Hospice (ODH Form 924). This form requests: amount of fee submitted; name of hospice; location and mailing address of hospice; name and title of chief executive officer; fiscal year ending date; operating entity name and address; type of operating entity; board of directors; complete disclosure of ownership including name, finding and mailing address, and percentage of ownership for every stockholder having at least five percent (5%) ownership in the hospice; name, signature, and title of position of persons making the application; and an affidavit attesting to the information provided.

[Source: Added at 14 Ok Reg 2106, eff 4-7-97 (emergency); Added at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 23 Ok Reg 2412, eff 6-25-06 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-2-6. Licensure fees

- (a) There is a non-refundable \$500 fee for an application for a first-year license to establish or operate a hospice and a non-refundable \$1,500 fee for a first-year license.
- (b) There is a non-refundable \$2,000 fee for a renewal application for an existing permanent hospice license.
- (c) A late renewal fee of \$50 will be charged for any hospice submitting an application for renewal within 30 days after the expiration date of the license.

[Source: Added at 16 Ok Reg 2518, eff 6-25-99 ; Amended at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 23 Ok Reg 2412, eff 6-25-06 ; Amended at 24 Ok Reg 2004, eff 6-25-07 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-2-7. Plan review fees

(a) Each hospice inpatient facility construction project will be charged a review fee based on the cost of the design and construction of the building project as follows:

- (1) Project cost less than \$10,000.00: \$250.00 Fee
- (2) Project cost \$10,000.00 to \$50,000.00: \$500.00 Fee
- (3) Project cost \$50,000.00 to \$250,000.00: \$1000.00 Fee
- (4) Project cost \$250,000.00 to \$1,000,000.00: \$1500.00 Fee
- (5) Project Cost greater than \$1,000,000.00: \$2000.00 Fee

(b) The review fee must be paid when stage one project plans are submitted to the Department for review. The fee will cover the cost of review for up to two (2) stage one and two (2) stage two submittals. If a stage one or stage two submittal is not approved after two (2) submissions, another review fee based on the cost of the project will be required for the third submittal. Fast-track projects will be allowed two (2) reviews for each package submitted. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project will be required with the third submittal of the package.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

SUBCHAPTER 3. ADMINISTRATION

310:661-3-1. Licensure [AMENDED AND RENUMBERED TO 310:661-2-1]

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended and renumbered to 310:661-2-1 at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended and renumbered to 310:661-2-1 at 14 Ok Reg 2269, eff 6-12-97]

310:661-3-2. Organization

(a) **Organization and administration of services.** The hospice must organize, manage, and administer its resources to provide the hospice care and services to patients, caregivers and families necessary for the palliation and management of the terminal illness and related conditions.

(b) **Serving the hospice patient and family.** The hospice must provide hospice care that:

- (1) Optimizes comfort and dignity; and
- (2) Is consistent with patient and family needs and goals, with patient needs and goals as priority.

(c) **Continuation of care.** A hospice cannot discontinue or reduce care provided because of the inability to pay for that care.

(d) **Professional management responsibility.** A hospice that has a written agreement with another agency, individual, or organization to furnish any services under arrangement must retain administrative and financial management, and oversight of staff and services for all arranged services, to ensure the provision of quality care. Arranged services must be supported by written agreements that require that all

services be:

- (1) Authorized by the hospice;
- (2) Furnished in a safe and effective manner by qualified personnel; and
- (3) Delivered in accordance with the patient's plan of care.

(e) **Narrative program.** Each Hospice must provide a narrative program with its application which describes the functions, staffing, services available to the patient and other basic information relating to the fulfillment of the facility's objectives.

(f) **Governing body.** A hospice must have a governing body that assumes full legal responsibility for determining, implementing and monitoring policies governing the total operations of the hospice. The governing body will designate an individual who is responsible for the day-to-day management of the hospice program. The governing body must also ensure that all services provided are consistent with accepted standards of practice.

(g) **Hospice team.** A hospice team must be developed and function according to the Act. The hospice team is responsible for all of the following:

- (1) Participation in the establishment of the plan of care.
- (2) Provision or supervision of hospice care and services.
- (3) Periodic review and updating of the plan of care for each individual receiving hospice care.
- (4) Implementation of policies governing the day-to-day provisions of hospice care and services.

(h) **Medical advisor.** The medical advisor must be a medical doctor or osteopathic physician and is responsible for the medical component of the patient care program for the hospice. The physician must also serve as medical advisor to the hospice, possess a license free of sanctions, and be a doctor of medicine or osteopathy who is an employee, or under contract with the hospice. When the medical advisor is not available, a physician designated by the hospice assumes the same responsibilities and obligations as the medical advisor.

(1) **Medical advisor contract.** When contracting for medical advisor services, the contract must specify the physician who assumes the medical advisor responsibilities and obligations. A hospice may contract with either of the following:

- (A) A self-employed physician; or
- (B) A physician employed by a professional entity or physician's group.

(2) **Initial certification of terminal illness.** The medical advisor or physician designee reviews the clinical information for each hospice patient and provides written certification that it is anticipated that the patient's life expectancy is one (1) year or less if the illness runs its normal course. The physician must consider the following when making this determination:

- (A) The primary terminal condition;
- (B) Related diagnosis(es), if any;
- (C) Current subjective and objective medical findings;
- (D) Current medication and treatment orders; and

(E) Information about the medical management of any of the patient's conditions unrelated to the terminal illness.

(3) **Medical advisor responsibility.** The medical advisor or physician designee has responsibility for the medical component of the hospice's patient care program.

(i) **Patient care coordinator.** A registered nurse must be appointed and approved by the hospice governing body and employed by the hospice as patient care coordinator to supervise and coordinate the palliative and supportive care for patients and families provided by a hospice team.

(j) **Medical social services.** Medical social services must be provided by a social worker employed by the hospice.

(k) **Support services.** Support services must be available to both the individual and the family. These services include bereavement support provided before the patient's death, spiritual support and any other support or service needed by the patient or family. These services may be provided by members of the interdisciplinary group as well as other qualified professionals as determined by the hospice.

(l) **Training.** A hospice must:

(1) provide orientation about the hospice philosophy to all employees and contracted staff who have patient and family contact;

(2) provide an initial orientation for each employee that addresses the employee's specific job duties.

(3) assess the skills and competence of all individuals furnishing care, including volunteers furnishing services, and, as necessary, provide in-service training and education programs where required. The hospice shall have written policies and procedures describing its method(s) of assessment of competency and maintain a written description of the in-service training provided during the previous twelve (12) months.

(m) **Volunteers.** Volunteers must be used in defined roles and under the supervision of a designated hospice employee. The hospice must provide appropriate orientation and training.

(1) **Training.** The hospice will maintain, document, and provide volunteer orientation and training.

(2) **Role.** Volunteers will be used in day-to-day administrative and/or direct patient care roles.

(3) **Recruiting and retaining.** The hospice will document and demonstrate viable and ongoing efforts to recruit and retain volunteers.

(4) **Utilization.** The hospice must document

(A) The identification of each position that is occupied by a volunteer.

(B) The work time spent by volunteers occupying those positions.

(n) **Criminal background checks.**

(1) The hospice must obtain a criminal background check on all hospice employees who have direct patient contact or access to patient records. Hospice contracts must require that all contracted entities obtain criminal background checks on contracted employees who have direct patient contact or access

to patient records.

(2) Each such criminal background check must meet the criteria established for certified nurse aides as provided for in Title 63 O.S. Section 1-1950.1 and be obtained in accordance with State requirements.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-3-3. Medical records

(a) The hospice must establish and maintain a medical record for each individual receiving care and services. The record must be complete, timely and accurately documented, and readily accessible.

(b) The medical record must contain sufficient information to justify the diagnosis and warrant the treatment and services provided. Entries are made and signed by the person providing the services. The record must include all care and services whether furnished directly or under arrangements by the hospice. Each record must contain at least the following:

- (1) Identification data;
- (2) Initial and subsequent assessments;
- (3) Plan of care;
- (4) Consent, authorization and election forms;
- (5) Medical history; and
- (6) Complete documentation of all care, services and events including evaluations, treatments, progress notes, laboratory and x-ray reports, and discharge summary.

(c) The hospice must safeguard the medical record against loss, destruction, and unauthorized use.

(d) Current records must be completed promptly. A plan of care must be completed within forty-eight (48) hours following admission. Records of discharged patients must be completed within thirty (30) days following discharge.

(e) Medical records must be retained at least five (5) years beyond the date the patient was last seen or at least three (3) years beyond the date of the patient's death.

(f) A hospice may microfilm medical records in order to conserve space. Records reconstituted from microfilm will be considered the same as the original and retention of the microfilmed record constitutes compliance with preservation laws.

(g) The hospice must advise the Department in writing at the time of cessation of operation as to where hospice records will be archived and how these records can be accessed.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-3-3.1. Clinical records

(a) **General.** A clinical record containing past and current findings is maintained for each hospice patient. The clinical record contains

accurate clinical information that is available to the patient's attending physician and hospice staff. The clinical record may be maintained electronically.

(b) **Content.** Each patient's record must include the following:

- (1) The initial plan of care, updated plans of care, initial assessment, comprehensive assessment, updated comprehensive assessments, and clinical notes;
- (2) Signed copies of the notice of patient rights;
- (3) Responses to medications, symptom management, treatments, and services;
- (4) Outcome measure data elements, as described in 310:661-5-3.1;
- (5) Physician certification of terminal illness;
- (6) Any advance directives; and
- (7) Physician orders.

(c) **Authentication.** All entries must be legible, clear, complete, and appropriately authenticated and dated in accordance with hospice policy.

(d) **Protection of information.** The clinical record, its contents and the information contained therein must be safeguarded against loss or unauthorized use. Additionally, the hospice is subject to all Federal and State privacy laws.

(e) **Discharge or transfer of care.**

- (1) If the care of a patient is transferred to another licensed hospice, the hospice will forward to the receiving hospice within twenty-four (24) hours, a copy of:
 - (A) The hospice discharge summary; and
 - (B) The patient's clinical record, as requested.
- (2) If a patient revokes the election of hospice care, or is discharged from hospice, the hospice will forward to the patient's attending physician within twenty-four (24) hours, a copy of:
 - (A) The hospice discharge summary; and
 - (B) The patient's clinical record, if requested.
- (3) The hospice discharge summary as required above must include:
 - (A) A summary of the patient's stay including treatments, symptoms and pain management;
 - (B) The patient's current plan of care;
 - (C) The patient's current physician orders; and
 - (D) Any other documentation that will assist in post-discharge continuity of care or that is requested by the attending physician or receiving hospice.

(f) **Retrieval of clinical records.** The clinical record, whether hard copy or in electronic form, must be made readily available on request.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-3-4. Confidentiality

(a) Medical records must be kept confidential. Only authorized personnel have access to the record. Written consent of the patient, patient representative, the court appointed guardian or a court order will be

accepted as authority for release of medical information.

(b) An individual who is, or has been, a patient of a physician, hospital, or other medical facility, except psychiatric, is entitled to access information contained in the individual's own medical records upon request. A request for minors may be made by parents or legal guardian. The hospice must furnish a copy of the medical record upon payment for the charge of such copy.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-3-5. Continuing education

The section implements the provisions of Title 63 O.S. 1-862 concerning hospice administrator continuing education.

[Source: Added at 36 Ok Reg 1728, eff 9-13-19]

310:661-3-5.1. Number of continuing education hours required

(a) All hospice administrators operating a hospice program in this state are required to complete eight (8) hours of continuing education each calendar year.

(b) Hours of continuing education may be completed in person or online.

(c) Membership in a statewide organization relating to hospice care will be considered as completion of one (1) hour of ethics credit each year.

[Source: Added at 36 Ok Reg 1728, eff 9-13-19 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-3-5.2. Acceptable continuing education

(a) Continuing education curriculum content is acceptable when it includes at least one of the following components:

- (1) Administrative skills, duties, and responsibilities;
- (2) Administrative procedures and strategic planning;
- (3) Community relations and public information;
- (4) Fiscal and information data management;
- (5) Human relations;
- (6) Ethics; or
- (7) State and federal statutes and rules applicable to Hospice service delivery.

(b) Continuing education hours may be offered through a graduate or undergraduate course, seminar, workshop, conference, or professional association meeting for the purpose of enhancing professional competency. This excludes independent reading and informal meetings that are informational in nature and are offered as a public service and not for the offering of continuing education.

(c) An acceptable instructor or entity offering continuing education courses must have:

- (1) Experience in hospice administration; or
- (2) Expertise in teaching and instructional methods suitable to the subject presented; or
- (3) Academic qualifications and experience for the subject.

[Source: Added at 36 Ok Reg 1728, eff 9-13-19 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-3-5.3. Documentation of attendance

(a) A hospice administrator must maintain in their personal records verification of course attendance, completion, or membership documents. Acceptable documents include the following:

- (1) A continuing education validation form furnished by the presenter;
- (2) A certificate or letter of attendance or completion with an agenda or content outline; or
- (3) An official college transcript showing courses completed with credit issued or audit credit.

(b) The presenting organization must be identified in the verification documents through documentation identifying the sponsoring entity, the name of the program, location, dates, subject taught, total number of hours, participant's name and presenter's name and credentials.

(c) Presentation of fraudulent continuing education documentation is a violation of this Chapter and applicable to the hospice license.

[Source: Added at 36 Ok Reg 1728, eff 9-13-19 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-3-5.4. Penalty for failure to fulfill continuing education

Failure to meet the continuing education requirements is a violation of Title 63, Section 1-862 and this Chapter and therefore, subject to a written notice of violation.

[Source: Added at 36 Ok Reg 1728, eff 9-13-19]

SUBCHAPTER 5. MINIMUM STANDARDS

310:661-5-1. Admission

- (a) Admission to a hospice will be in accord with the Act.
- (b) Hospice services will be available twenty-four (24) hours a day, seven (7) days a week.
- (c) A hospice program will not impose the dictates of any value or belief system on its patients and their families.
- (d) A hospice will coordinate its service with those of the patient's primary or attending physician, all hospice caregivers, and nursing facility staff if a patient resides in a nursing facility.
- (e) The hospice team will be responsible for coordination and continuity between inpatient and home care aspects of care.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-1.1. Admission to hospice care

- (a) The hospice admits a patient only on the recommendation of the medical advisor in consultation with, or with input from, the patient's attending physician (if any).
- (b) In reaching a decision to certify that the patient is terminally ill, the hospice medical advisor must consider at least the following information:
 - (1) Diagnosis of the terminal condition of the patient;
 - (2) Other health conditions, whether related or unrelated to the terminal condition; and
 - (3) Current clinically relevant information supporting all diagnoses.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-1.2. Discharge from hospice care

- (a) **Reasons for discharge.** A hospice may discharge a patient if:
 - (1) The patient moves out of the hospice's service area or transfers to another hospice;
 - (2) The hospice determines that the patient is no longer terminally ill; or
 - (3) The hospice determines, under a policy set by the hospice for the purpose of addressing discharge for cause that meets the requirements of paragraphs (a)(3)(A) through (a)(3)(D) of this section, that the patient's (or other persons in the patient's home)

behavior is disruptive, abusive, or uncooperative to the extent that delivery of care to the patient or the ability of the hospice to operate effectively is seriously impaired. The hospice will do the following before it seeks to discharge a patient for cause:

- (A) Advise the patient that a discharge for cause is being considered;
- (B) Document efforts to resolve the problem(s) presented by the patient's behavior or situation;
- (C) Ascertain that the patient's proposed discharge is not due to the patient's use of necessary hospice services; and
- (D) Document the problem(s) and efforts made to resolve the problem(s) and enter this documentation into its medical records.

(b) **Discharge order.** Prior to discharging a patient for any reason listed in paragraph (a) of this section, the hospice must obtain a written physician's discharge order from the hospice medical advisor. Any attending physician involved in the patient's care must be consulted before discharge and his or her review and decision included in the discharge note.

(c) **Discharge planning.**

- (1) The hospice must have a discharge planning process that takes into account the prospect that a patient's condition might stabilize or otherwise change such that the patient cannot continue to be certified as terminally ill.
- (2) The discharge planning process will include planning for any necessary family counseling, patient education, or other services before the patient is discharged because he or she is no longer terminally ill.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-1.3. Initial and comprehensive assessment of the patient

(a) **General.** The hospice must conduct and document in writing a patient-specific comprehensive assessment that identifies the patient's need for hospice care and services, and the patient's need for physical, psychosocial, emotional, and spiritual care. This assessment includes all areas of hospice care related to the palliation and management of the terminal illness and related conditions.

(b) **Initial assessment.** The hospice registered nurse must complete an initial assessment within forty-eight (48) hours after the physician's order for hospice care is received (unless the physician, patient, or representative requests that the initial assessment be completed in less than 48 hours.)

(c) **Timeframe for completion of the comprehensive assessment.** The hospice interdisciplinary group, in consultation with the individual's attending physician (if any), must complete the comprehensive assessment no later than five (5) calendar days after the election of hospice care .

(d) **Content of the comprehensive assessment.** The comprehensive assessment must identify the physical, psychosocial, emotional, and spiritual needs related to the terminal illness that will be addressed in order to promote the hospice patient's well-being, comfort, and dignity throughout the dying process. The comprehensive assessment must take into consideration the following:

- (1) The nature and condition causing admission (including the presence or lack of objective data and subjective complaints);
- (2) Complications and risk factors that affect care planning;
- (3) Functional status, including the patient's ability to understand and participate in his or her own care;
- (4) Imminence of death;
- (5) Severity of symptoms;
- (6) A review of all of the patient's prescription and over-the-counter drugs, herbal remedies and other alternative treatments that could affect drug therapy. This includes, but is not limited to, identification of the following:
 - (A) Effectiveness of drug therapy;
 - (B) Drug side effects;
 - (C) Actual or potential drug interactions;
 - (D) Duplicate drug therapy; and
 - (E) Drug therapy currently associated with laboratory monitoring.
- (7) An initial bereavement assessment of the needs of the patient's family and other individuals focusing on the social, spiritual, and cultural factors that may impact their ability to cope with the patient's death. Information gathered from the initial bereavement assessment is incorporated into the plan of care and considered in the bereavement plan of care; and
- (8) The need for referrals and further evaluation by appropriate health professionals.

(e) **Update of the comprehensive assessment.** The update of the comprehensive assessment must:

- (1) be accomplished by the hospice interdisciplinary group (in collaboration with the individual's attending physician, if any);
- (2) consider changes that have taken place since the initial assessment;
- (3) include information on the patient's progress toward desired outcomes, as well as a reassessment of the patient's response to care; and
- (4) be accomplished as frequently as the condition of the patient requires, but no less frequently than every fifteen(15) days.

(f) **Patient outcome measures.**

- (1) The comprehensive assessment must include data elements that allow for measurement of outcomes. The hospice must measure and document data in the same way for all patients. The data elements must take into consideration aspects of care related to hospice and palliation.
- (2) The data elements must be:
 - (A) an integral part of the comprehensive assessment;

- (B) documented in a systematic and retrievable way for each patient;
- (C) used in individual patient care planning and in the coordination of services; and
- (D) used in the aggregate for the hospice's quality assessment and performance improvement program.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-2. Plan of care

- (a) A written plan of care must be established and maintained for each patient admitted to a hospice program and the care provided to an individual is in accordance with the plan.
- (b) The plan must be established by the attending physician, the medical advisor, and the interdisciplinary group.
- (c) The plan of care must be reviewed and updated by the hospice team at intervals specified in the plan and documented by the team members.
- (d) The content of the plan must include an assessment of the patient's needs and identify the services provided. The plan must state in detail the scope and frequency of services needed to meet the patient's and family's needs.
- (e) Continuous care must be provided under a plan of care that is developed specifically to resolve the patient's medical crisis. These plans must include:
 - (1) Caregiver education;
 - (2) Anticipated duration of the continuous care;
 - (3) Necessity of continuous care;
 - (4) Interventions required;
 - (5) Identification of interdisciplinary team members developing the plan; and,
 - (6) Physician orders for continuous care.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 19 Ok Reg 2094, eff 6-27-02 ; Amended at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-2.1. Interdisciplinary group, care planning, and coordination of services

- (a) **General.** The hospice must designate an interdisciplinary group or groups which, in consultation with the patient's attending physician, will prepare a written plan of care for each patient. The plan of care will specify the hospice care and services necessary to meet the patient and family-specific needs identified in the comprehensive assessment as such needs relate to the terminal illness and related conditions.
- (b) **Approach to service delivery.**
 - (1) The hospice must designate in writing an interdisciplinary group or groups composed of individuals who work together to meet the physical, medical, psychosocial, emotional, and spiritual needs of the hospice patients and families facing terminal illness and bereavement. Interdisciplinary group members must provide the care and services offered by the hospice, and the group, in its entirety, must supervise the care and services. The hospice will

designate a registered nurse that is a member of the interdisciplinary group to provide coordination of care and to ensure continuous assessment of each patient's and family's needs and implementation of the interdisciplinary plan of care. The interdisciplinary group must include individuals who are qualified and competent to practice in the following professional roles:

- (A) A doctor of medicine or osteopathy (who is an employee or under contract with the hospice);
- (B) A registered nurse;
- (C) A social worker; and
- (D) A pastoral or other counselor.

(2) If the hospice has more than one interdisciplinary group, it must identify a specifically designated interdisciplinary group to establish policies governing the day-to-day provision of hospice care and services.

(c) **Plan of care.** All hospice care and services furnished to patients and their families must follow an individualized written plan of care established by the hospice interdisciplinary group in collaboration with the attending physician (if any), the patient or representative, and the primary caregiver in accordance with the patient's needs. The hospice will ensure that each patient and the primary care giver(s) receive education and training provided by the hospice as appropriate to their responsibilities for the care and services identified in the plan of care.

(d) **Content of the plan of care.** The hospice must develop an individualized written plan of care for each patient. The plan of care will reflect patient and family goals and interventions based on the problems identified in the initial, comprehensive, and updated comprehensive assessments. The plan of care must include all services necessary for the palliation and management of the terminal illness and related conditions, including at least the following:

- (1) Interventions to manage pain and symptoms;
- (2) A detailed statement of the scope and frequency of services necessary to meet the specific patient and family needs;
- (3) Measurable outcomes anticipated from implementing and coordinating the plan of care;
- (4) Drugs and treatment necessary to meet the needs of the patient;
- (5) Medical supplies and appliances necessary to meet the needs of the patient; and
- (6) The interdisciplinary group's documentation of the patient's or representative's level of understanding, involvement, and agreement with the plan of care, in accordance with the hospice's own policies, in the clinical record.

(e) **Review of the plan of care.** The hospice interdisciplinary group (in collaboration with the individual's attending physician, if any) must review, revise and document the individualized plan as frequently as the patient's condition requires, but no less frequently than every fifteen (15) calendar days. A revised plan of care must include information from the patient's updated comprehensive assessment and note the patient's progress toward outcomes and goals specified in the plan of care.

(f) **Coordination of services.** The hospice must develop and maintain a system of communication and integration, in accordance with the hospice's own policies and procedures, to:

- (1) Ensure that the interdisciplinary group maintains responsibility for directing, coordinating, and supervising the care and services provided;
- (2) Ensure that the care and services are provided in accordance with the plan of care;
- (3) Ensure that the care and services provided are based on all assessments of the patient and family needs;
- (4) Provide for and ensure the ongoing sharing of information between all disciplines providing care and services in all settings, whether the care and services are provided directly or under arrangement; and
- (5) Provide for an ongoing sharing of information with other non-hospice healthcare providers furnishing services unrelated to the terminal illness and related conditions.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-2.2. Core Services

(a) **General.** A hospice must provide substantially all core services directly by hospice trained and oriented employees. These services include nursing services, medical social services, and bereavement and spiritual counseling. The hospice may contract for physician services.

(b) **Physician services.** The hospice medical advisor, physician employees, and contracted physician(s) of the hospice, in conjunction with the patient's attending physician, are responsible for the palliation and management of the terminal illness and conditions related to the terminal illness.

- (1) All physician employees and those under contract, must function under the supervision of the hospice medical advisor.
- (2) All physician employees and those under contract must meet this requirement by either providing the services directly or through coordinating patient care with the attending physician.
- (3) If the attending physician is unavailable, the medical advisor, contracted physician, and/or hospice physician employee is responsible for meeting the medical needs of the patient.

(c) **Nursing services.**

- (1) The hospice must provide nursing care by licensed nurses under the supervision of a registered nurse. Nursing services must ensure that the nursing needs of the patient are met as identified in the patient's initial assessment, comprehensive assessment, and updated assessments.
- (2) If State law permits registered nurses to see, treat, and write orders for patients, then registered nurses may provide services to patients receiving hospice care.
- (3) Highly specialized nursing services that are provided so infrequently that the provision of such services by direct hospice employees would be impracticable and prohibitively expensive,

may be provided under contract.

(d) **Medical social services.** Medical social services must be provided by a qualified social worker, under the direction of a physician. Social work services must be based on the patient's psychosocial assessment and the patient's and family's needs and acceptance of these services.

(e) **Counseling services.** Counseling services must be available to the patient and family to assist the patient and family in minimizing the stress and problems that arise from the terminal illness, related conditions, and the dying process. Counseling services will include, but are not limited to, the following:

(1) **Bereavement counseling.** The hospice must:

(A) Have an organized program for the provision of bereavement services furnished under the supervision of a qualified professional with experience or education in grief or loss counseling;

(B) Make bereavement services available to the family and other individuals in the bereavement plan of care up to one (1) year following the death of the patient.

Bereavement counseling also extends to residents of a care facility when appropriate and identified in the bereavement plan of care;

(C) Ensure that bereavement services reflect the needs of the bereaved; and

(D) Develop a bereavement plan of care that notes the kind of bereavement services to be offered and the frequency of service delivery.

(2) **Dietary counseling.** Dietary counseling, when identified in the plan of care, must be performed by a qualified individual, which include dietitians as well as nurses and other individuals who are able to address and assure that the dietary needs of the patient are met.

(3) **Spiritual counseling.** The hospice must:

(A) Provide an assessment of the patient's and family's spiritual needs;

(B) Provide spiritual counseling to meet these needs in accordance with the patient's and family's acceptance of this service, and in a manner consistent with patient and family beliefs and desires;

(C) Make all reasonable efforts to facilitate visits by local clergy, pastoral counselors, or other individuals who can support the patient's spiritual needs to the best of its ability; and

(D) Advise the patient and family of this service.

310:661-5-2.3. Physical therapy, occupational therapy, speech-language pathology

Physical therapy services, occupational therapy services, and speech-language pathology services must be available.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-2.4. Licensed Professional Services

(a) Licensed professional services provided directly or under arrangement must be authorized, delivered, and supervised only by health care professionals who meet the appropriate qualifications specified by the State and who practice under the hospice's policies and procedures.

(b) Licensed professionals must actively participate in the coordination of all aspects of the patient's hospice care, in accordance with current professional standards and practice, including participating in ongoing interdisciplinary comprehensive assessments, developing and evaluating the plan of care, and contributing to patient and family counseling and education.

(c) Licensed professionals must participate in the hospice's quality assessment and performance improvement program and hospice sponsored in-service training.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-3. Quality assurance

(a) The hospice must develop, maintain, and conduct a comprehensive quality assurance program that includes an evaluation of services, quarterly clinical record audits, and organizational review.

(b) The hospice must ensure that appropriate and quality care is provided to include inpatient care, home care, and care provided under arrangements.

(c) The quality assurance program must be reviewed at least once a year. Policies and procedures will be revised as needed, reviewed, and approved annually. Goals will be established and problems identified with documented results.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-3.1. Quality Assessment/Performance Improvement

(a) The hospice must develop, implement, and maintain an effective, ongoing, hospice-wide data-driven quality assessment and performance improvement program. The hospice's governing body must ensure that the program: Reflects the complexity of its organization and services; involves all hospice services (including those services furnished under contract or arrangement); focuses on indicators related to improved palliative outcomes; and takes actions to demonstrate improvement in hospice performance. The hospice must maintain documentary evidence of its quality assessment and performance improvement program and be

able to demonstrate its operation to the Department of Health.

(b) Program scope.

(1) The program must at least be capable of showing measurable improvement in indicators related to improved palliative outcomes and hospice services.

(2) The hospice must measure, analyze, and track quality indicators, including adverse patient events, and other aspects of performance that enable the hospice to assess processes of care, hospice services, and operations.

(c) Program data.

(1) The program must use quality indicator data, including patient care, and other relevant data, in the design of its program.

(2) The hospice must use the data collected to do the following:

(A) Monitor the effectiveness and safety of services and quality of care; and

(B) Identify opportunities and priorities for improvement.

(3) The frequency and detail of the data collection must be approved by the hospice's governing body.

(d) Program activities.

(1) The hospice's performance improvement activities must:

(A) Focus on high risk, high volume, or problem-prone areas;

(B) Consider incidence, prevalence, and severity of problems in those areas; and

(C) Affect palliative outcomes, patient safety, and quality of care.

(2) Performance improvement activities must track adverse patient events, analyze their causes, and implement preventive actions and mechanisms that include feedback and learning throughout the hospice.

(3) The hospice must take actions aimed at performance improvement and, after implementing those actions, the hospice shall measure its success and track performance to ensure that improvements are sustained.

(e) Performance improvement projects. Hospices must develop, implement, and evaluate performance improvement projects.

(1) The number and scope of distinct performance improvement projects conducted annually, based on the needs of the hospice's population and internal organizational needs, must reflect the scope, complexity, and past performance of the hospice's services and operations.

(2) The hospice must document what performance improvement projects are being conducted, the reasons for conducting these projects, and the measurable progress achieved on these projects.

(f) Executive responsibilities. The hospice's governing body is responsible for ensuring the following:

(1) An ongoing program for quality improvement and patient safety is defined, implemented, and maintained, and is evaluated annually;

(2) The hospice-wide quality assessment and performance improvement efforts address priorities for improved quality of

care and patient safety, and that all improvement actions are evaluated for effectiveness; and

(3) One or more individual(s) who are responsible for operating the quality assessment and performance improvement program are designated.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-4. Rights and responsibilities

(a) Every hospice must provide, before or at the time of admission, a written statement of rights and responsibilities to each patient, or patient representative, or available family member. The hospice shall ensure that all staff members are familiar with and observe the rights and responsibilities enumerated in the statement.

(b) The statement must inform the patient that he/she has a right to:

(1) A listing of available services, charges, billing process, and services that may be covered by private payment, private insurance, or state or federal medical care payment programs, including Medicaid or Medicare;

(2) Advance notice of any change in fees or billing as soon as possible but no later than thirty (30) calendar days before the effective date of the change;

(3) Receive information explaining the Medicare, Medicaid and insurance benefits which are no longer available to the patient while the patient receives hospice care, any applicable benefit periods, length of time of each benefit period, and the process of revoking and transferring from one hospice to another if the patient desires;

(4) Be informed of the right to participate in the planning of care, the right to be advised in advance of any changes in the plan of care, the disciplines that shall furnish care, the proposed frequency of care, the title of the person supervising the patient's care and the manner in which that person may be contacted;

(5) Revoke the hospice benefit, without coercion from the hospice;

(6) Expect that the hospice shall enter no further into family life and affairs than is required to meet the goals of the hospice care plan;

(7) A grievance procedure that includes the right to register a grievance with the hospice regarding treatment or care received or lack of treatment or care without reprisal or discrimination from the hospice; and

(8) File a complaint with the Oklahoma State Department of Health at its current mailing address.

(c) The statement must include the following hospice responsibilities:

(1) Accepting patients for service only if they meet hospice admission criteria and have been determined to be terminally ill by a licensed medical doctor or osteopathic physician;

(2) Providing services regardless of payment;

(3) Providing services if the patient is a nursing facility resident and indicating that care will be provided according to the hospice

plan of care and that the nursing facility will be provided with the plan of care and all subsequent changes to ensure care is coordinated;

(4) Informing the patient representative or family of the patient's condition and what future changes may occur in the patient's condition and encouraging the patient or patient representative to express feelings and emotions without fear of reprisal;

(5) Providing caregivers who are non-judgmental and conduct themselves in a professional manner;

(6) Making and accepting referrals solely in the best interest of the patient;

(7) Ensuring that hospice owners, employees, and contractors do not knowingly initiate contact with a patient currently treated by another hospice for the purpose of attempting to persuade the patient to change hospice providers, and ensuring that a hospice which has knowledge of contacts initiated by its employees, owners or contractors will take reasonable and necessary steps to cease such contacts;

(8) Respecting and being sensitive to the ethnic, cultural, socioeconomic, religious and lifestyle diversity of the patients and their families;

(9) Ascertaining and honoring the wishes, concerns, priorities and values of the patient and the patient's family including refusal of routine care and treatment consistent with the organization's values as stated by hospice policy;

(10) Complying with the patient's advance directive, informing the patient of the right to revoke the advance directive at any time, and discussing the procedures required to revoke;

(11) Providing qualified personnel to meet the patient's needs;

(12) Supporting, affirming, and empowering families as caregivers while acknowledging and responding with sensitivity to the interruption of privacy that is necessitated by hospice care in the patient's residence; and

(13) Ensuring that contracted providers and volunteers are qualified and properly trained and provide care consistent with the values and philosophy of hospice.

(14) Ensuring hospice care is established to meet the patient's needs and not to supplement facility staffing if the patient resides in an inpatient facility.

[Source: Added at 14 Ok Reg 2106, eff 4-7-97 (emergency); Added at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 19 Ok Reg 2094, eff 6-27-02 ; Amended at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-4.1. Additional rights of the patient

(a) **General.** The patient has the right to be informed of his or her rights, and the hospice must protect and promote the exercise of these rights.

(b) **Notice of rights and responsibilities.**

(1) During the initial assessment visit in advance of furnishing care the hospice must provide the patient or representative with verbal and written notice of the patient's rights and

responsibilities in a language and manner that the patient understands.

(2) The hospice must inform and distribute written information to the patient concerning its policies on advance directives, including a description of applicable State law.

(3) The hospice must obtain the patient's or representative's signature confirming that he or she has received a copy of the notice of rights and responsibilities.

(c) Exercise of rights and respect for property and person.

(1) The patient has the right:

(A) To exercise his or her rights as a patient of the hospice;

(B) To have his or her property and person treated with respect;

(C) To voice grievances regarding treatment or care that is (or fails to be) furnished and the lack of respect for property by anyone who is furnishing services on behalf of the hospice; and

(D) To not be subjected to discrimination or reprisal for exercising his or her rights.

(2) If a patient has been adjudged incompetent under state law by a court of proper jurisdiction, the rights of the patient are exercised by the person appointed pursuant to state law to act on the patient's behalf.

(3) If a state court has not adjudged a patient incompetent, any legal representative designated by the patient in accordance with state law may exercise the patient's rights to the extent allowed by state law.

(4) The hospice must:

(A) Ensure that all alleged violations involving mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property by anyone furnishing services on behalf of the hospice, are reported immediately by hospice employees and contracted staff to the hospice administrator;

(B) Immediately investigate all alleged violations involving anyone furnishing services on behalf of the hospice and immediately take action to prevent further potential violations while the alleged violation is being verified. Investigations and/or documentation of all alleged violations shall be conducted in accordance with established procedures;

(C) Take appropriate corrective action in accordance with state law if the alleged violation is verified by the hospice administration or an outside body having jurisdiction, such as the State survey agency or local law enforcement agency; and

(D) Ensure that verified violations are reported to State and local bodies having jurisdiction (including to the State survey and certification agency) within 5 working days of

becoming aware of the violation.

- (d) **Rights of the patient.** The patient has a right to the following:
- (1) Receive effective pain management and symptom control from the hospice for conditions related to the terminal illness;
 - (2) Be involved in developing his or her hospice plan of care;
 - (3) Refuse care or treatment;
 - (4) Choose his or her attending physician;
 - (5) Have a confidential clinical record. Access to or release of patient information and clinical records is permitted in accordance with State and Federal law.
 - (6) Be free from mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property;
 - (7) Receive information about the services covered under the hospice benefit; and
 - (8) Receive information about the scope of services that the hospice will provide and specific limitations on those services.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-5. Continuous care

Every hospice must provide continuous care as necessary to meet the medical crisis needs of the hospice patient and family. The provision of continuous care must meet the following requirements:

- (1) A skilled nurse provides at least 51% of the care in a 24-hour period, and a qualified home health aide must provide the balance of care.
- (2) A registered nurse reassesses the patient at least every 24-hours to determine the effectiveness of interventions and the need for continued care.
- (3) Continuous care is ordered by a physician upon initiation of the care and every 24-hour period thereafter of the uncontrolled medical crisis.

[Source: Added at 19 Ok Reg 2094, eff 6-27-02 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-6. Infection Control

- (a) **General.** The hospice must maintain and document an effective infection control program that protects patients, families, visitors, and hospice personnel by preventing and controlling infections and communicable diseases.
- (b) **Prevention.** The hospice must follow accepted standards of practice to prevent the transmission of infections and communicable diseases, including the use of standard precautions.
- (c) **Control.** The hospice must maintain a coordinated agency-wide program for the surveillance, identification, prevention, control, and investigation of infectious and communicable diseases that:
- (1) Is an integral part of the hospice's quality assessment and performance improvement program; and
 - (2) Includes the following:

- (A) A method of identifying infectious and communicable disease problems; and
 - (B) A plan for implementing the appropriate actions that are expected to result in improvement and disease prevention.
- (d) **Education.** The hospice must provide infection control education to employees, contracted providers, patients, and family members and other caregivers.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-7. Supervision of hospice aides

- (a) A registered nurse must make an on-site visit to the patient's home:
- (1) No less frequently than every fourteen (14) calendar days to assess the quality of care and services provided by the hospice aide and to ensure that services ordered by the hospice interdisciplinary group meet the patient's needs. The hospice aide does not have to be present during this visit.
 - (2) If an area of concern is noted by the supervising nurse, then the hospice must make an on-site visit to the location where the patient is receiving care in order to observe and assess the aide while he or she is performing care.
 - (3) If an area of concern is verified by the hospice during the on-site visit, then the hospice must conduct, and the hospice aide must complete a competency evaluation.
- (b) A registered nurse must make an annual on-site visit to the location where a patient is receiving care in order to observe and assess each aide while he or she is performing care.
- (c) The supervising nurse must assess an aide's ability to demonstrate initial and continued satisfactory performance in meeting outcome criteria that include, but is not limited to:
- (1) Following the patient's plan of care for completion of tasks assigned to the hospice aide by the registered nurse;
 - (2) Creating successful interpersonal relationships with the patient and family;
 - (3) Demonstrating competency with assigned tasks;
 - (4) Complying with infection control policies and procedures; and
 - (5) Reporting changes in the patient's condition.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-8. Drugs and Biologicals, Medical Supplies, Durable Medical Equipment

- (a) **General.** Medical supplies and appliances; durable medical equipment; and drugs and biologicals related to the palliation and management of the terminal illness and related conditions, as identified in the hospice plan of care, must be provided by the hospice while the patient is under hospice care.
- (b) **Managing drugs and biologicals.**

(1) The hospice must ensure that the interdisciplinary group confers with an individual with education and training in drug management as defined in hospice policies and procedures and State law, who is an employee of or under contract with the hospice to ensure that drugs and biologicals meet each patient's needs.

(2) A hospice that provides inpatient care directly in its own facility must provide pharmacy services under the direction of a qualified licensed pharmacist who is an employee of or under contract with the hospice. The provided pharmacist services must include evaluation of a patient's response to medication therapy, identification of potential adverse drug reactions, and recommended appropriate corrective action.

(c) Ordering of drugs.

(1) Only a licensed independent practitioner with prescriptive authority, in accordance with the plan of care and State law, may order drugs for the patient.

(2) If the drug order is verbal or given by or through electronic transmission:

(A) It must be given only to a licensed health care practitioners within their scope of practice under state law and authorized by hospice policy to receive verbal orders; and

(B) The individual receiving the order must record and sign it immediately and have the prescribing person sign it in accordance with State and Federal regulations.

(d) Dispensing of drugs and biologicals. The hospice must obtain drugs and biologicals from community or institutional pharmacists or stock drugs and biologicals itself.

(e) Administration of drugs and biologicals. The interdisciplinary group, as part of the review of the plan of care, must determine the ability of the patient and/or family to safely self-administer drugs and biologicals to the patient in his or her home.

(f) Labeling, disposing, and storing of drugs and biologicals.

(1) **Labeling.** Drugs and biologicals must be labeled in accordance with currently accepted professional practice and include appropriate usage and cautionary instructions, as well as an expiration date (if applicable).

(2) **Disposing.** The hospice must have written policies and procedures for the management and disposal of controlled drugs in the patient's home. At the time when controlled drugs are first ordered the hospice must:

(A) Provide a copy of the hospice written policies and procedures on the management and disposal of controlled drugs to the patient or patient representative and family;

(B) Discuss the hospice policies and procedures for managing the safe use and disposal of controlled drugs with the patient or representative and the family in a language and manner that they understand to ensure that these parties are educated regarding the safe use and disposal of controlled drugs; and

(C) Document in the patient's clinical record that the written policies and procedures for managing controlled drugs was provided and discussed.

(g) **Use and maintenance of equipment and supplies.**

(1) The hospice must ensure that manufacturer recommendations for performing routine and preventive maintenance on durable medical equipment are followed. The equipment must be safe and work as intended for use in the patient's environment. Where a manufacturer recommendation for a piece of equipment does not exist, the hospice must ensure that repair and routine maintenance policies are developed. The hospice may use persons under contract to ensure the maintenance and repair of durable medical equipment.

(2) The hospice must ensure that the patient, where appropriate, as well as the family and/or other caregiver(s), receive instruction in the safe use of durable medical equipment and supplies. The hospice may use persons under contract to ensure patient and family instruction. The patient, family, and/or caregiver must be able to demonstrate the appropriate use of durable medical equipment to the satisfaction of the hospice staff.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-5-9. Short-term inpatient care

- (a) Inpatient care must be available for pain control, symptom management, and respite purposes.
- (b) If the hospice has an arrangement with another facility to provide for short-term inpatient care, the arrangement is described in a written agreement, coordinated by the hospice, and at a minimum specifies that:
- (1) the hospice supplies the inpatient provider a copy of the patient's plan of care and specifies the inpatient services to be furnished;
 - (2) the inpatient provider has established patient care policies consistent with those of the hospice and agrees to abide by the palliative care protocols and plan of care established by the hospice for its patients;
 - (3) the hospice patient's inpatient clinical record includes a record of all inpatient services furnished and events regarding care that occurred at the facility; that a copy of the discharge summary be provided to the hospice at the time of discharge; and that a copy of the inpatient clinical record is available to the hospice at the time of discharge;
 - (4) the inpatient facility has identified an individual within the facility who is responsible for the implementation of the provisions of the agreement; and
 - (5) the hospice retains responsibility for ensuring that the training of personnel who will be providing the patient's care in the inpatient facility has been provided and that a description of the training and the names of those giving the training are documented.

[Source: Added at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

SUBCHAPTER 6. HOSPICE INPATIENT SERVICE REQUIREMENTS

310:661-6-1. General

- (a) Each hospice program that operates a hospice inpatient facility must comply with service requirements specified in this subchapter.
- (b) Patients are allowed to receive visitors at any hour, including small children and house pets.
- (c) Smoking or possessing a lighted tobacco product is prohibited in a hospice inpatient facility and within fifteen (15) feet of each entrance to a facility and of any air intakes; provided however, the facility may provide a smoking room for use by patients and their visitors. The walkway to the main entrance must also be smoke free. Ashtrays cannot be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room. An indoor smoking room may be provided if:
- (1) It is completely enclosed;
 - (2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from

- entering non-smoking areas of the building;
- (3) It allows for visual observation of the patients from outside of the smoking room; and
- (4) The plans are reviewed and approved by the Department.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-6-2. Compliance with health and safety requirements

- (a) Each hospice inpatient facility must comply with all Federal, State, and local laws, regulations, codes and ordinances as required.
- (b) The facility must have written policies and procedures relating to advance directives with respect to all patients receiving care. These policies and procedures will comply with existing Federal and State laws.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-6-3. Nursing services

- (a) The facility must provide twenty-four (24) hour nursing services sufficient to meet the needs of the hospice inpatients.
- (b) Each patient must receive treatments, medications, and diet as prescribed, and kept comfortable, clean, well-groomed, and protected from accident, injury, and infection.
- (c) Each shift must include at least one (1) registered nurse to supervise the facility and provide direct patient care.
- (d) There must be adequate numbers of other licensed nurses and support staff to provide services established in the patient's plan of care while the patient is in the facility.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-6-4. Dietary services

- (a) The facility must provide dietary service adequate to meet the dietary needs of the patients. Services may be provided on a contract basis as long as dietary needs of patients are met.
- (b) Each facility must serve at least three (3) meals or their equivalent each day at regular times, with not more than fourteen (14) hours between a substantial evening meal and breakfast.
- (c) Menus must be planned and followed to balance patient choice with nutritional needs of patients, in accordance with physicians' orders and to the extent medically possible, in accordance with the Dietary Reference Intakes (DRIs) of the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences.
- (d) The facility must procure, store, prepare, distribute, and serve all food under sanitary conditions in compliance with Chapter 257 of this Title.
- (e) Nourishments are available for all patients at anytime in accordance with approved diet orders.
- (f) There must be adequate trained staff available to manage and provide dietary services. A licensed/registered dietitian must be available to provide consultation on patients' dietary needs, supervise services, and

ensure medically prescribed special diets are provided as ordered.

(g) The system to be used for dishwashing must be approved by the Department and operated in accordance with approved procedures and requirements of Chapter 257 of this Title.

(h) Garbage and refuse must be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Adequate carriers and containers will be provided for the collection and transportation, in a sanitary manner, of garbage and refuse from food service areas of the hospice to the place of disposal in accordance with the requirements of Chapter 257 of this Title.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 24 Ok Reg 2004, eff 6-25-07 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-6-5. Pharmaceutical services

(a) The hospice inpatient facility must provide appropriate methods and procedures for dispensing and administering drugs and biologicals. Whether drugs and biologicals are obtained from community or institutional pharmacies or maintained and stocked by the facility, the facility is responsible for the pharmaceutical services and ensure services are provided in accordance with accepted professional standards of practice in compliance with Federal, State, and local laws.

(b) Each facility must employ or contract with a licensed pharmacist to supervise services and ensure drugs and biologicals are obtained, stored, administered and disposed of as required by Federal and State law.

(c) A physician or licensed independent practitioner must order all medications for each patient. If the physician or practitioner's order is verbal, the physician or practitioner must give the order to a licensed nurse or other individual authorized by State law to receive the order. The individual receiving the order must record and sign the order immediately and have the prescribing physician or practitioner sign as soon as possible in a manner consistent with good medical practice. Another covering or attending physician or practitioner may sign another physician or practitioner's verbal order if the facility allows this practice and specific procedures are approved by the governing body to permit the practice. If a covering or attending physician or practitioner authenticates the ordering physician or practitioner's verbal order, such an authentication indicates that the covering or attending physician or practitioner assumes responsibility for his or her colleague's order and verifies the order is complete, accurate, appropriate, and final.

(d) Drugs and biologicals must be administered only by a physician, licensed nurse, an individual authorized by State law to administer, or the patient if his or her attending physician has approved.

(e) The pharmaceutical service must have procedures for control and accountability of all drugs and biologicals in the facility. Drugs are dispensed in compliance with Federal and State law. Records of receipt and disposition of all controlled drugs are maintained in sufficient detail to enable an accurate reconciliation. The pharmacist must ensure the drug records are in order and that an account of all controlled drugs is maintained and reconciled.

(f) The labeling of drugs and biologicals is based on currently accepted professional principles in compliance with State law, and includes the appropriate accessory and cautionary instructions, as well as the expiration date and lot number when applicable.

(g) All drugs and biologicals must be stored in locked compartments under proper temperature controls. Only authorized personnel must have access. Separately locked compartments must be provided for storage of Schedule II controlled drugs. All stores of Schedule II drugs not individually dispensed to a patient must be accounted for at regular intervals to ensure the drugs are not diverted.

(h) If the facility only maintains drugs and biologicals by individual patient prescription, an emergency medication kit approved by the Medical advisor must also be maintained.

(i) Controlled drugs no longer needed by the patient must be disposed of in compliance with Federal and State requirements. The pharmacist and a facility registered nurse or two (2) facility registered nurses must document disposal and maintain a record.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 26 Ok Reg 2042, eff 6-25-09 ; Amended at 39 Ok Reg 1375, eff 9-11-22 ¹]

Editor's Note: ¹ *When published in the Register, these permanent amendments to this Section (310:661-6-5) were incorrectly numbered as amendments to 310:661-6-7. This error was editorially corrected, and the amendments were codified as amendments to the correct number (310:661-6-5).*

310:661-6-6. Disaster preparedness

The hospice inpatient facility must have an acceptable written plan, periodically rehearsed with staff, with procedures to be followed in the event of an internal or external disaster and for the care of casualties arising from such disasters.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-6-7. Infection control

310:661-6-7.¹ Infection control

Each hospice inpatient facility must establish an infection control program to provide a sanitary environment and avoid sources and transmission of infections. The program must include written policies and procedures for identifying, reporting, evaluating and maintaining records of infections among patients and personnel, for ongoing review and evaluation of all aseptic, isolation and sanitation techniques employed in the facility, and development and coordination of training programs in infection control for all facility personnel.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

Editor's Note: ¹In 2009, permanent amendments were incorrectly promulgated as amendments to this section number (310:661-6-7) instead of 310:661-6-5, as intended [see 26 Ok Reg 2042, effective 6-25-09]. This error was editorially corrected, and the amendments were codified as amendments to the correct number (310:661-6-5).

SUBCHAPTER 7. INFRACTIONS

310:661-7-1. Inspections

Any duly authorized representative of the Department has the right to conduct such inspections as necessary in order to determine compliance with the provisions of the Act and this Chapter. The right of inspection also extends to any hospice the Department has a reason to believe is advertising or operating a hospice service without a license.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-7-2. Complaints and investigations

(a) A complaint may be registered by any person who believes a hospice is operating contrary to the Act or is posing a serious threat to the health and welfare of a patient in its care. The complaint may be registered verbally or in writing to the Department. An investigation will be conducted by the Department to determine the validity of the complaint and to instigate necessary action thereto. The Department must notify the complainant in writing of the findings, if a name and address is furnished.

(b) If the Department determines there are reasonable grounds to believe that a hospice is operating in violation of the Act or the rules, the Department must follow the notice and hearing procedure established by the Act and the Procedures of the Department, Chapter 2 of this Title.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 21 Ok Reg 1303, eff 5-27-04 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

310:661-7-3. Penalties

After notice and hearing pursuant to the Act, the Department may use any and all of the remedies provided by the Act and by the general statutory authority of the Commissioner of Health.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92]

310:661-7-4. Appeals

Final orders of the Department may be appealed to the Supreme Court. Appeals must be in accordance with 63 O.S. § 1-860.11.

[Source: Added at 9 Ok Reg 1985, eff 6-11-92 ; Amended at 14 Ok Reg 2106, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2269, eff 6-12-97 ; Amended at 39 Ok Reg 1375, eff 9-11-22]

SUBCHAPTER 8. HOSPICE INPATIENT FACILITY PHYSICAL PLANT

310:661-8-1. General

(a) These requirements are intended as minimum standards for constructing and equipping a hospice inpatient facility of twelve beds (12) beds or less. Inpatient hospice facilities containing three (3) beds or less shall only be required to comply with the physical plant requirements contained in Section 310:661-8-14 of this subchapter. Insofar as practical, these rules relate to desired performance or results or both. Details of construction and engineering are assumed to be part of good design practice and local building regulations. Design and construction shall conform to the requirements of these rules. Requirements set forth in these rules shall be considered as minimum. For aspects of design and construction not included, local governing building codes shall apply. Where there is no local governing building code, the prevailing model code used within the geographic area is hereby specified for all requirements not otherwise specified in these rules.

(b) These rules are not intended to restrict innovations and improvements in design or construction techniques. Accordingly, the Department may approve plans and specifications which contain deviations if it is determined that the respective intent or objective has been met.

(c) All facilities shall comply, insofar as practical, with applicable sections of these standards and with appropriate parts of NFPA 101, 2000 edition, covering Health Care Occupancies which is incorporated by reference. Where major structural elements make total compliance impractical or impossible, exceptions may be considered by the Department. This does not guarantee that an exception shall be granted, but does attempt to minimize restrictions on those improvements where total compliance would not substantially improve safety, but would create an unreasonable hardship. This subchapter shall not be construed as prohibiting a single phase of improvement. However, they are not intended as an encouragement to ignore deficiencies when resources are available to correct life-threatening problems.

(1) When construction is complete, the facility shall satisfy functional requirements for a hospice inpatient facility in an environment that shall provide acceptable care and safety to all occupants.

(2) In renovation projects and those making additions to existing facilities, only that portion of the total facility affected by the project shall comply with applicable sections of these standards and with appropriate parts of NFPA 101, 2000 edition, covering New Health Care Occupancies.

(3) Those existing portions of the facility which are not included in the renovation but which are essential to the functioning of the complete facility, as well as existing building areas that receive less than substantial amounts of new work shall, at a minimum, comply with that section of NFPA 101, 2000 edition, for Existing Health Care Occupancies.

(4) Conversion to other appropriate use or replacement shall be considered when cost prohibits compliance with acceptable standards.

(5) When a building is converted from one occupancy to another, it shall comply with the new occupancy requirements. For purpose of life safety, a conversion from a hospital or nursing facility to a hospice inpatient facility or vice versa is not considered a change in occupancy.

(6) When parts of an existing facility essential to continued overall facility operation cannot comply with particular standards, those standards may be waived by the Commissioner of Health if patient care and safety are not jeopardized.

(7) Renovations, including new additions, shall not diminish the safety level that existed prior to the start of the work; however, excess of that required for new facilities is not required.

(d) **Design standards for the disabled.** The Americans with Disabilities Act (ADA) extends comprehensive civil rights protection to individuals with disabilities. The "Uniform Federal Accessibility Standards" (UFAS) also provides criteria for the disabled. Also available for use in providing quality design for the disabled is the International Codes Council (ICC)/American National Standards Institute (ANSI) A117.1 "American National Standard for Accessible and Usable Buildings and Facilities." (ICC/ANSI A117.1)

(1) State and local standards for accessibility and usability may be more stringent than ADA, UFAS, or ICC/ANSI A117.1. Designers and owners, therefore, shall assume responsibility for verification of all applicable requirements and comply with the most stringent standards.

(e) **Nonconforming conditions.** It is not always financially feasible to renovate the entire existing structure in accordance with these standards. In such cases, the Department may grant approval to renovate portions of the structure if facility operation and patient safety in the renovated areas are not jeopardized by the existing features of facility sections retained without complete corrective measures. In major modernization projects and additions to existing facilities, those unrenovated areas that do not comply with NFPA 101 requirements for existing buildings shall be separated from sections to be modernized by fire barriers rated not less than two (2) hour fire resistance and by labeled fire doors of class "B" one and one half (1-1/2) hour construction.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-2. Location

- (a) **Access.** The site of any hospice inpatient facility shall be convenient to the public and to service vehicles, including fire protection apparatus, etc.
- (b) **Environment.** Quietness and sanitary features of the immediate environment shall be considered in locating a hospice inpatient facility.
- (c) The site for a hospice inpatient facility shall conform to all local zoning regulations in cities where zoning ordinances are in effect.
- (d) **Security.** A hospice inpatient facility shall have security measures for patients, personnel, and the public consistent with the conditions and risks inherent in the location of the facility. These measures shall include a program designed to protect human and capital resources.
- (e) **Availability of utilities.** The facility shall be located to provide reliable utilities (water, gas, sewer, electricity). The water supply shall have the capacity to provide normal usage plus fire-fighting requirements. The electricity shall be of stable voltage and frequency.
- (f) **Roads.** Paved or all weather surface roads shall be provided within the property for access to all entrances and to loading and unloading docks for delivery trucks. Vehicular or pedestrian traffic shall not conflict with access to the emergency transport station. In addition, access to emergency transport services shall be located to incur minimal damage from floods and other natural disasters. Paved walkways shall be provided for pedestrian traffic.
- (g) **Parking.** Each hospice inpatient facility shall provide not less than one (1) space for each day shift staff member plus one (1) space for every one (1) patient bed. At least two (2) handicap accessible parking spaces, but not less than what is required by the ICC/ANSI A117.1 Standard, shall be provided. This ratio may be increased in areas convenient to the public transportation system or to public parking facilities if proper justification is included and compliance with applicable local codes or zoning standards is achieved. Space shall be provided for emergency and delivery vehicles.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-3. Submission of plans and construction inspection.

- (a) Before construction is begun, plans and specifications covering the construction of new buildings or major alterations to existing buildings shall be submitted to the Department for review and approval.
- (b) Each construction project submission shall be accompanied by a check for the appropriate review fee based on the cost of design and construction of the project as specified at 310:661-2-7.
- (c) All construction project submittals shall be reviewed within 45 calendar days of receipt by the Department.
- (d) **Preparation of plans and specifications.**
- (1) **Stage one.** Preliminary plans and outline specifications shall be submitted and include sufficient information to establish the following: scope of project; project location; required fire-safety and exiting criteria; building-construction type, compartmentation showing fire and smoke barriers, bed count and services; the assignment of all spaces, areas, and rooms for each floor level,

including the basement.

(2) **Stage two.** A proposed construction document shall be submitted that includes final drawings and specifications adequate for proposed contract purposes. All final plans and specifications shall be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and shall be submitted timely.

(e) **Special submittals.**

(1) **Fast-track projects.** Fast-track projects shall have prior approval and be submitted in no more than four (4) separate packages.

(A) Site work, foundation, structural, under slab mechanical, electrical, plumbing work, and related specifications.

(B) Complete architectural plans and specifications.

(C) All mechanical, electrical, and plumbing plans and specifications.

(D) Equipment and furnishings.

(2) **Automatic sprinkler-systems.** At least two (2) sets of sprinkler-system shop drawings, specifications, and calculations (if applicable), prepared by the installer, shall be submitted to the Office of the State Fire Marshal for review and approval prior to installation of the proposed system in the project.

(f) Construction other than minor alterations shall not be commenced until Stage Two plan-review deficiencies have been satisfactorily resolved.

(g) Prior to commencing construction, the hospice shall submit a construction schedule, which includes, as a minimum, the start date, dates that the heating-ventilation air-conditioning (HVAC), plumbing, and medical gas installation (if applicable) shall commence, and projected date of completion.

(h) The completed construction shall comply with the approved drawings and specifications, including all addenda or modifications approved for the project.

(i) A fifty percent (50%) completion inspection and a final construction inspection of the facility shall be conducted by the Department for the purpose of verifying compliance with this subchapter and the approved plans and specifications. The facility shall not allow patient occupancy until a final approval is granted by the Department.

(j) Construction phasing. Projects involving alterations and/or additions to existing buildings shall be programmed and phased to minimize disruptions of retained, existing functions and shall not disrupt or interfere with patient care. Access, exits, and fire protection shall be maintained so that the occupants' safety shall not be jeopardized during construction.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-4. Space occupied by other entities

- (a) Areas within the same building as a hospice inpatient facility that are leased to, or occupied by, a separate entity and comply with Health Care Occupancy requirements as specified by NFPA 101, 2000 edition, shall be separated from the licensed hospice by demising partitions that are rated not less than one (1) hour fire resistance. Lease areas that do not comply with Health Care Occupancy requirements as specified by NFPA 101, 2000 edition, shall be separated from the licensed hospice by demising partitions that are rated not less than two (2) hour fire resistance.
- (b) Lease areas shall have signage that clearly identifies tenant areas from the hospice inpatient facility area.
- (c) The lease between the hospice and the tenant entity shall require that the tenant area shall be:
 - (1) Maintained to comply with NFPA 101 for Health Care Occupancies;
 - (2) Included in the hospice's sprinkler systems, fire alarm systems, and fire drills; and
 - (3) Accessible to representatives of the Department to determine compliance with these standards.
- (d) A copy of the executed lease agreement for leased areas shall be submitted to the Department for review as part of the plan approval application process and a current copy shall be available for review by Department staff upon request.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-5. Nursing unit

- (a) Patient rooms. Each room shall meet the following requirements.
 - (1) Maximum room capacity shall be one (1) patient.
 - (2) Minimum room area exclusive of toilet rooms, lockers, wardrobes, alcoves, or vestibules shall be one hundred twenty (120) square feet. There shall be a minimum of three (3) feet of clearance between beds and obstructions, such as walls. This minimum dimension shall not apply to the head of the bed.
 - (3) Each room shall be located on an exterior wall and be provided with a window to the exterior. The maximum sill height for the window shall be three (3) feet above finished floor and also be located above exterior lot grade. Windows shall be provided with window coverings to ensure privacy.
 - (4) Each patient bed shall be served by a nurse's call system and provided with an individual call device immediately accessible to patient, which shall register at the nurse's station. A nurse's call emergency device shall be provided for each patient toilet room, shower, and bathing room. The nurse's call system installed shall be one of the following types.
 - (A) Conventional UL 1069 hardwired system; or,
 - (B) Wireless system with individual call pendants or bracelets. These appliances shall activate notification devices at the nurse's station and individual pagers that are carried by staff at all times.

(5) One (1) lavatory or disinfectant wash shall be provided for each patient room.

(6) Each patient shall have access to a toilet room complying with accessibility requirements as determined by the ICC/ANSI A117.1. One (1) toilet room shall contain, at a minimum, a water closet and a lavatory.

(A) Each patient room shall have access to a toilet room without entering or crossing the general corridor.

(B) Toilet rooms shall be equipped with bedpan washing apparatus with flushing attachment and vacuum breaker.

(7) There shall be a minimum of one (1) isolation rooms per hospice inpatient facility. Each room shall contain a lavatory and soap and disposable towel dispensers. Each isolation room shall have access to an accessible toilet room without entering the general corridor.

(8) Each patient shall have a wardrobe, locker, or closet with minimum clear dimensions of one foot ten inches (1'-10") by one foot eight inches (1'-8"). A clothes rod and shelf shall be provided.

(9) Patient rooms shall have general lighting and night lighting. A reading light shall be provided for each patient and at least one (1) light fixture for night lighting shall be switched at the entrance of each patient room. All electrical switches shall be of the quiet operating type.

(10) Each patient shall be provided with a bed complete with springs and a mattress (not rollaway), a chair suitable for the patient, and a bedside table. Cots, sofas, rollaway or similar type beds shall not be used for patients but may be used by family members. A bedside table and over-bed table shall be available for each bedridden patient. A recliner suitable for sleeping shall be provided for each patient in each patient room. Guest rooms used for family member(s) shall be permitted, but shall not be used as patient rooms unless they meet the requirements for patient rooms.

(11) No television surveillance system shall be used to monitor the interior of patient rooms or baths.

(b) Service areas.

(1) The size and disposition of each service area shall depend upon the number and types of beds to be served. Although identifiable spaces are required to be provided for each of the indicated functions, consideration will be given to design solutions, which would accommodate some functions without specific designation of areas or rooms. Details of such proposals shall be submitted for prior approval. Each service area may be arranged and located to serve more than one (1) nursing unit, but at least one (1) such service area shall be provided on each nursing floor. The service areas noted below shall be located in or readily available to each nursing unit:

(A) Nurse's stations with space for nurses' charting, physician charting, and storage for administrative supplies. The distance from the nursing station to the most distant resident room shall not exceed one hundred fifty

(150) feet and this distance shall not be interrupted by physical barriers, such as closed fire doors.

(B) A private physician's office shall be provided in each facility.

(C) Lounge and toilet room(s) for nursing staff.

(D) Clean workroom and clean holding room. These may be combined. The clean workroom shall contain a work counter, hand washing station, and storage facilities. The clean holding room shall be part of a system for storage and distribution of clean and sterile supply materials and shall be similar to the clean workroom except that the work counter and hand washing station may be omitted.

(E) Clean linen storage area. This may be provided by a separate closet or fully enclosed area within the clean workroom.

(F) Soiled workroom or soiled holding room. The soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, sink equipped for hand washing, work counter, waste receptacle, and linen receptacle.

(G) Nourishment station. This shall contain a sink equipped for hand washing, equipment for serving nourishment between scheduled meals, refrigerator, and storage cabinets. Ice for patients' service and treatment shall be located in the nourishment station on each floor and in the kitchen/dining area.

(H) A family room shall be provided by the facility equipped with two (2) compartment sinks, cabinets, microwaves, soap and paper towel dispensers.

(I) One (1) medical equipment storage room shall be provided on each floor.

(J) Parking for stretchers and wheelchairs shall be located out of path or normal traffic.

(K) Patients' bathing facilities. Bathtubs or showers shall be provided at the rate of one for each six (6) beds, which are not otherwise served by bathing facilities within patients' rooms. At least one (1) bathtub shall be provided in each nursing unit or floor. Whirlpool units, which are suitable for bathing purposes, shall be included in satisfying the requirement. Each tub or shower shall be in an individual room or enclosure, which provides space for private use, drying and dressing, and for a wheelchair and an attendant. All fixtures shall be accessible for the handicapped.

(L) Janitor's closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(c) Sterilizing Facilities. The hospice inpatient facility shall make provisions for the sterilization of equipment and supplies and shall have available for all staff and visitors, approved OSHA, NIOSH certified dust, mist and fumes (DMF) respirators or respirators affording greater protection. This is required for all entry into rooms occupied by known or

suspected infectious tuberculosis patients and others. There shall be minimum of one hundred (100) pairs of gloves and DMF respirators in the facility at all times.

(d) Personal Care Unit. A separate room may be provided for hair care and grooming needs of the patients.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-6. Dietary facilities

(a) The following facilities shall be provided in such size as required to implement the type of food service system selected:

- (1) Control station for receiving food supplies.
- (2) Storage space including cold storage.
- (3) Food preparation as required by the program. Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, individual packaged portions, or systems using contractual commissary services require space and equipment for thawing, portioning, cooking, and/or baking.
- (4) Hand washing facilities in the food preparation area equipped with wrist, knee, or foot controls. Disposable towels shall be provided.
- (5) Patient meal service space including facilities for tray assembly and distribution.
- (6) Dishwashing shall be in a room or alcove separate from food preparation and serving areas. The dishwashing equipment shall be of a commercial-type with a separate air balance system.
- (7) Space for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using areas. A lavatory shall be conveniently available with wrist, knee, or foot controls.
- (8) Pot washing facilities with a three (3) compartment sink.
- (9) Sanitizing facilities and storage areas for cans, carts, and mobile tray conveyers.
- (10) Garbage storage facilities in a separate area, which is easily accessible to the outside for direct pickup or disposal.
- (11) Toilet for dietary staff with hand washing facility immediately available.
- (12) Janitors' closet for the dietary department shall be located in or adjacent to the department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies used exclusively for the dietary department.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-7. Administrative and public areas

The following areas shall be provided:

- (1) Public lobby area including:
 - (A) Reception and information counter or desk.

- (B) Waiting spaces.(C)Public toilet facilities (handicapped accessible).
 - (D) Public telephone(s).
 - (E) Drinking fountain(s).
- (2) General or individual offices shall be provided for business transactions, medical and financial records, and administrative functions.
- (3) A quiet room for counseling\reflection is required and shall have a minimum of one hundred (100) square feet.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-8. Linen service

- (a) If linen is to be processed on the site, the following shall be provided:
- (1) Laundry processing room with hand washing facilities and commercial-type equipment, which can process seven (7) days' needs within a regularly scheduled workweek.
 - (2) Soiled linen receiving, holding, and sorting room with hand washing facilities.
 - (3) Storage for laundry supplies.
 - (4) Clean linen storage, issuing, and holding room separate from the soiled linen storage, processing and holding area.
 - (5) Janitors' closet containing a floor receptor or service sink and storage space for housekeeping.
 - (6) Sanitizing facilities and storage area for carts, unless a disposable bagging system is used.
- (b) If linen is processed off the site, the following shall be provided:
- (1) Soiled linen holding room.
 - (2) Sanitizing facilities and storage area for carts.
- (c) Whether linen is processed on or off the site, the laundry shall be physically separated into clean and soiled sections with each section having separate air supplies and exhaust returns to prevent cross-contamination. The hospice shall certify that the off-site laundry satisfies this regulation.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-9. Engineering service and equipment areas

- (a) Central Stores. General storage room(s) shall have a total area of not less than five (5) square feet per bed and should be generally concentrated in one (1) area.
- (b) Room(s) or separate building(s) for boilers, mechanical equipment, and electrical equipment shall not be used for storage.
- (c) Waste Processing Services. Storage and Disposal. Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal or by a combination of these techniques.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-10. Details and Finishes

(a) A high degree of safety for the patients shall be provided to minimize the incidence of accidents with special consideration for patients who will be ambulatory, to assist them in self-care. (b) Hazards such as sharp corners shall be avoided. All details and finishes for modernization projects as well as for new construction shall comply with the following requirements:

- (1) All rooms containing bathtubs, sitz baths, showers, and water closets, subject to occupancy by patients, shall be equipped with doors and hardware which will permit access from the outside in any emergency. When such rooms have only one (1) opening or are small, the door shall be capable of opening outwards or be otherwise designed to be opened without need to push against a patient who may have collapsed within the room.
- (2) The minimum width of all doors to rooms needing access for beds or stretchers shall be three feet eight inches (3' 8"). Doors to patient toilet rooms and other rooms needing access for wheelchairs shall have a minimum clear width of 32 inches.
- (3) Windows and outer doors shall not be left in an open position unless provided with insect screens.
- (4) Windows and/or screening devices shall be designed to prevent accidental falls when open.
- (5) Door(s) shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width. All door handles shall be approved lever type.
- (6) Grab bars shall be provided at all patients' toilets, showers, tubs, and sitz baths.
- (7) Recessed soap dishes shall be provided in showers and bathrooms, or soap dispensers may be substituted.
- (8) Lavatories and hand washing facilities shall be securely anchored to withstand an applied vertical load of not less than two hundred fifty (250) pounds on the front of the fixture.
- (9) Mirrors shall be arranged for convenient use by patients in wheelchairs as well as by patients in a standing position. All lavatories shall have mirrors except those in kitchens.
- (10) Paper towel and soap dispensers and waste receptacles shall be provided at all hand washing facilities in public, staff locations and patient areas.
- (11) Ceiling heights shall be as follows:
 - (A) Boiler rooms shall have ceiling clearances not less than two feet six inches (2' 6") above the main boiler header and connecting piping.
 - (B) Rooms containing ceiling-mounted equipment shall have height required to accommodate the equipment.
 - (C) All rooms shall not have less than eight foot (8' 0") ceilings except that corridors, storage rooms, toilet rooms, and other minor rooms may be not less than seven feet eight inches (7' 8"). Suspended tracks, rails, and pipes located in the path of normal traffic shall not be less than six feet eight inches (6' 8") above the floor.

(D) Kitchens shall have a minimum eight foot (8' 0") ceiling height and be air-conditioned.

(12) Spaces where impact noises may be generated shall not be located directly over or adjacent to patient bed areas unless special provisions are made to minimize such noise to a Noise Isolation Class (NIC) of not less than forty-five (45).

(13) Rooms containing heat producing equipment (such as boiler or heater rooms, and laundries) shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10°F. (60C.) above the ambient room temperature.

(14) Indicators shall be placed on all doors leading to hazardous areas, such as knurled knobs or signs.

(15) The hospice shall eliminate fire and smoke hazards. The hospice shall not use pillows, mattresses, pads, padded furniture, carpeting, or other furnishings, which contain urethane foams, which are not fire retardant.

(c) Hospice Finish Requirements

(1) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water resistant and grease proof. Points in tile and similar material in such areas shall be resistant to food acids. In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet (such as shower and bath areas, kitchens, and similar work areas) shall have a no slip surface.

(2) Wall bases in kitchens, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be made integral and covered with the floor, tightly sealed with the wall, and constructed without voids that can harbor insects.

(3) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish, trim, and wall and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(4) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(5) Ceilings throughout shall be easily cleanable. Ceilings in the dietary and food preparation areas shall have a finished washable ceiling covering all overhead piping and ductwork; a smooth surface drywall or plaster type ceiling shall be required. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire-resistive purposes.

(6) All buildings that have patients' facilities (such as bedrooms, dining rooms, or recreation areas) or critical services (such as diagnostic or therapy) located on other than the main entrance floor shall have electric or electro hydraulic elevators.

(A) At least one (1) hospital type elevator shall be installed where patients are located on any floor other than the main entrance floor.

(B) Cars and platforms. Cars of hospital type elevators shall have inside dimensions that will accommodate a patient bed and attendants, and shall be at least five feet (5' 0") wide by seven feet six inches (7' 6") deep. The car door shall have a clear opening of not less than three feet eight inches (3' 8").

(C) Leveling. Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type with an accuracy of one-half (1/2) inch.

(D) Operation. Elevators, except freight elevators, shall be equipped with a two-way special service keyed switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

(E) Elevator controls, alarm buttons, controls, and telephones shall be accessible to wheelchair occupants.

(F) Elevator call buttons, controls, and door safety stops shall be of a type that will not be activated by heat or smoke.

(G) At least one (1) elevator should be on the emergency power system of the hospice.

(H) Elevator door closing devices should be timed to accommodate the needs of the residents served.

(I) Field Inspection and Tests. Inspections and tests shall be made and the owner shall be furnished written certification that the installation meets the requirements set forth in this Section and all applicable safety regulations and codes.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-11. Temperature and ventilating systems

(a) An indoor design temperature of 75°F. (24°C.) (winter design conditions) shall be provided for all occupied areas.

(b) All air supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilating systems shall comply with the requirements of the appropriate edition of the International Mechanical Code.

(c) Outdoor air intakes shall be located not less than ten feet (10' 0") from exhaust outlets of ventilating systems, combustion equipment stacks, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than three feet (3' 0") above ground level, or if installed above the roof, one foot (1' 0") above roof level.

(d) Corridors shall not be used to supply air to or exhaust air from any room, except that air from corridors may be used to ventilate bathrooms, toilet rooms, and janitors' closets.

- (e) All central ventilating or air conditioning systems shall be equipped with filters. The filter bed shall be located upstream of the air conditioning equipment, unless a prefilter is employed. In this case, the prefilter shall be upstream of the equipment and the main filter bed may be located further downstream.
- (f) All filter efficiencies shall be average atmospheric dust spot efficiencies tested in accordance with ASHRAE Standard 52-68. A manometer shall be installed across each filter bed serving central air systems. The filter efficiencies for central ventilation and air conditioning system should follow the table shown on Appendix A.
- (g) Exhaust hoods in food preparation centers shall be in compliance with NFPA 96 and the International Mechanical Code (IMC).
- (h) Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and to limit temperatures in working stations to 97°F. (36°C.), Effective Temperatures (ET) as defined by ASHRAE "Handbook of Fundamentals", without creating negative air pressure in any room housing fire equipment.
- (i) Where individual mechanical exhaust systems are used to exhaust patient toilets or bathrooms, the individual ventilation fan shall run continuously. All mechanical ventilating equipment including under window and exhaust systems shall operate continuously.
- (j) Wall or baseboard electrical heaters shall not be used.
- (k) Detectors in central ventilating systems shall be in accordance with NFPA 90A.
- (l) All ducts shall be in concealed spaces.
- (m) All smoke dampers on any one air conditioning system shall be controlled by unit mounted return air and supply air smoke detectors, which will act to close all of the smoke dampers on that system and stop the fan. Smoke dampers shall also close and the fan shall stop when the fire alarm system is activated and/or the sprinkler system is energized.
- (n) All isolation rooms shall have all air directly exhausted to the exterior without recirculation. There shall be a negative pressure relationship between the patient room and adjacent areas. The differential pressure shall be a minimum of 0.01" water gage (2.5 Pa). If alarms are installed, allowances shall be made to prevent nuisance alarms of monitoring devices.
- (o) Ventilation for all isolation rooms shall provide for a minimum twelve (12) air changes per hour including two (2) air changes per hour of outside air. Patient sleeping rooms shall provide a minimum of two (2) air changes per hour with at least two (2) of these air changes being outside air. Soiled holding and workroom areas shall have a minimum of ten (10) air changes per hour. All other rooms shall comply with the ventilation requirements of the International Mechanical Code as adopted by the State of Oklahoma.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-12. Plumbing and other piping systems

- (a) All plumbing systems shall be designed and installed in accordance with the requirements of the appropriate edition of the International

Plumbing Code.

(b) Plumbing Fixtures.

- (1) The material used for plumbing fixtures shall be of non-absorption and acid-resistant material.
- (2) The water supply spout for lavatories and sinks required in patient care areas shall be mounted so that its discharge point is a minimum distance of one (1) inch above the rim of the fixture. All fixtures shall be trimmed with valve, which can be operated without the use of hands. Where blade handles are used for this purpose, they shall not exceed four and one-half (4½) inches in length, except that handles on clinical sinks shall be not less than six (6) inches long.
- (3) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.
- (4) Shower bases and tubs shall provide no slip surfaces for standing patients. All towel bars shall be of the handicapped type meeting the two hundred fifty pound (250 lb.) dead load requirement. Shower curtain rods shall be of rigid metal and anchored to insure a two hundred fifty pound (250 lb.) dead load is met.
- (5) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(c) Water Supply Systems.

- (1) Before the facility is used the water supply system shall be approved by the health department.
- (2) Backflow preventers (vacuum breakers) shall be installed in hose bibs, janitors' sinks, bedpan flushing attachments, and on all other fixtures on which hoses or tubing can be attached. Two (2) approved reduced pressure backflow preventers in parallel on the domestic water supply are required for sprinkler systems.
- (3) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing, and hand washing facilities shall not be less than 105°F. nor exceed 115°F. A low temperature-mixing valve shall be required with an anti-scald device (solenoid valve) down stream from mixing valve.

(d) Water Heaters and Tanks.

- (1) The water heating equipment shall have sufficient capacity to supply water at the temperatures and amounts indicated above. Water temperatures shall be tested monthly and the results monitored at hot water point of use or inlet to processing equipment.
- (2) The anti-scald device shall be arranged to shut off hot water system two degrees (2°) higher than maximum temperature allowed.
- (3) Heater and storage tanks shall be fabricated of corrosion-resistant metal or lined with no corrosive material.

(e) Drainage Systems.

- (1) Drainage piping shall not be installed within the ceiling nor installed in an exposed location in food preparation centers, food

serving facilities, and food storage areas unless special precautions are taken to protect these areas from possible leakage or condensation.

(2) Building sewers shall discharge into an approved sewerage system.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-13. Electrical requirements

(a) All electrical requirements shall comply with National Electrical Code (NEC) as adopted.

(b) Receptacles (Convenience Outlets)

(1) Patient room. Each patient room shall have duplex grounding type receptacles as follows: one (1) located near the head of each bed; one (1) for television if used; and at least one (1) on each wall.

(2) Corridors. Duplex receptacles for general use shall be installed approximately fifty feet (50' 0") apart in all corridors and within twenty-five feet (25' 0") of ends of corridors.

(c) All receptacles and switches on the emergency power shall be distinctly marked.

(d) All electrical receptacles in wet areas (such as: hair care rooms, bathrooms, kitchens, laundries, physical therapy areas, janitor closets) must be on ground fault interrupter circuits within six feet (6' 0") of any lavatory and all outside plugs.

(e) Emergency Electric Service.

(1) To provide electricity during an interruption of the normal electric supply, the hospice shall be equipped with an emergency power source as required by NFPA 99, NFPA 101, and NEC (NFPA 70) on the premises. It shall have fuel supply either propane or diesel to operate the generator for a minimum of twenty-four (24) hours at rated full load.

(2) The emergency power source shall be automatically connected to the required load within a period of ten (10) seconds after the interruption of the normal power source. This time delay shall be adjustable.

(3) The load for which emergency power shall be supplied are as follows:

(A) Illumination for means of egress as required in NFPA, Standard 101 to produce not less than one (1) foot-candle of light measured at floor level in the center of the corridors.

(B) Illumination of exit signs and exit directional signs.

(C) Duplex receptacle located at head of patient bed.

(D) Nurse call systems.

(E) Power for maintaining telephone communication.

(F) Sump pumps and other equipment required to operate for the safety of major apparatus including alarms.

(G) General illumination and convenience receptacles in the area of the emergency power source.

- (H) Paging and speaker systems used for communications during emergency.
- (I) Alarm systems including the fire alarm system, water flow alarm devices for sprinklers, fire and smoke detecting facilities, and alarm monitors for non-flammable medical gas systems, except systems which have trickle-charged battery (DC) power.
- (J) Illumination lighting in the mechanical rooms serving essential heating, ventilating, plumbing, vacuum, and other essential needs.
- (K) Security facilities such as door monitoring.
- (L) At least one (1) elevator shall be on the emergency power system of the hospice.
- (M) Night lights in patient bathrooms, toilets and patient rooms.
- (N) All receptacles and switches served by emergency power shall be color coded (red).
- (O) The operation of the emergency electric system shall be demonstrated prior to placing the facility in operation.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

310:661-8-14. Physical plant requirements for facilities with three (3) beds or less

- (a) This section shall be applicable to small homes serving three (3) or less residents. Homes qualifying under this section shall be exempt from other sections of this subchapter except as may be specifically referenced in this section.
- (b) The requirements of 310:661-8-1 are applicable except as follows:
 - (1) These requirements are intended as minimum standards for constructing and equipping a hospice inpatient facility projects containing, at a maximum, three (3) beds.
 - (2) All new and renovation projects shall comply with the applicable sections of International Residential Code as required for residential construction.
- (c) The location requirements of 310:661-8-2 are applicable except as follows:
 - (1) Parking. Off-street parking shall be provided in adequate numbers to prevent overflow to adjacent properties.
- (d) Plan submission and construction inspection requirements of 310:661-8-3 are applicable to all hospice facilities containing three (3) beds or less.
- (e) The requirements for space occupied by other entities in 310:661-8-4 are applicable to all hospice facilities containing three (3) beds or less.
- (f) All physical plant requirements relating to mechanical plumbing and electrical systems shall comply with the applicable requirements for residential construction.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

APPENDIX A. FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND AIR CONDITIONING SYSTEMS IN HOSPICES

Figure 1

Area Designation	Number Filter Beds	Filter Bed No. 1	Filter bed No.2
All areas for inpatient care, treatment, and diagnosis, and those areas providing direct service or clean supplies such as sterile and clean processing, etc.	2	25	80
Food Preparation Areas and Laundries	1	25	---
Administrative, bulk storage, soiled holding areas, food preparation areas, and laundries	1	25	---

Note: Additional roughing or pre-filters should be considered to reduce maintenance required for filters with efficiency higher than 75%.

The filtration efficiency ratings are based on average dust spot efficiency per ASHRAE 52.1-1992.

[Source: Added at 21 Ok Reg 1303, eff 5-27-04]

CHAPTER 662. HOME CARE AGENCIES

[Authority: 63 O.S., § 1-1964]

[Source: Codified 6-27-94]

SUBCHAPTER 1. GENERAL PROVISIONS

310:662-1-1. Purpose

The purpose of this Chapter is to establish the minimum criteria for the issuance, maintenance and renewal of a home care agency license and the procedure for enforcement thereto.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

310:662-1-2. Definitions

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

"**Act**" means the Home Care Act, 63 O.S. Supp. 1996, §1-1960 et seq.

"**Affiliated person**" means:

- (A) *any officer, director or partner of the applicant,*
- (B) *any person employed by the applicant as a general or key 2/25/2021manager who directs the operations of the facility which is the subject of the application, and*
- (C) *any person owning or controlling more than five percent (5%) of the applicant's debt or equity.* [63 O.S. Supp. 1998, Section 1-1965]

"**Autonomy**" means capacity to be self-determining, to make choices in accord with one's own goals and values.

"**Branch office**" means a business location from which a home care agency located in Oklahoma provides service within a portion of the total geographic area served by the parent agency. Branch offices from out of state parent agencies shall be licensed as home care agencies as required by this Chapter. Branch offices from in state parent agencies may be licensed as a part of the parent agency. Each home care agency branch office shall operate under the same name(s) as the parent agency.

"**Certified/accredited agency**" means any home care agency located in Oklahoma which is certified or accredited by:

- (A) Title XVIII or XIX of the federal Social Security Act;
- (B) the Joint Commission on Accreditation of Healthcare Organizations/Home Care Accreditation Services (JCAHO);
- or
- (C) the Community Health Accreditation Program of the National League for Nursing (CHAP).

"**Client**" means the consumer/patient/individual who receives the services of a home care agency and/or a companion or sitter service.

"**Client's representative**" means the client's legal guardian or person authorized by the client or client's legal guardian to assist the client in receiving home care services.

"Coercion" means compelling, pressuring or otherwise improperly influencing the free will decisions made by a consumer(s) or a potential consumer(s) of home care services by an agency representative or affiliate. Coercive means include, but are not limited to, presentation of false and/or misleading information.

"Department" *means the Oklahoma State Department of Health.* [63 O.S. Supp. 1996, § 1-1961(3)]

"Evaluation" means documentation of a need for services based on the client self-report.

"Governing body" means the person(s) having ultimate responsibility, including fiscal and legal authority for the home care agency.

"Harassment" means repetitive, intimidating, or otherwise distressing contact directed at a specific consumer(s) or potential consumer(s) of home care by a specific home care agency seeking to recruit clients.

"Home care agency" *means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence. The term "home care agency" shall not include individuals who contract with the Department of Human Services to provide personal care services, provided such individuals shall not be exempt from certification as home health aides.* [63 O.S. Supp. 1996, § 1-1961(4)]

"Home care agency administrator" *means a person who operates, manages, or supervises, or is in charge of a home care agency;* [63 O.S. Supp. 1996]

"Home care services" *means skilled or personal care services provided to clients in their place of residence for a fee.* [63 O.S. Supp. 1996, § 1-1961(5)]

"Home health aide" *means an individual who provides personal care to clients in their temporary or permanent place of residence for a fee.* [63 O.S. Supp. 1996, § 1-1961(6)]

"Individual Service Plan" means documentation by the individual responsible for supervision of the companion or sitter services, or a designee, of the services requested by and agreed to be provided for a client.

"Infectious wastes" means waste capable of producing an infectious disease because it contains pathogens of sufficient virulence and quantity so that exposure to the waste by a susceptible human host could result in an infectious disease.

"Licensed practical nurse" means a person currently licensed to practice practical nursing in Oklahoma.

"Non-physician practitioner" means nurse practitioner, clinical nurse specialist, or physician assistant providing primary or specialty care to a home care patient.

"Nurse registry" means any person that procures, offers, promises, or attempts contracts for registered nurses, licensed practical nurses, home health aides, or other providers of personal care who are compensated by fees as independent contractors, for the provision of home care services.

"Parent agency" means that part of a home care agency which develops and maintains administrative and professional control of subunits and/or branch offices.

"Personal care" *means assistance with dressing, bathing, ambulation, exercise or other personal needs.* [63 O.S. Supp. 1996, § 1-1961(7)]

"Personal needs" means assistance with activities of daily living such as getting out of bed, ambulation, exercise, toileting, dressing, eating, or bathing. Personal needs do not include domestic or maintenance services provided on a fee basis to maintain the home.

"Physician" means a medical doctor (MD), doctor of osteopathic medicine (DO), or doctor of podiatric medicine (DPM).

"Primary home care agency" means the agency that is responsible for the services furnished to clients and for implementation of the plan of care.

"Qualified therapist" means a trained respiratory therapist or technician, or a physical therapist, occupational therapist, or speech therapist who is currently licensed to practice their profession in Oklahoma.

"Qualified therapy assistant" means a physical therapy assistant or occupational therapy assistant who is currently licensed to assist physical therapists or occupational therapists in Oklahoma.

"Registered nurse" means a person currently licensed to practice registered nursing in Oklahoma.

"Sharps" means any discarded objects that can penetrate the skin including, but not limited to, hypodermic needles, syringes, lancet and scalpel blades. This definition includes broken glass or other sharp items that have come in contact with material defined as infectious wastes.

"Skilled care" *means home care services performed on a regular basis by a trained Respiratory Therapist/Technician or by a person currently licensed by this State, including but not limited to a Licensed Practical Nurse, Registered Nurse, Physical Therapist, Occupational Therapist, Speech Therapist, or Social Worker.* [63 O.S. Supp. 1996, § 1-1961(8)]

"Solicitation" means coercion or harassment of any person or contact with a patient knowingly being treated by another home care agency for the purpose of attempting to persuade the patient to change home care agencies.

"Standby assistance" *means supervision of client directed activities with verbal prompting and infrequent, incidental hands-on intervention only.* [63 O.S. Supp. 2009 § 1-1961]

"Subsidiary" *means any person, firm, corporation or other legal entity which:*

- (A) *controls or is controlled by the applicant,*
- (B) *is controlled by an entity that also controls the applicant, or*
- (C) *the applicant or an entity controlling the applicant has directly or indirectly the power to control.* [63 O.S. Supp. 1996]

"Subunit" means a semi-autonomous organization that serves clients in a geographic area different from that of the parent agency. A

subunit is required to independently meet requirements of this Chapter and shall be licensed separately because it is too far from the parent agency to share administration, supervision, and services on a daily basis.

"Supportive home assistant" *means an individual employed by a home care agency who provides standby assistance to ambulatory clients, in conjunction with other companionship or homemaker services, in the temporary or permanent place of residence of the client for a fee.* [63 O.S Supp. 2009 § 1-1961]

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97 ; Amended at 16 Ok Reg 3486, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2064, eff 6-12-00 ; Amended at 24 Ok Reg 2005, eff 6-25-07 ; Amended at 25 Ok Reg 2455, eff 7-11-08 ; Amended at 28 Ok Reg 1061, eff 6-11-11 ; Amended at 38 Ok Reg 2062, eff 9-11-21]

SUBCHAPTER 2. LICENSES

310:662-2-1. Licensure

(a) **Base of operation.** Any home care agency providing home care services in Oklahoma shall operate from a place of business which is accessible to the public and physically located in Oklahoma. Staff providing services from each home care agency shall be supervised by personnel at that location.

(b) **Applicant.** Any person, corporation, partnership, association or other legal entity desiring to obtain a license to establish, or to obtain a renewal license to operate, a home care agency in this State shall make application to the State Department of Health in such form and accompanied by such information as the State Commissioner of Health shall prescribe. All applications shall include disclosure statements completed by the applicant which shall include, but not be limited to, the following information:

- (1) The full name and address of the applicant, and all affiliated persons;
- (2) The full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%) or which is a parent company or subsidiary of the applicant;
- (3) A description of any ongoing organizational relationships as they may affect operations within the state;
- (4) The names, locations, and dates of ownership, operation, or management for all current and prior home care agencies owned, operated or managed in this State or in any other State by the applicant or by any affiliated persons;
- (5) The name and location of the home care agency for which a license is sought;
- (6) The full name and address of the applicant, and all affiliated persons, under whose ownership, operation, management, or supervision the home care agency will be conducted; and
- (7) An affidavit attesting to the information provided.

(c) **Initial applicant data.** Information supplied by initial applicants shall include, but not be limited to, the following information:

- (1) Projected number of visits or shifts per month for six (6) months beginning from the date of application.
- (2) Evidence of staffing availability sufficient to cover projected visits/shifts.
- (3) Evidence of financial solvency to include resources sufficient to ensure the agency's ability to provide adequate home care services. The agency shall have an annual operating budget which ensures sufficient resources to meet operating costs at all times and to maintain standards as required by this Chapter.
- (4) If required by law, proof of business registration with the Secretary of State.
- (5) Proof of liability insurance coverage of at least one hundred thousand dollars (\$100,000.00) per occurrence, three hundred thousand dollars (\$300,000.00) aggregate. Each agency shall maintain at least this level of coverage.
- (6) Evidence of the applicant's prior business and professional experience in prior health care provider operations including, but not limited to, nursing homes, residential care homes, home care agencies, and hospices. The applicant shall disclose to the Department the compliance history of any person or persons having ownership, operational, management or supervisory authority in the agency. Compliance history disclosure shall include lawful orders of suspension, receivership, administrative penalty or sanction issued by the Department or by other administrative agencies in other states with similar responsibilities.
- (7) Proof that the agency's administrator is currently certified by the Department as a home care agency administrator.

(d) **Licensure fees.**

- (1) An application for an initial license to establish or operate a new home care agency or subunit shall be accompanied by a nonrefundable application fee of one thousand dollars (\$1,000.00).
- (2) A renewal application for an existing home care agency or subunit shall be accompanied by a nonrefundable licensing fee of five hundred dollars (\$500.00).
- (3) An application for license, or renewal thereof, to establish or operate a home care agency branch office of an agency licensed in the State of Oklahoma shall be accompanied by a nonrefundable licensing fee of twenty-five dollars (\$25.00).
- (4) Fees for renewal licenses prorated to expire on July 31 shall be based on the number of quarters [i.e. three (3) months] or portions thereof for the license. The fee for each quarter or portion thereof shall be one hundred twenty-five dollars (\$125.00) for each parent agency or subunit license and six dollars and twenty-five cents (\$6.25) for each branch license.

(e) **Exemptions.** The provisions of the Act and promulgated rules shall not apply to:

- (1) *A person acting alone who provides services in the home of a relative, neighbor or friend.*

(2) *A person who provides maid services only.*

(3) *A nurse service or home aide service conducted by and for the adherents to any religious denomination, the tenets of which include reliance on spiritual means through prayer alone for healing.*

(4) *A person providing hospice services pursuant to the Oklahoma Hospice Licensing Act.*

(5) *A nurse-midwife.* [63 O.S. Supp. 1996, § 1-1962(C)]

(f) Transfer of ownership of a licensed agency.

(1) **Legal assignment.** The license for a home care agency is not transferable or assignable except a license may be transferred to any affiliated person, parent company or subsidiary of the applicant or legal entity which has an ongoing organizational relationship with the applicant. Proof of legal assignment with accompanying application for licensure shall be filed with the Department at the time of the change. There shall be no fee for legal assignment of an agency license.

(2) **Acquisition of a licensed agency.** If an entity is considering acquisition of a licensed agency, an application for license with a five hundred dollar (\$500.00) fee for the agency and twenty-five dollar (\$25.00) fee for each branch office operated by a parent agency shall be filed with the Department at least thirty (30) days prior to the effective date of the change. A copy of the executed sales agreement shall be provided to the Department.

(3) If a corporate licensee amends its articles of incorporation to revise its name, this subsection does not apply. The sale of stock of a corporate licensee does not cause this subsection to apply.

(4) No license shall be transferred from one location to another unless the Department is notified. If an agency is considering relocation, the agency shall notify the Department thirty (30) days prior to the intended relocation. The Department shall provide written notification to the agency amending the annual license to reflect the new location.

(5) Upon the effective date of a change of ownership or upon cessation of operation of an agency, the current license shall be mailed or returned to the Department. The agency shall advise the Department in writing at the time of cessation of operation where agency medical records shall be archived and how these records shall be accessed.

(g) Licensure issuance/renewal.

(1) A home care agency license shall be renewed annually. Each license shall expire on July 31 of each year.

(2) An initial license shall be issued for twelve (12) months. Initial licenses which do not expire on July 31 shall be renewed so that the renewal license shall expire on July 31. The fee for the renewal license following the issue of an initial license which does not expire on July 31 shall be prorated on a quarterly basis.

(3) Prior to license renewal the applicant shall submit proof of:

(A) Liability insurance coverage of at least one hundred thousand dollars (\$100,000.00) per occurrence, three hundred thousand dollars (\$300,000.00) aggregate.

(B) Proof that the agency's administrator is currently certified by the Department as home care agency administrators.

(4) A home care agency license shall be posted in a conspicuous place, open to the public, at the licensed premises.

(5) The license shall be issued only for the premises named in the application.

(h) **Deadlines for applications.** The license application shall be filed in accordance with the following deadlines.

(1) The application for an initial home care agency license shall be filed at least thirty (30) days before beginning operations.

(2) The application for an initial license, for a transfer of ownership or operation, shall be filed at least thirty (30) days prior to the transfer. If the Department finds that an emergency exists which threatens the welfare of clients, the thirty (30) day advance filing notice may be waived.

(3) The application for renewal of a licensed existing home care agency shall be filed at least thirty (30) days prior to the expiration date of the license.

(4) An incomplete initial or renewal application received by the Department shall be summarily dismissed after thirty (30) days of applicant notification of an incomplete application. Thereafter, the applicant shall submit a new application and the initial or renewal fee.

[Source: Amended and renumbered from 310:662-3-1 at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended and renumbered from 310:662-3-1 at 14 Ok Reg 2274, eff 6-12-97 ; Amended at 16 Ok Reg 3486, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2064, eff 6-12-00 ; Amended at 25 Ok Reg 2443, eff 7-11-08]

SUBCHAPTER 3. ADMINISTRATION

310:662-3-1. Licensure [AMENDED AND RENUMBERED TO 310:662-2-1]

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 11 Ok Reg 4641, eff 8-15-94 (emergency); Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95 ; Amended and renumbered to 310:662-2-1 at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended and renumbered to 310:662-2-1 at 14 Ok Reg 2274, eff 6-12-97]

310:662-3-2. Client rights and responsibilities

(a) Every agency shall have a written statement of clients' rights and responsibilities governing agency services which shall be made available and explained to each client or client's representative. This information shall be provided verbally and in writing before or at admission, and documented in the client's record.

(b) The statement shall include but not be limited to:

(1) A description of available services, unit charges and billing process. Any changes in fees or billing shall be given to the client orally and in writing as soon as possible but no later than thirty (30) calendar days from the date the agency becomes aware of a

change. Unit charge information shall be disclosed to the client even if the service is provided through third party payment.

(2) Information regarding the client's or client representative's right to participate in the planning of the care to be furnished, the disciplines that shall furnish care, the frequency of visits/hours proposed, the title of the person supervising the client's care and the manner in which that person may be contacted.

(3) The right of the client or client's representative to be advised in advance of any change in the plan of care.

(4) The responsibility of the client or client's representative to treat agency personnel with respect, to disclose pertinent health related information accurately, and to inform agency personnel when instructions to the client or client's representative cannot be understood or followed.

(5) An explanation to the client or client's representative of the confidential treatment of all client information retained in the agency and the requirement for written consent for release of information to persons not otherwise authorized by law to receive it.

(6) The right of the client to have the client's property and person treated with respect.

(7) An explanation of the agency's grievance procedure; the right of the client or client's representative to register a grievance with the agency without reprisal or discrimination from the agency, regarding treatment or care received.

(8) Information to the client or client's representative that a complaint against the agency may be directed to the Department. The statement shall direct the client or representative to register complaints with the Oklahoma State Department of Health, 1000 N.E. Tenth, Oklahoma City, Oklahoma 73117-1299.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-3-3. Standards of practice

(a) A home care agency shall maintain the highest level of standards in its business practices. The governing body of each agency shall adopt written standards of practice, which shall be strictly adhered to by all employees, agency contractors and owners of the agency.

(b) At a minimum, every home health agency shall include the following items in the agency's standards of practice:

(1) Neither the owner nor any home health agency employee or contractor shall knowingly mislead a client, family member, client's representative or caregiver concerning services, charges, or use of equipment.

(2) Neither the owner nor any home care agency employee or contractor shall misuse or misappropriate any property belonging to any client, family member, client's representative or caregiver.

(3) Neither the owner nor any home care agency employee or contractor shall knowingly and actively recruit a client under the care of another home care agency.

(4) The home care agency shall accept client referrals in a professional manner with no remuneration provided to the referring party.

(5) Solicitation of clients by coercion or harassment shall be prohibited.

(6) No agency, employee of any agency, or agency contractor shall serve as the guardian of a client unless such home care provider is related to the client by blood or marriage and/or is otherwise eligible to serve as a guardian.

(7) All home care services shall be provided in compliance with accepted standards of practice.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97 ; Amended at 25 Ok Reg 2443, eff 7-11-08]

310:662-3-3.1. Compliance with Federal, State and local laws

The agency and its staff shall operate and furnish services in compliance with all applicable Federal, State, and local laws and regulations.

[Source: Added at 14 Ok Reg 2111, eff 4-7-97 (emergency); Added at 14 Ok Reg 2274, eff 6-12-97]

310:662-3-4. Organization

(a) **Governing body.** The home care agency shall have an organized governing body which is legally responsible for the conduct of the agency. The ownership of the agency shall be fully disclosed to the Department. Agency staff shall be currently licensed or registered in accordance with applicable laws of the State of Oklahoma. The governing body shall be responsible for periodic administrative and professional evaluations of the agency.

(b) **Financial.** Sufficient financial resources shall be maintained sufficient to ensure the agency's ability to provide adequate home care services. The agency shall have an annual operating budget which ensures sufficient resources to meet operating costs at all times and to maintain the standards required by this Chapter.

(c) **Administrator.** The governing body shall be legally responsible for the appointment of a qualified administrator and the delegation of responsibility and authority. The administrator shall organize and direct the agency's ongoing functions, employ qualified personnel, ensure adequate staff in-service, continuing education, and evaluations. The administrator shall ensure the accuracy of public information materials and activities, and that agency practices are consistent with written agency policies. The administrator shall be properly certified as required by the Department. Proof of current certification for the administrator shall be posted in a conspicuous place at each licensed agency.

(d) **Supervising physician or nurse.** Each home care agency providing skilled care shall employ a physician or a qualified supervising registered nurse. An agency providing personal care only shall employ or contract with a supervising physician or registered nurse who shall be available to the agency to advise the client care staff whenever personal care is

provided. Services of a supervising physician or registered nurse in an agency only providing personal care may be provided on an on-call basis. A physician or a qualified registered nurse alternate shall be designated in writing to serve in the supervising registered nurse's absence.

(e) **Personnel policies.** The agency shall implement and follow appropriate written policies. Personnel policies shall include at least the following:

- (1) Employment procedures.
- (2) Orientation of all personnel to the policies and objectives of the agency, and participation by all personnel in appropriate employee in-service programs.
- (3) Job descriptions (statement of those functions and responsibilities which constitute job requirements) and job qualifications (specific education and training necessary to perform the job).
- (4) Periodic evaluations of employee performance.
- (5) Provision for disciplinary action(s) and procedures.
- (6) Health screening requirements for staff with direct client contact including but not limited to tuberculosis testing/tuberculin skin tests. All tests and examinations shall be in conformance with the "Tuberculosis Controllers Association and CDC, 2019" guidelines for preventing the transmissions of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention. Any employee with a proven history of a positive tuberculin skin test may be excluded from this requirement if the employee has had a documented negative chest x-ray and no symptoms suggestive of tuberculosis.
- (7) Each home care agency shall have an annual influenza vaccination program consistent with the recommendations of the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices that shall include at least the following:
 - (A) The offer of influenza vaccination onsite, at no charge to all employees and/or workers in the home care agency or acceptance of documented evidence of current season vaccination from another vaccine source or hospital;
 - (B) Documentation of vaccination for each employee and/or worker or a signed declination statement on record from each individual who refuses the influenza vaccination for other than medical contraindications; and
 - (C) Education of all employees and/or workers about the following:
 - (i) Influenza vaccination;
 - (ii) Non-vaccine influenza control measures; and
 - (iii) The symptoms, transmission, and potential impact of influenza.
 - (D) Each home care agency influenza vaccination program shall conduct an annual evaluation of the program including the reasons for non-participation.

(F) The requirements to complete vaccinations or declination statements for each employee and/or worker may be suspended by the agency's medical director in the event of a shortage of vaccine as recognized by the Commissioner of Health.

(f) **Personnel records.** Personnel records shall include, but not be limited to qualifications, employment history, records of orientation and in-service provided, verification that health screening was performed as required, performance evaluations, as required by policy, record of disciplinary actions and verification of current licensure/certification, if appropriate.

(g) **Contracted services.**

(1) If a home care agency contracts to provide home care services(s), there shall be a written agreement defining the nature and scope of services provided. The agreement shall include but not be limited to the following:

(A) The services to be provided.

(B) The manner in which services shall be coordinated, evaluated and supervised by the primary home care agency.

(C) The process for development, review, and revision of the plan of care.

(D) The process for scheduling of visits or hours.

(E) The procedures for submitting clinical and/or progress notes or other entries to the clinical record which shall be maintained by the primary home care agency.

(2) Any home care agency providing home care service(s) on a contract basis shall require the contractor to provide verification of current licensure/certification of personnel as appropriate. Documentation of this verification shall be maintained in the home care agency.

(h) **Nurse registry.** A nurse registry which provides home care services shall function and be licensed as a home care agency.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97 ; Amended at 16 Ok Reg 3486, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2064, eff 6-12-00 ; Amended at 28 Ok Reg 1061, eff 6-11-11 ; Amended at 37 Ok Reg 1441, eff 9-11-20]

310:662-3-5. Clinical records

(a) The agency shall establish and maintain a clinical record for each client receiving care and services. The record shall be complete, timely, accurately documented and readily accessible. Clinical records shall be kept confidential. The agency shall ensure confidentiality of client information in accordance with written policies and procedures. Records shall be stored in a locked area and only authorized personnel shall have access to the records.

(b) Clinical records are the property of the home care agency and may be released only upon the written consent of the client, the court appointed guardian, by a court order, or as otherwise authorized by law. Any person who has been a client of a home care agency shall be entitled to obtain

copies of their clinical record as allowed by law. [76 O.S. 1991, §19]

(c) Clinical records shall be retained at least five (5) years beyond the date the client was last seen or longer as otherwise required by law.

(d) In addition to a plan of care, the clinical record shall contain:

- (1) Appropriate identifying information for the client, household members and/or client representative(s), including telephone numbers to be used in the event of an emergency.
- (2) Initial assessment including health history, and current findings.
- (3) A description of the client's functional limitations and activity restrictions, if any.
- (4) Documentation of any change in the client's condition.
- (5) Notes for each service provided including the date, service provided, and the name and title of the person providing the service and the person's signature.

(e) If skilled care is provided or if personal care is provided by an order of a physician or non-physician practitioner, the clinical record shall also contain:

- (1) The name of the client's physician or non-physician practitioner and telephone number.
- (2) Signed and dated clinical notes which accurately document services provided, treatments and/or medications administered and client response to the services provided.
- (3) Physician or non-physician practitioner orders which shall be sent by the agency within ten (10) days to the ordering physician or non-physician practitioner to be signed and returned in a timely manner.
- (4) Upon discharge, a summary of the services provided and the resulting status of the client at the time of discharge. A copy of the discharge summary shall be provided to the client's physician or non-physician practitioner.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97 ; Amended at 38 Ok Reg 2062, eff 9-11-21]

310:662-3-6. Client care policies

(a) Each agency shall adopt, implement and enforce written client care policies, specific to, and consistent with the scope and range of client care services offered. Client care policies and client care practices shall be consistent with current standards of practice and shall be reviewed and revised as necessary.

(b) Client care policies shall include but not be limited to:

- (1) Infection control in the home care setting, including the prevention and spread of infectious and communicable diseases from agency personnel to clients;
- (2) Safety assessment and teaching on injury prevention in the home environment;
- (3) Management of emergency medical situations by home care staff in the home; and
- (4) Efforts to maximize client autonomy.

(c) An agency providing home infusion therapy directly or under arrangement shall:

- (1) Ensure the availability of written policies and procedures for all home infusion therapy;
- (2) Maintain a written physician's or non-physician practitioner's order specific to home infusion therapy;
- (3) Develop and adopt minimum competency requirements for nursing staff, and maintain documentation of individual proficiency/competence;
- (4) Ensure twenty-four (24) hour per day availability of a registered nurse to provide in-home clinical assistance as needed, to clients receiving home infusion therapy;
- (5) Assess the client and/or caregiver's abilities to safely comply with the plan of care;
- (6) Provide for client and/or caregiver education as indicated; and
- (7) Provide ongoing assessment of client and/or caregiver's compliance with therapy-related procedures, completed at intervals dependent on the condition of the client and mode of therapy.

[Source: Added at 14 Ok Reg 2111, eff 4-7-97 (emergency); Added at 14 Ok Reg 2274, eff 6-12-97 ; Amended at 38 Ok Reg 2062, eff 9-11-21]

SUBCHAPTER 5. CLIENT SERVICES

310:662-5-1. Initiation of services

(a) **In-home assessment.** The home care agency shall accept a client for services on the basis of a reasonable expectation that the client's needs can be met adequately in the client's residence. An initial assessment shall be performed in the client's residence by a physician, non-physician provider, registered nurse or qualified therapist as indicated by the service to be provided.

(b) **Initial assessment.** The initial assessment shall occur prior to, or at the time that home care services are initially provided. The assessment shall determine whether the agency has the ability to provide the necessary services in the home.

(c) **In-home assessment - skilled care.** No in-home assessment of the need for skilled care shall be conducted by any agency, agency employee, or agency contractor unless and until the agency receives a physician's or non-physician practitioner's order to provide skilled care, or to conduct an in-home assessment of the need for skilled care. Skilled care shall not be provided by any agency, agency employee, or agency contractor unless and until the agency receives a physician's or non-physician practitioner's order to provide skilled care.

(d) **Solicitation, coercion, harassment.** No agency, agency employee, or agency contractor shall solicit, coerce or harass a consumer of home care services or an individual who may need home care services in order to initiate services with the agency.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97 ; Amended at 38 Ok Reg 2062, eff 9-11-21]

310:662-5-2. Plan of care

(a) **Non-skilled care.** If only personal care is provided, the physician, non-physician practitioner or registered nurse shall prepare a plan of care at the time of initial assessment. The plan of care shall be developed after consultation with the client and/or the client's representative and shall include potential services to be provided; the frequency of visits and/or hours of service; as well as identified problems, method of intervention, and date of resolution. The plan of care for the client shall be communicated to the caregiver prior to or at the time of the delivery of non-skilled care. The plan of care shall be revised as necessary, but it shall be reviewed and updated by the registered nurse and all appropriate staff involved in care delivery at least every six (6) months.

(b) **Skilled care.** If skilled care is ordered, the order shall be sent by the agency within ten (10) days to the ordering physician or non-physician practitioner to be signed and returned in a timely manner. The plan of care shall be developed at the time of admission in conjunction with all appropriate disciplines and shall cover all pertinent diagnoses, including mental status, types of services and equipment required, frequency of visits/hours, prognoses, functional limitations, activities permitted, nutritional requirements, medications and treatments, any safety measures to protect against injury, and any other appropriate items. Orders for therapy services shall include the specific procedures and modalities to be used and, as appropriate, the amount, frequency and duration. Services delivered shall be consistent with the services ordered in the plan of care. There shall be a continuing review of clinical records for each sixty-two (62) day period that a client receives home care services to determine adequacy of the plan of care and appropriateness of continuation of care.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97 ; Amended at 38 Ok Reg 2062, eff 9-11-21]

310:662-5-3. Services provided

(a) **Available services.** Home care services provided by the agency shall be available on a visiting basis in the place of residence used as a client's home. If the client's home is a licensed facility, services provided by the licensed facility shall not be duplicated by the agency. Additional personal care services provided shall not be considered a duplicate service.

(b) **Coordination of services.** All personnel furnishing services shall maintain liaison to ensure their efforts are coordinated effectively, documented and support the objectives in the plan of care. If services are provided in a licensed facility, the agency shall advise facility staff of services provided to ensure care is coordinated. If an agency client is transferred to another health care provider or facility, a summary of the

services provided and condition of the client shall be forwarded to the receiving provider/facility if requested.

(c) **Skilled nursing.** The agency shall furnish skilled nursing services by, or under the supervision of, a registered nurse and in accordance with the physician's or non-physician practitioner's orders.

(1) The duties of the registered nurse shall include, but not be limited to the following:

- (A) Performing the initial evaluation visit.
- (B) Regularly reevaluating the client's nursing needs.
- (C) Initiating the plan of care and necessary revisions.
- (D) Furnishing those services requiring specialized nursing skills.
- (E) Coordinating services.
- (F) Informing the physician or non-physician practitioner and other personnel in a timely manner of changes in the client's condition and needs.
- (G) Supervision and teaching.

(2) Duties of the licensed practical nurse shall include, but not be limited to:

- (A) Furnishing services in accordance with agency policy.
- (B) Assisting the physician, non-physician practitioner and registered nurse in performing specialized procedures.
- (C) Assisting the client in learning appropriate self-care techniques.

(d) **Therapy services.** Any therapy services offered by the home care agency shall be given by a qualified therapist or by a qualified therapy assistant under the supervision of a qualified therapist in accordance with the plan of care. The qualified therapist shall assist the physician or non-physician practitioner in evaluating the level of function and participate in the development of the plan of care and any necessary revisions.

(e) **Medical social services.** If the agency furnishes medical social work services, those services shall be provided by a qualified social worker or by a qualified social work assistant under the supervision of a qualified social worker, in accordance with the plan of care. All providers of medical social services in Oklahoma shall be licensed if required and meet all defined education and experience criteria required by the Oklahoma State Board of Licensed Social Workers.

(f) **Home health aide.** Home health aides shall be certified by the Department and placed on the Home Health Aide Registry maintained by the Department. Home health aides shall be in compliance with all requirements of the Act and the rules promulgated thereto. No home care agency shall employ or contract with any individual as a home health aide for more than four (4) months, on a full-time, temporary, per diem or other basis, unless such individual is a licensed health professional or unless such individual has satisfied the requirements for certification and placement on the home health aide registry maintained by the Department.

(g) **Supportive home assistant.** If supportive home assistants are utilized, they shall be employed, trained, tested, and supervised as required at 63 O.S. Supp. 2009 § 1-1962(B).

(h) **Supervision of services.** All personnel providing home care services shall have periodic evaluations of performance on file in agency records. Appropriate supervision shall be available during all hours services are provided.

(1) When home health aide or personal care services are provided in conjunction with a skilled service, a registered nurse shall make a supervisory visit to the client's home at least every sixty (60) days to assess relationships, client care and determine whether goals are met. The frequency of supervisory visits shall be increased if the acuity of the client's illness requires more frequent visits.

(2) If a client is receiving only skilled therapy services and home health aide or personal care services as an extension of the therapy services, a skilled therapist may make the supervisory visit at least every sixty (60) days, in lieu of a registered nurse. The frequency of these supervisory visits shall also be increased if the acuity of the client's illness requires more frequent visits.

(3) When only home health aide or personal care services are furnished to a client, a physician or a licensed nurse shall make a supervisory visit to the client's residence at least once every six (6) months. The frequency of supervisory visits shall be increased if the acuity of the client's illness requires more frequent visits.

(4) Services furnished by a qualified physical therapy assistant or qualified occupational therapy assistant shall be provided only under the supervision of a qualified physical or occupational therapist according to agency policy and consistent with current standards of practice.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97 ; Amended at 28 Ok Reg 1061, eff 6-11-11 ; Amended at 38 Ok Reg 2062, eff 9-11-21 ; Amended at 40 Ok Reg 1584, eff 9-11-23]

310:662-5-3.1. Infectious waste disposal

(a) Every agency which generates infectious wastes in the course of providing home care services shall make appropriate provision for disposal of such materials.

(1) Sharps generated in a client's residence shall be packaged in rigid, leak proof, puncture resistant containers prior to disposal in regular household wastes or at an approved waste processing facility.

(2) Infectious wastes that are not sharps shall be disposed appropriately as required by agency policy, and Federal, state and local laws.

(b) At the time of admission, agency staff shall assess the client to determine if infectious wastes or sharps are generated in the home. If infectious wastes or sharps are generated, agency staff shall educate the client, the client's representative, or caregiver on proper disposal as required by agency policy, and Federal, state and local laws.

[Source: Added at 14 Ok Reg 2111, eff 4-7-97 (emergency); Added at 14 Ok Reg 2274, eff 6-12-97]

310:662-5-4. Quality assessment and improvement

(a) Each home care agency shall have an ongoing program approved by the governing body which assesses all services provided and requires quality improvements when indicated. The program shall be defined by written policies which shall stipulate methods for assessment, agency staff responsible for implementation and the mechanism of reporting assessments and any recommendations for improvement to the administrator and governing body.

(b) The program shall include but not be limited to the following:

(1) Methods used to assess and improve all home care services provided, whether the services are provided directly or by contract. Methods for skilled care assessment shall be developed with input from each appropriate discipline providing services. Assessment methodology shall at least include client satisfaction surveys and sample clinical record reviews.

(2) The frequency that program activities shall be performed and agency staff responsible for the activity. Program assessments and any recommendations for improvement shall be documented and reported in writing at least each three (3) months to the administrator and the governing body. The program shall have methods to reassess improvements implemented to ensure that the quality of care has improved.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

SUBCHAPTER 6. SUPPORTIVE HOME ASSISTANT COMPETENCY TESTING

310:662-6-1. Requirements for administration of the competency examination

(a) The competency examination for individuals who successfully complete agency-based supportive home assistant training taught in compliance with 63 O.S. Supp. 2009 § 1-1962(B) shall be administered and evaluated only by a Department approved testing entity which shall be periodically monitored by the Department.

(b) Each approved examination entity must provide the Department with the following:

(1) Written job analysis studies to determine the pool of test questions.

(2) Test question validation studies.

(3) Assurances that the written and skills testing process are not compromised.

(c) Each approved examination entity shall provide the examinee with the following:

(1) The notice showing pass/fail results.

(2) The notice shall specify the areas of failure to the examinee.

- (d) The Department shall withdraw approval of a testing entity when it allows one or more of the following:
- (1) Disclosure of the competency examination.
 - (2) Allowing another entity not approved by the Department to score the competency examination.
 - (3) Tampering with the competency examination.
 - (4) The competency examination was administered by a non-qualified individual.
- (e) Each trainee requesting to sit for the written or oral examination and skills examination shall present to the testing entity a Training Verification Form completed by the agency that provided the supportive home assistant training.
- (f) A record of the Training Verification Form and successful completion of the competency examination for each examinee shall be maintained by the testing entity for at least five (5) years. Competency is determined by a passing score on the written or oral examination and skills examination.

[Source: Added at 28 Ok Reg 1061, eff 6-11-11]

310:662-6-2. Content of the competency examination

- (a) The competency examination shall include a written or oral portion, in English, which shall:
- (1) Allow a supportive home assistant to choose between a written and an oral examination.
 - (2) Address each requirement specified in the minimum curriculum prescribed by the Department at 63 O.S Supp. 2009 § 1-1962(B).
 - (3) Be developed from a pool of test questions, only a portion of which is used in any one (1) examination.
 - (4) Use a system that prevents disclosure of both the pool of test questions and the individual competency examination results.
 - (5) If oral, the examination portion shall be read from a prepared text in a neutral manner.
- (b) The skills examination portion of the competency examination shall:
- (1) Consist of randomly selected items drawn from a pool of tasks generally performed by supportive home assistants.
 - (2) Be performed in a setting similar to that in which the individual will function as a supportive home assistant.
 - (3) Be administered and evaluated by a clinical skills observer designated in writing as qualified according to criteria established by the approved examination entity.
- (c) The Department may permit the skills examination to be proctored by qualified entity personnel if the Department finds that the procedure adopted by the testing entity ensures that the competency examination:
- (1) Is secure from tampering.
 - (2) Is standardized and scored by a testing, educational, or other organization approved by the Department.
 - (3) Is transmitted to the scoring entity immediately after completion of the skills examination. A record of successful

completion of the skills examination must be maintained by the testing entity for each individual who is found to be competent or has passed the skills examination.

(d) The Department shall revoke the approval of any entity to proctor the supportive home assistant competency examination if the Department finds evidence of impropriety, including evidence of tampering by facility staff.

[Source: Added at 28 Ok Reg 1061, eff 6-11-11]

310:662-6-3. Successful completion of the competency examination

(a) An individual shall pass both the written or oral portion of the competency examination, and the skills examination in order to complete the competency examination for supportive home assistant successfully.

(b) An individual shall score at least seventy (70) percent on the written or oral examination.

(c) An individual shall demonstrate at least eighty (80) percent accuracy for the skills examination.

[Source: Added at 28 Ok Reg 1061, eff 6-11-11]

310:662-6-4. Failure to complete the competency examination

If an individual does not complete the competency examination for supportive home assistant successfully, the individual shall be notified by the testing entity of, at least, the following:

(1) The areas which the individual did not pass.

(2) That the individual may retake the examination a total of three times without further training.

[Source: Added at 28 Ok Reg 1061, eff 6-11-11]

310:662-6-5. Expiration of the competency examination

(a) An individual who has obtained agency-based supportive home assistant training and successfully completed a competency examination for supportive home assistants administered by a Department approved testing entity as described in OAC 310:662-6 shall be deemed able to provide standby assistance to clients of a licensed home care agency.

(b) Designation as a supportive home assistant shall not expire provided the individual receives a documented agency-based competency assessment by a Licensed Nurse at the time of employment and at least once per calendar year in each subsequent year of employment.

(c) In order to keep the designation of supportive home assistant, individuals shall maintain documentation of their completed agency-based training issued by the agency that provided the training as well as documentation of their successful competency examination issued by a Department approved testing entity.

(d) Individuals who are unable to provide the documentation described in 310:662-6-3(c) shall be required to meet the training and competency examination requirements for designation as a supportive home assistant

before they may be employed to provide standby assistance.

[Source: Added at 28 Ok Reg 1061, eff 6-11-11]

SUBCHAPTER 7. ENFORCEMENT

310:662-7-1. Inspections

A certified/accredited agency shall not be subject to routine licensure inspections by the Department. Branch offices of certified/accredited agencies whose parent agency is not located in the State of Oklahoma shall not be considered to be certified/accredited, neither shall they be exempt from routine licensure inspections. The Department may inspect any agency at any time in order to determine compliance with the provisions of the Act or this Chapter. These inspections may be routine as in the case of a non-certified/accredited agency or based on a complaint received by the Department. The right of inspection shall also extend over any home care agency the Department has reason to believe is advertising or operating a home care service without a license.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

310:662-7-2. Complaints and investigations

A complaint may be registered by any person who believes a home care program is operating contrary to the Act, or these rules, or is posing a serious threat to the health and welfare of a client in its care. The Department shall receive complaints verbally or in writing. If a name and address is furnished, the complainant as well as the home care agency shall be notified in writing of the findings. The complaint shall not be made public unless a completed investigation by the Department substantiates the violations alleged in the complaint. Client names shall not be disclosed. Any home care agency with violations found on investigation shall be required to correct non-compliant items.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-7-3. Penalties

Any home care agency or home health aide covered by the Home Care Act that has been determined by the Department to have violated any provision of the Act or any rule promulgated theretofore may be liable for an administrative penalty of not more than one hundred dollars (\$100.00) per violation for each day on which a violation occurs or continues. The maximum administrative penalty shall not exceed ten thousand dollars (\$10,000.00) for any related series of violations.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

310:662-7-4. Equitable relief

The Department may bring an action in a court of competent jurisdiction for equitable relief to redress or restrain a violation by any person of a provision of the Home Care Act or any rule promulgated pursuant to the provisions of the Home Care Act. Said court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief or interim equitable relief.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

310:662-7-5. Adverse actions

The Department may deny, modify, deny renewal, suspend, or revoke the license of any agency that has demonstrated a history of non-compliance with the Act or this Chapter. Any agency found to be in substantial non-compliance shall be subject to these provisions immediately if client health and safety are in jeopardy. The issuance or renewal of a license after notice of a violation shall not constitute a waiver by the Department of its power to rely on the violation as the basis for subsequent revocation of a license or other enforcement action authorized by the Act or this Chapter.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94 ; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-7-6. Hearings

Hearings shall be conducted according to the Administrative Procedures Act and Chapter 2 of this Title (310:002)

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

310:662-7-7. Appeals

A final order of the Department may be appealed to the District Court by any party directly affected or aggrieved by the order.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

SUBCHAPTER 8. SITTER OR COMPANION SERVICES

310:662-8-1. Applicability

No public or private agency or person shall establish, conduct or maintain a sitter or companion service or hold itself out to the public as a sitter or companion service without first obtaining a license from the State Department of Health.

[Source: Added at 25 Ok Reg 2455, eff 7-11-08]

310:662-8-2. Licensure

(a) **Application.** Any person, corporation, partnership, association or other legal entity desiring to obtain a license to establish, or to obtain a

renewal license to operate, a companion or sitter service in this State shall make application to the State Department of Health in such form and accompanied by such information as the State Commissioner of Health shall prescribe. All applications shall include disclosure statements completed by the applicant which shall include, but not be limited to, the following information:

- (1) The full name and address of the applicant, and all affiliated persons;
- (2) The name and location of the companion or sitter service for which a license is sought;
- (3) The full name of the individual responsible for supervision of the companion or sitter services that meets the requirements of the Act and evidence of current licensure and/or training as appropriate;
- (4) Proof of participation in a workers' compensation insurance program for employees who are subject to pertinent labor laws. This insurance requirement shall remain in effect at all times while the service is licensed;
- (5) Proof of liability insurance coverage of at least one hundred thousand dollars (\$100,000.00) per occurrence, three hundred thousand dollars (\$300,000.00) aggregate. Each service shall maintain at least this level of coverage.
- (6) An affidavit attesting to the information provided.

(b) **Plan of delivery.** Each initial application shall be accompanied by a plan of delivery that describes the scope and range of companion or sitter service available to clients and their families as well as a description of the system of record keeping that meets the requirements specified in the Act. Each renewal application shall include written notification as to the changes in the plan of delivery.

(c) **License fees.**

- (1) An application for an initial license to establish or operate a new companion or sitter service shall be accompanied by a nonrefundable application fee of one thousand dollars (\$1000.00)
- (2) A renewal application for an existing companion or sitter service shall be accompanied by a nonrefundable licensing fee of five hundred dollars (\$500.00).
- (3) An application is not considered to be filed unless it is accompanied by the appropriate form and fee.

[Source: Added at 25 Ok Reg 2455, eff 7-11-08]

310:662-8-3. Licensure issuance/renewal

(a) **Expiration.** Each license for a companion or sitter service shall expire one (1) year after issuance on the last day of the month of issuance unless suspended or revoked.

(b) **Deadlines for applications.** The license application shall be filed in accordance with the following deadlines.

- (1) The application for a companion or sitter service license shall be filed at least thirty (30) days before beginning operations.

(2) The application for an initial license, for a transfer of ownership or operation, shall be filed at least thirty (30) days prior to the transfer. If the Department finds that an emergency exists which threatens the welfare of clients, the thirty (30) day advance filing notice may be waived.

(3) The application for renewal of a licensed existing sitter or companion service shall be filed at least thirty (30) days prior to the expiration date of the license.

(4) An incomplete initial or renewal application received by the Department shall be summarily dismissed after thirty (30) days of applicant notification of an incomplete application. Thereafter, the applicant shall submit a new application and the initial or renewal fee.

[Source: Added at 25 Ok Reg 2455, eff 7-11-08]

310:662-8-4. Base of operation

Each companion or sitter service shall operate from a place of business which is accessible to the public and physically located in Oklahoma. Staff providing services shall be supervised by personnel at that location. The license shall be issued only for the premises named in the application.

[Source: Added at 25 Ok Reg 2455, eff 7-11-08]

310:662-8-5. Criminal background checks

Each companion or sitter service shall maintain a copy of each background check that is conducted on an agency employee to meet the requirements of the Act.

[Source: Added at 25 Ok Reg 2455, eff 7-11-08]

310:662-8-6. Transfer of ownership of a licensed agency

(a) The license for a companion or sitter service is not transferable or assignable except a license may be transferred to any affiliated person, parent company or subsidiary of the applicant or legal entity which has an ongoing organizational relationship with the applicant. Proof of legal assignment with accompanying application for licensure shall be filed with the Department at the time of the change. There shall be no fee for legal assignment of a service license.

(b) If an entity is considering acquisition of a licensed agency, an application for license with a five hundred dollar (\$500.00) fee for the service shall be filed with the Department at least thirty (30) days prior to the effective date of the change. A copy of the executed sales agreement shall be provided to the Department.

(c) If a corporate licensee amends its articles of incorporation to revise its name, this subsection does not apply. The sale of stock of a corporate licensee does not cause this subsection to apply.

(d) No license shall be transferred from one location to another unless the Department is notified. If a service is considering relocation, the

service shall notify the Department thirty (30) days prior to the intended relocation. The Department shall provide written notification to the service amending the annual license to reflect the new location.

(e) Upon the effective date of a change of ownership or upon cessation of operation of a service, the current license shall be mailed or returned to the Department. The service shall advise the Department in writing at the time of cessation of operation where service records shall be archived and how these records shall be accessed.

[Source: Added at 25 Ok Reg 2455, eff 7-11-08]

310:662-8-7. Individual Service Plan

The individual responsible for supervision of the companion or sitter services shall prepare an Individual Service Plan at the time of the initial evaluation. The Individual Service Plan shall be developed after consultation with the client and/or the client's representative and shall include potential services to be provided and the requested hours of service. The Individual Service Plan for the client shall be communicated to the caregiver prior to or at the time of the delivery of care. The Individual Service Plan shall be revised as necessary, but it shall be reviewed and updated by the individual responsible for supervision of the companion or sitter services at least every six (6) months.

[Source: Added at 25 Ok Reg 2455, eff 7-11-08]

310:662-8-8. Complaint investigations

The Department shall investigate allegations of noncompliance with the requirements as specified in the Act.

[Source: Added at 25 Ok Reg 2455, eff 7-11-08]

310:662-8-9. Mediation

(a) If a complaint investigation results in a finding of noncompliance against a licensed companion or sitter service, the licensed service may request review of the findings by a mediator in an effort to come to consensus on the facts of the investigation and to resolve any conflicts between the licensed service and the Department.

(b) Requests for mediation shall be made in writing and shall be received by the Department within ten days after the service has received the notice of noncompliance from the Department.

(c) Mediators shall be certified by the Alternative Dispute Resolution System through the Supreme Court of Oklahoma.

[Source: Added at 25 Ok Reg 2455, eff 7-11-08]

CHAPTER 663. CONTINUUM OF CARE AND ASSISTED LIVING

Editor's Note: *Numerous rules in this Chapter were added or revised by the Oklahoma State Department of Health in 2007. However, after these rules, as identified below, had been promulgated in the Oklahoma Register and published in the 2007 OAC Supplement, the Department discovered that an earlier draft of the rules, which had NOT been adopted by the State Board of Health, had been inadvertently submitted to the Legislature, Governor, and Secretary of State for review, final adoption, and promulgation [see 24 Ok Reg 2007, effective 6-25-07]: 310:663-1-2 and 310:663-1-4 310:663-3-5 and 310:663-3-8 310:663-7-2 310:663-9-6 310:663-13-1 310:663-15-1 through 310:663-15-3 310:663-19-1 through 310:663-19-3 310:663-25-3 and 310:663-25-4 310:663-29-2 Appendix B Upon discovery of this error, the agency initiated another rulemaking action, and the rules were readopted in 2008. After review and final adoption, those rules were promulgated at 25 Ok Reg 2460, effective 7-11-08. [See also Editor's Note published at 25 Ok Reg 2460]*

[**Authority:** 63 O.S., §§ 1-104, and 1-890.1 et seq.]
[**Source:** Codified 6-25-98]

SUBCHAPTER 1. GENERAL PROVISIONS

310:663-1-1. Purpose

This Chapter provides for the licensure of continuum of care facilities and assisted living centers under authority of the following laws: 63 O.S. Supp. 1997, Sections 1-890.1 et seq. (Continuum of Care and Assisted Living Act); and 75 O.S. Supp. 1997, Sections 250.1 through 323, (Administrative Procedures Act).

[**Source:** Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish.

"Act" means the Continuum of Care and Assisted Living Act, Title 63 O.S. Sections 1-890.1 et seq. of the Oklahoma Statutes.

"Antipsychotic drug" means a drug, sometimes called a major tranquilizer, used to treat symptoms of severe psychiatric disorders, including but not limited to schizophrenia and bipolar disorder.

"Assisted living center" *means any home or establishment offering, coordinating or providing services to two (2) or more persons who:*

(A) *are domiciled therein;*

- (B) *are unrelated to the operator;*
 - (C) *by choice or functional impairments, need assistance with personal care or nursing supervision;*
 - (D) *may need intermittent or unscheduled nursing care;*
 - (E) *may need medication assistance; and*
 - (F) *may need assistance with transfer and/or ambulation;*
- [63:1-890.2(1)].

"Chemical restraint" means the use of a medication for the purpose of discipline, convenience, or in an emergency situation to control mood or behavior and not required to treat the resident's symptoms. Chemical restraint does not mean medication prescribed to maintain emotional stability.

"Commissioner" means the Commissioner of Health.

"Continuum of care facility" *means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes and one or both of the following:*

- (A) *assisted living center services as defined in the Continuum of Care and Assisted Living Act; and*
- (B) *adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes [63:1-890.2.4].*

"Department" means the Oklahoma State Department of Health.

"Direct care staff" in an assisted living center means qualified nursing, activity, social and therapy staff employed by or under the direct supervisory control of the assisted living center.

"Intermittent or unscheduled nursing care" means skilled nursing care given by a licensed practical nurse or registered nurse that is not required twenty-four (24) hours a day.

"Long-term care facility" means:

- (A) a nursing facility as defined by Section 1-1902 of Title 63 of the Oklahoma Statutes;
- (B) a continuum of care facility as defined under the Continuum of Care and Assisted Living Act; or
- (C) the nursing care component of a life care community as defined by the Long-term Care Insurance Act.

"Misappropriation of resident's property" means the taking, sequestration, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal authority, or the taking of any action contrary to any duty imposed by federal or state law prescribing conduct relating to the custody or disposition of resident's property.

"Neglect" means a failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness.

"Personal care" *means 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 [63:1-1902.17] and includes assistance with toileting.*

"Prescribing clinician" means:

- (A) an allopathic or osteopathic physician licensed by and in good standing with the Oklahoma State Board of Medical Licensure and Supervision or the Oklahoma State

Board of Osteopathic Examiners, as appropriate;
(B) a physician assistant licensed by and in good standing with the Oklahoma State Board of Medical Licensure and Supervision; or
(C) an Advanced Practice Registered Nurse licensed by and in good standing with the Oklahoma Board of Nursing.

"Qualified nutritionist" is a Department approved person who holds a baccalaureate with major studies in food and nutrition, dietetics, or food service management; has one year experience in the dietetic service of a health care institution; and participates in continuing education annually.

"Representative" means an agent under a durable power of attorney for health care, or a court-appointed guardian or, if there is no court-appointed guardian, the parent of a minor, a relative, or other person, designated in writing by the resident.

"Resident" means anyone accepted for care through contractual agreement and who meets the admission criteria established pursuant to OAC 310:663-3-2.

"Physical restraint" means any manual method or physical or mechanical device, material or equipment attached or adjacent to the resident's body that the resident cannot remove easily, that is not used for the purpose of therapeutic intervention or body alignment as determined by resident assessment and care planning, and which restricts the resident's desired freedom of movement and access to his or her body.

"Significant change" is defined as a major change in the resident's status that is not self limiting; affects more than one area of the resident's health status; and requires interdisciplinary review and/or revision of the care plan.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08 ; Amended at 37 Ok Reg 1443, eff 9-11-20]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

310:663-1-3. Purpose, authority and indoor tobacco smoke

(a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]

(b) The Commissioner of Health has conducted a study and is recommending these measures to the Board of Health under his authority as stated in section 1-106 of the Public Health Code. [63 O.S. § 1-106] The Board has the authority to establish prevention programs for non-communicable disease and to promulgate rules for the control of causative or toxic substances, which can cause disease under section 1-

502b of the Public Health Code. [63 O.S. § 1-502b] The Board is adopting this rule under its authority in sections 1-104 and 1-1526 of Title 63 of the Oklahoma Statutes. [63 O.S. §§ 1-104 & 1-1526]

(c) Smoking or possessing a lighted tobacco product is prohibited in a continuum of care or assisted living facility and within fifteen (15) feet of each entrance to a facility and of any air intakes; provided however, the facility may provide a smoking room not available to the public for use by residents

(d) An indoor smoking room may be provided if:

(1) It is completely enclosed;

(2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;

(3) It allows for visual observation of the residents from outside of the smoking room; and

(4) The plans are reviewed and approved by the Department.

(e) To enable better observation and supervision of residents who wish to smoke outside, a facility may designate a smoking area outside an entrance other than the main entrance which may be closer than fifteen (15) feet to the entrance providing consideration is given to minimizing the possibility of smoke entering the building.

(f) The walkway to the main entrance shall also be smoke free.

(g) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room or a designated outdoor smoking area under paragraph "c" above.

(h) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.

(i) The facility's tobacco use policy shall be clearly posted near the main entrance, and prospective residents or their legal representatives shall be notified of the policy prior to the residents' acceptance for admission.

[Source: Added at 19 Ok Reg 2096, eff 7-1-02]

310:663-1-4. Other provisions applicable to assisted living centers

Assisted living centers subject to the provisions of this chapter shall comply with the following Oklahoma statutes as applicable:

(1) 63 O.S. Sections 1-879.2a et seq., Alzheimer's Disease Special Care Disclosure Act;

(2) 59 O.S. Sections 367 et seq., Utilization of Unused Prescription Medications Act;

(3) 63 O.S. Section 1-1909. (relating to documents and papers required to be displayed);

(4) 63 O.S. Section 1-1945. (relating to Long Term Care Security Act definitions);

(5) 63 O.S. Section 1-1946. (relating to registered sex offender or violent crime offender seeking placement in a long-term care facility - notification - facility's duty to determine registration status of applicants for care, residents, and employees);

(6) 63 O.S. Section 1-1950.1. (relating to definitions - criminal arrest check on certain persons offered employment -

exemptions);

(7) 63 O.S. Section 1-1950.3. (relating to nurses aides - employment of persons not licensed);

(8) 63 O.S. Section 1-1950.4. (relating to nurse aides - uniform employment application);

(9) 63 O.S. Section 1-1950.4a. (relating to uniform employment application - penalty for false information);

(10) 63 O.S. Section 1-1950.5. (relating to caregiver - compensation - definition); and

(11) 63 O.S. Section 1-1951. (relating to certified nurse aides).

[Source: Added at 24 Ok Reg 2007, eff 6-25-07 ¹; Added at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter*.

SUBCHAPTER 3. SERVICES AND CARE

310:663-3-1. Service in an assisted living center

(a) An assisted living center shall not care for any resident needing care in excess of the level that the assisted living center is licensed to provide or capable of providing.

(b) An assisted living center shall ensure that routines of care provision and service delivery are directed by the resident to the maximum extent possible.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-2. Admission criteria for assisted living center

(a) The assisted living center shall describe the population admitted or to be admitted based on the services provided to meet the following resident needs:

(1) assistance with personal care;

(2) nursing supervision;

(3) intermittent or unscheduled nursing care;

(4) medication administration;

(5) assistance with cognitive orientation and care or service for Alzheimer's disease and related dementias; and

(6) assistance with transfer or ambulation.

(b) The assisted living center's admission criteria shall be included in the assisted living center's application for license and the resident service contract.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-3. Description of service in assisted living center

(a) The assisted living center shall describe the service to be provided or arranged in the assisted living center with respect to the following services:

- (1) assistance with personal care meals, housekeeping and laundry;
 - (2) nursing supervision during nursing intervention;
 - (3) intermittent or unscheduled nursing care as defined in this chapter;
 - (4) medication administration;
 - (5) assistance with cognitive orientation;
 - (6) 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;
 - (7) assistance with transfer or ambulation;
 - (8) planned programs for socialization, activities and exercise; and
 - (9) provisions for evacuation of the building structure and staff to meet the evacuation needs of residents.
- (b) The assisted living center's description of its services shall be included in the assisted living center's application for license and the resident service contract.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-4. Appropriateness of placement in assisted living center

- (a) The assisted living center shall use the screening instrument specified in 310:663-5 to determine the appropriateness of the resident's placement in the assisted living center.
- (b) The resident shall not be eligible for placement in the assisted living center under one (1) or more of the following circumstances:
- (1) The resident needs care or services that exceed the care or services available in the assisted living center;
 - (2) The resident's physician determines that the resident requires physical or chemical restraints in situations other than emergencies;
 - (3) The resident poses a threat to self or others; or
 - (4) The assisted living center is unable to meet the resident's needs for privacy or dignity.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-5. Involuntary termination of residency

- (a) **Termination of residency when inappropriately placed.** If an assisted living center finds pursuant to 310:663-3-4 (relating to appropriate placement) that a resident is inappropriately placed, the assisted living center shall inform the resident and/or the resident's representative if any. If voluntary termination of residency is not arranged, the assisted living center shall provide written notice to the resident and to the resident's representative, giving the resident thirty (30) days notice of the assisted living center's intent to terminate the residency agreement and move the resident to an appropriate care provider. The thirty (30) day requirement shall not apply:

- (1) when emergency termination of the residency agreement is mandated by the resident's immediate health needs; or
- (2) when termination of the residency agreement is necessary for the physical safety of the resident or other residents.

(b) Written notice of involuntary termination of residency for reasons of inappropriate placement. The written notice of involuntary termination of residency for reasons of inappropriate placement shall include:

- (1) A full explanation of the reasons for the termination of residency;
- (2) The date of the notice;
- (3) The date notice was given to the resident and the resident's representative; and,
- (4) The date by which the resident must leave the assisted living center.

(c) Involuntary termination of residency for reasons other than inappropriate placement. Procedures for involuntary termination of residency for reasons other than inappropriate placement, by an assisted living center, are as follows:

- (1) Written notice shall be provided to the resident, the resident's representative, the person responsible for payment of charges for the resident's care, if different from any of the foregoing, and the Department, at least thirty (30) days in advance of the termination of residency date.
- (2) The written notice shall include:
 - (A) A full explanation of the reasons for the termination of residency;
 - (B) The date of the notice;
 - (C) The date notice was given to the resident and the resident's representative;
 - (D) The date by which the resident must leave the assisted living center;
 - (E) Notice that the resident, the resident's representative or person responsible for payment of the resident's care may request a hearing with the Department;
 - (F) Notice that the request for hearing with the Department must be filed within ten (10) Department business days of receipt of the facility notice; and
 - (G) Notice that a written or verbal request for a hearing with the Department should be directed to the Hearing Clerk, Oklahoma State Department of Health, 123 Robert S. Kerr Ave., Oklahoma City, OK 73102, telephone (405) 271-1269.
- (3) An assisted living center shall not involuntarily terminate a residency agreement for reasons other than inappropriate placement without following the procedures in this section.
- (4) If a written or verbal request for a hearing is timely filed by an eligible aggrieved party, the Department shall convene a hearing within ten (10) Department business days of receipt of the request. The request may be in the form of a written or verbal request for hearing from the resident or the resident's

representative. In the event that the resident is unable to write, a verbal request made to the hearing clerk shall be sufficient. The Department shall reduce the verbal request to writing and send a copy to the resident. The request shall state the reason for the termination of residency and attach a copy of the letter from the assisted living center.

(5) While waiting for the hearing, the assisted living center shall not terminate the residency agreement unless the termination is an emergency situation. If the resident relocates from the assisted living center but wants to be readmitted, the Department may proceed with the hearing and the assisted living center shall be required to readmit the resident if the discharge is found not to meet the requirements of OAC 310:663.

(6) The Department shall provide the Administrative Law Judge and the space for the hearing. The parties, including the resident and the assisted living center, may be represented by counsel or may represent themselves. Assisted living centers operating as a corporation or limited liability company shall be represented by counsel.

(7) The hearing shall be conducted at the Oklahoma State Department of Health building unless there is a request for the hearing to be held at the assisted living center or at another place. If the hearing is conducted at another location the parties are responsible for providing the hearing room. The Department shall maintain a record on the case in accordance with the Administrative Procedures Act.

(8) The hearing shall be conducted in accordance with the Administrative Procedures Act. The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order as to whether or not the termination of the residency was according to law.

(9) If the Administrative Law Judge finds that the termination of residency was not according to law, the Department shall review, investigate and issue deficiencies as appropriate.

(10) If the termination of residency is according to law, the order shall give the assisted living center the right to terminate the residency agreement.

(11) The scope of the hearing may include:

- (A) Inadequate notice;
- (B) Discharge based on reason not stated in the law;
- (C) Sufficiency of the evidence to support the termination of residency; or
- (D) The finding of emergency.

(12) The Administrative Law Judge shall render a written decision within ten (10) Department business days of the close of the record.

(13) If the Administrative Law Judge sustains the decision of the assisted living center, the assisted living center may proceed with the termination of residency. If the Administrative Law Judge finds in favor of the resident, the assisted living center shall withdraw its notice of intent to terminate the residency

agreement. The decision of the Administrative Law Judge shall be final and binding on all parties unless appealed in accordance with the provisions of the Administrative Procedures Act.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08 ; Amended at 39 Ok Reg 1390, eff 9-11-22]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:663-3-6. Management of risk in assisted living center

(a) If a resident's preference or decision places the resident or others at risk or is likely to lead to an adverse consequence, the assisted living center shall advise the resident and the resident's representative of such risk or consequences.

(b) The assisted living center shall specify the cause for concern, discuss the concern with the resident and representative, if any, and attempt to negotiate a written agreement that minimizes risk and adverse consequences and offers alternatives while respecting resident preferences.

(c) The assisted living center shall document any lack of agreement and shall provide a copy to the resident and the resident's representative.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-7. Services and care specific to continuum of care facility

(a) Each continuum of care facility shall provide, coordinate or arrange care appropriate to the needs and capabilities of its residents.

(b) A continuum of care facility shall not care for any resident needing care in excess of the level that the continuum of care facility is licensed to provide.

(c) A continuum of care facility shall ensure the availability of care appropriate to a nursing facility or specialized facility and shall comply with the requirements of Title 63 O.S. Supp. 1997, Section 1-1901 et seq. and OAC 310:675.

(d) In addition to the care required in (c) of this Section, a continuum of care facility shall ensure the availability of at least one (1) of the following:

(1) service appropriate to an assisted living center operating in full compliance with the Act and OAC 310:663; or

(2) care appropriate to an adult day care center operating in compliance with the Title 63 O.S. Supp. 1997, Section 1-870 et seq. and OAC 310:605.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-8. Food storage, preparation and service

(a) **Use of Food Service Establishment rule.** Food shall be stored, prepared and served in accordance with Chapter 257 of this Title (relating to food service establishments) with the following additional

requirements:

(b) **Ice.** Ice machines available to the residents, or the public, shall be a dispenser type, or have a locking enclosure.

(c) **Food.** A whole, intact, fruit or vegetable is an approved food source. The food supply shall be sufficient in quantity and variety to prepare menus for three (3) days. Leftovers that are potentially hazardous foods shall be used, or disposed of, within twenty-four (24) hours. Non-potentially hazardous leftovers that have been heated or cooked may be refrigerated for up to forty-eight (48) hours.

(d) **Milk, milk products and eggs.**

(1) **Milk grade.** Only grade A pasteurized fluid milk, as defined by the Oklahoma Milk and Milk Products Act, Title 2, Section 7-401 through 7-421, shall be used for beverage and shall be served directly into a glass from a milk dispenser or container.

(2) **Powdered or evaporated milk.** Powdered or evaporated milk products approved under the U.S. Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance (2003 Revision), may be used only as additives in cooked foods. This does not include the addition of powdered or evaporated milk products to milk or water as a milk for drinking purposes. Powdered or evaporated milk products may be used in instant desserts and whipped products or for cooking. When foods, in which powdered or evaporated milk has been added, are not cooked the foods shall be consumed within twenty-four (24) hours.

(3) **Milk Temperature.** Milk for drinking shall be stored at a temperature of 41° F. or below and shall not be stored in a frozen state.

(4) **Eggs.** Only clean, whole eggs with shell intact, pasteurized liquid, frozen, dry eggs, egg products and commercially prepared and packaged hard boiled eggs may be used. All eggs shall be thoroughly cooked except pasteurized egg products or pasteurized in-shell eggs may be used in place of pooled eggs or raw or undercooked eggs.

(e) **Food service training.** All staff assisting in, or responsible for food preparation shall have attended a food service training program offered or approved by the Department.

(f) **Applicability.** This section shall only apply to food prepared or served by the assisted living center within the licensed assisted living center.

[Source: Added at 24 Ok Reg 2007, eff 6-25-07 ¹; Added at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

SUBCHAPTER 5. RESIDENT ASSESSMENTS

310:663-5-1. Assessments required

Each assisted living center shall use the admission and comprehensive assessment designated by the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-5-2. Timeframes for completing assessment

- (a) The assisted living center shall complete the admission assessment within thirty (30) days before, or at the time of, admission.
- (b) The assisted living center shall complete the comprehensive assessment in accordance with the following:
 - (1) within fourteen (14) days after admission of the resident;
 - (2) once every twelve (12) months thereafter; and
 - (3) promptly after a significant change in the resident's condition.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-5-3. Description of resident assessment form

- (a) The admission assessment form shall include but not be limited to the following:
 - (1) resident's identification;
 - (2) disease diagnosis/infections;
 - (3) mental health history, and intellectual disability or developmental disability;
 - (4) physical functioning which includes the numbers of persons needed to assist with activities of daily living;
 - (5) incontinence;
 - (6) medications;
 - (7) special treatment and procedures;
 - (8) cognitive function; and
 - (9) signatures and dates.
- (b) The comprehensive assessment includes the following information:
 - (1) physical functional status;
 - (2) mental functional status;
 - (3) customary routine;
 - (4) disease diagnosis;
 - (5) oral/nutritional status;
 - (6) medications;
 - (7) devices and restraints;
 - (8) special treatments;
 - (9) skin condition;
 - (10) psychosocial status;
 - (11) sensory and physical impairments; and
 - (12) medically defined conditions and prior medical history.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 36 Ok Reg 1729, eff 9-13-19]

310:663-5-4. Conduct of assessment

- (a) The assessments shall be completed by appropriate participation of health professionals trained in the assessment process.

(b) All assessments must be coordinated and signed by a registered nurse or the resident's personal physician.

(c) The assisted living center shall ensure that each comprehensive assessment includes a personal interview between the resident and the person completing the form. If the resident is mentally impaired, the assisted living center shall include in the interview at least one (1) of the persons listed in (d) (2) and (d) (3) of this section.

(d) The assisted living center shall maintain all assessments for five (5) years from the date of each assessment. The completed form shall be available upon request to the following:

- (1) the resident;
- (2) the resident's personal physician;
- (3) the resident's representative; and
- (4) the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

310:663-5-5. Use of assessment

The assisted living center shall use the results of the resident's assessment for the following:

- (1) to assist in determining the appropriateness of the resident's placement in the assisted living center in compliance with 310:663-3; and
- (2) to develop a care plan for the resident, in consultation with the resident.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 7. PHYSICAL PLANT DESIGN

310:663-7-1. General requirements

(a) Each assisted living center shall comply with applicable construction and safety standards pursuant to Title 74 O.S. Sections 317 through 324.21.

(b) The design of the assisted living center shall be appropriate to the mental or physical disabilities of the residents to be served in the assisted living center.

(c) The design of the continuum of care facility or assisted living center shall include physical separation of residents receiving assisted living services from those receiving nursing facility services, including separate dining and common areas. The continuum of care facility or assisted living center shall provide separate wings or buildings with separate exterior entrances for residents receiving assisted living services and those receiving nursing facility services.

(d) Each assisted living center shall comply with the hot water standards set forth in Appendix A.

(e) On and after the effective date of this subsection, each assisted living center that undergoes design changes or construction and each newly

licensed assisted living center shall be designed and constructed in conformity with requirements for accessibility to physically disabled persons as specified in Chapter 11 of the International Building Code, 2003 Edition, published by the International Code Council.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00 ; Amended at 21 Ok Reg 2784, eff 7-12-04]

310:663-7-2. Privacy and independence

Each assisted living center shall ensure privacy and independence for its residents, to include the following:

- (1) no more than two (2) residents shall occupy each sleeping room;
- (2) shower and bathing facilities shall not be occupied by more than one (1) resident at a time;
- (3) lockable doors on resident sleeping rooms or residences except in the case of documented contraindication;
- (4) no more than four (4) residents sharing toilet facilities;
- (5) no more than four (4) residents sharing bathing facilities, provided that the Department may approve more than four (4) residents per bathing facility based on documentation that the design of the bathing facility is appropriate to the special needs of each resident who uses the bathing facility;
- (6) provisions shall be made for each 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 Department may approve an alternate means based on documentation that the design of the temperature control is appropriate to the special needs of each resident who has an alternate temperature control; and
- (7) the resident shall have the right to use personal furnishings in the individual living unit.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:663-7-3. Submission of plans and specifications and related requests for services

(a) **Submission of plans.** Before construction is begun, plans and specifications covering the construction of new buildings or major alterations to existing buildings shall be submitted to the Department for review as provided in OAC 310:663-7-4 or OAC 310:663-7-5.

- (1) Plans and specifications are required for the following alterations:

- (A) Changes that affect path of egress;

- (B) Change of use or occupancy;
- (C) Repurposing of spaces;
- (D) Structural modifications;
- (E) Heating, ventilation and air conditioning (HVAC) modifications;
- (F) Electrical modifications that affect the essential electrical system;
- (G) Changes that require modification or relocation of fire alarm initiation or notification devices;
- (H) Changes that require modification or relocation of any portion of the automatic fire sprinkler system;
- (I) Replacement of fixed medical equipment if the alteration requires any work noted in (A) through (H) of this paragraph;
- (J) Replacement of or modifications to any required magnetic or radiation shielding;
- (K) Changes to or addition of any egress control devices or systems.

(2) Plans and specifications are not required for the following alterations:

- (A) Painting, papering tiling, carpeting, cabinets, counter tops and similar finish work provided that the new finishes shall meet the requirements of this Chapter;
- (B) Ordinary repairs and maintenance;
- (C) Modifications to nurse call or other signaling/communication/information technology systems provided the modifications meet the requirements of this Chapter; or
- (D) Replacement of fixed or moveable medical equipment that does not affect electrical, HVAC, or shielding requirements noted above.

(b) **Fees.** Each construction project submission shall be accompanied by the appropriate review fee based on the cost of design and construction of the project. Fees for plan and specification reviews and related Department services are as follows:

- (1) Design and construction plans and specifications fee: two one-hundredths percent (0.02%) of the cost of design and construction of the project, with a minimum fee of Fifty Dollars (\$50.00) and a maximum fee of One Thousand Dollars (\$1,000.00);
- (2) Request for exception or temporary waiver fee: Five Hundred Dollars (\$500.00);
- (3) Application for self-certification fee: Five Hundred Dollars (\$500.00);
- (4) Courtesy construction inspection fee: Five Hundred Dollars (\$500.00);
- (5) Professional consultation or technical assistance fee: Five Hundred Dollars (\$500.00) for each eight hours or major fraction thereof of staff time. For technical assistance requiring travel, the fee may be increased to include the Department's costs for travel.

(c) **Fees when greater than two (2) submittals required.** The fee for review of design and construction plans and specifications shall cover the

cost of review for up to two (2) stage one and two (2) stage two submittals and one final inspection. If a stage one or stage two submittal is not approved after two (2) submissions, another review fee shall be required with the third submittal. Fast-track projects shall be allowed two reviews for each package submitted. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project shall be required with the third submittal of the package.

(d) **Review process.** Design and construction plans and specifications shall be reviewed in accordance with the following process.

(1) Unless otherwise provided in this Subchapter, the Department shall have ten (10) calendar days in which to initially determine if the filed application is administratively complete

(A) Upon determining that the application is not administratively complete, the Department shall immediately notify the applicant in writing and shall indicate with reasonable specificity the inadequacies and measures necessary to complete the application. Such notification shall not require nor preclude further review of the application and further requests for specific information. If the Department fails to notify the applicant as specified in this Paragraph, the period for technical review shall begin at the close of the administrative completeness review period. Upon submission of correction of inadequacies, the Department shall have an additional ten (10) calendar days to review the application for completeness.

(B) Upon determination that the application is administratively complete, the Department shall immediately notify the applicant in writing. The period for technical review begins.

(2) The Department shall have forty-five (45) calendar days from the date a completed application is filed to review each application for technical compliance with the relevant regulations and reach a final determination.

(A) The time period for technical review is tolled (the clock stops) when the Department has asked for supplemental information and advised the applicant that the time period is tolled pending receipt.

(B) To make up for time lost in reviewing inadequate materials, a request for supplemental information may specify that up to 30 additional calendar days may be added to the deadline for technical review, unless the request for supplemental information is a second or later request that identifies new deficiencies not previously identified

(C) An application shall be deemed withdrawn if the applicant fails to supplement an application within 90 calendar after the Department's request, unless the time is extended by agreement for good cause.

(D) Extensions may be made as provided by law.

310:663-7-4. Preparation of plans and specifications

(a) **Stage one.** Preliminary plans and outline specifications shall be submitted and include sufficient information for approval by the Department of the following: scope of project; project location; required fire-safety and exiting criteria; building-construction type, compartmentation showing fire and smoke barriers, bed count and services; the assignment of all spaces, areas, and rooms for each floor level, including the basement. An assisted living center has the option, at its own risk, to bypass the stage one submittal and proceed directly to submittal of stage two documents.

(b) **Stage two.** A proposed construction document shall be submitted that includes final drawings and specifications adequate for approval by the Department. All final plans and specifications shall be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and shall be submitted timely.

(c) **Special submittals.**

(1) **Fast-track projects.** The fast track process applies only to stage two submittals. A stage one submittal and functional program must be approved before entering the fast track process.

(A) Equipment and built-in furnishings are to be identified in the stage one submittal.

(B) The assisted living center has the option to submit two packages: civil, landscaping and structural in stage one, and the balance of the components in stage two.

(C) Fast-track projects shall have prior approval and be submitted in no more than four (4) separate packages.

(i) Site work, foundation, structural, underslab mechanical, electrical, plumbing work, and related specifications.

(ii) Complete architectural plans and specifications.

(iii) All mechanical, electrical, and plumbing plans and specifications.

(iv) Equipment and furnishings.

(2) **Radiation protection.** Any project that includes radiology or special imaging equipment used in medical diagnosis, treatment, and therapy of patients, shall include plans, specifications, and shielding criteria, prepared by a qualified medical physicist.

These plans shall be submitted and approved by the Department prior to installation of the equipment.

(d) **Floor plan scale.** Floor plans are to be submitted at a scale of one-eighth (1/8) inch equals one (1) foot, with additional clarifying documents as required.

(e) **Application form.** The submittal shall be made using a Department application form which requests information required by this Chapter and specifies the number of copies and format for document submittal.

310:663-7-5. Self-certification of plans

(a) The Department shall make available consultation and technical assistance services covering the requirements of this section to an assisted living center considering self-certification of plans. The consultation and technical assistance is subject to the fees specified in OAC 310:663-7-3. The consultation is optional and not a prerequisite for filing a request through the self-certification review process.

(b) The assisted living center and the project architect or engineer may elect to request approval of design and construction plans through a self-certification review process. The assisted living center and the project architect or engineer submit a self-certification request on a form provided by the Department, along with the review fee specified in OAC 310:663-7-3. The form shall be signed by the assisted living center and the project architect or engineer attesting that the plans and specifications are based upon and comply with the requirements of this Chapter. The form shall require information necessary to demonstrate compliance with OAC 310:665-7-5(c).

(c) To be eligible for self-certification, projects must comply with the following requirements:

- (1) The project involves any portion of the assisted living center where residents are intended to be examined or treated and the total cost of design and construction is two million five hundred thousand dollars (\$2,500,000) or less; or
- (2) The project involves only portions of the assisted living center where residents are not intended to be examined or treated; and
- (3) The project architect or engineer attesting the application has held a license to practice architecture or engineering for at least five (5) years prior to the submittal of the application, is licensed to practice in Oklahoma; and
- (4) The assisted living center owner/operator acknowledges that the Department retains the authority to:
 - (A) Perform audits of the self-certification review program and select projects at random for review;
 - (B) Review final construction documents;
 - (C) Conduct on-site inspections of the project;
 - (D) Withdraw approval based on the failure of the assisted living center or project architect or engineer to comply with the requirements of this Chapter; and
- (5) The assisted living center agrees to make changes required by the Department to bring the construction project into compliance with this Chapter.

(d) Within twenty-one (21) calendar after receipt of a complete application, the Department shall approve or deny the application for self-certification and send notification to the assisted living center. If the application is denied, the assisted living center shall have thirty (30) calendar to submit additional or supplemental information demonstrating that the application complies with the requirements for self-certification

of plans and specifications. The Department shall have fourteen (14) calendar after receipt of supplemental information to reconsider the initial denial and issue a final approval or denial of the self-certification request.

(e) After denial of the application for self-certification and prior to the start of construction, the assisted living center shall pay the applicable fee for plan review specified in OAC 310:663-7-3. Upon receipt of the plan review fee, the Department shall review the assisted living center's plans in accordance with the process in OAC 310:663-7-3.

[Source: Added at 34 Ok Reg 1297, eff 10-1-17]

310:663-7-6. Exceptions and temporary waivers

(a) These standards are not intended to restrict innovations and improvements in design or construction techniques. Accordingly, the Department may approve plans and specifications that contain deviations if it is determined that the respective intent or objective of this Chapter has been met.

(b) An assisted living center may submit a request for exception or temporary waiver if the rules in this Chapter create an unreasonable hardship, or if the design and construction for the assisted living center property offers improved or compensating features with equivalent outcomes to this Chapter.

(c) The Department may permit exceptions and temporary waivers of this Chapter if the Department determines that such exceptions or temporary waivers comply with the requirements of 63 O.S. Section 1-1901 et seq., and the following:

(1) Any assisted living center requesting an exception or temporary waiver shall apply in writing on a form provided by the Department. The form shall include:

(A) The section(s) of this Chapter for which the exception or temporary waiver is requested;

(B) Reason(s) for requesting an exception or temporary waiver;

(C) The specific relief requested; and

(D) Any documentation which supports the application for exception.

(2) In consideration of a request for exception or temporary waiver, the Department shall consider the following:

(A) Compliance with 63 O.S. Section 1-1901 et seq.;

(B) The level of care provided;

(C) The impact of an exception on care provided;

(D) Alternative policies or procedures proposed; and

(E) Compliance history with provisions of this Chapter.

(3) The Department shall permit or disallow the exception or waiver in writing within forty-five (45) calendar days after receipt of the request.

(4) If the Department finds that a request is incomplete, the Department shall advise the assisted living center in writing and offer an opportunity to submit additional or clarifying information.

The applicant shall have thirty (30) calendar days after receipt of notification to submit additional or clarifying information in writing to the Department of Health, or the request shall be considered withdrawn.

(5) An assisted living center which disagrees with the Department's decision regarding the exception or temporary waiver may file a written petition requesting relief through an individual proceeding pursuant to OAC 310:2 (relating to Procedures of the State Department of Health).

(6) The Department may revoke an exception or temporary waiver through an administrative proceeding in accordance with OAC 310:2 and the Oklahoma Administrative Procedures Act upon finding the assisted living center is operating in violation of the exception or temporary waiver, or the exception or temporary waiver jeopardizes patient care and safety or constitutes a distinct hazard to life.

(7) The Department shall publish decisions on requests for exceptions and waivers and make them available to facilities and centers and the public.

[Source: Added at 34 Ok Reg 1297, eff 10-1-17]

SUBCHAPTER 9. STAFFING REQUIREMENTS

310:663-9-1. Nurse

Each assisted living center shall provide adequate staffing as necessary to meet the services described in the assisted living center's contract with each resident and in compliance with the provisions of the Oklahoma Nursing Practice Act, 59 O.S. Supp. 1997 Section 567.1 et seq. Nurse staffing shall be provided or arranged:

- (1) registered nurse supervision of skilled nursing interventions;
- (2) documenting the resident's physician of choice;
- (3) documenting the resident's living will or "Do Not Resuscitate Order".

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-2. Medication staffing

(a) Each assisted living center shall provide or arrange qualified staff to administer medications based on the needs of residents. Medications shall be reviewed monthly by a registered nurse or pharmacist and quarterly by a consultant pharmacist.

(b) Unlicensed personnel administering medications shall have completed a training program that has been reviewed and approved by the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-3. Administrator

Each assisted living center shall designate an administrator responsible for the operation of the assisted living center. The administrator shall hold at least one (1) of the following credentials:

- (1) a license issued by the State Board of Examiners for Nursing Home Administrators; or
- (2) a residential care home administrator's certificate of training from an institution of higher learning whose program has been reviewed by the Department; or
- (3) a nationally recognized assisted living certificate of training and competency for assisted living administrators that has been reviewed and approved by the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-4. Dietary consultant

Each assisted living center shall use a licensed dietician or qualified nutritionist to develop the assisted living center's diet plan and address the needs of individuals with special diets.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-5. Staff qualifications

- (a) All of the assisted living center's employees shall be subject to the requirements for criminal arrest checks applicable to nurses aides under 63 O.S. Supp. 1997, Section 1-1950.1.
- (b) Each assisted living center shall ensure that staff members providing socialization, activity, and exercise services are qualified by training.
- (c) Each assisted living center offering specialized units shall ensure that staff members are trained to meet the specialized needs of residents.
- (d) Assisted living center direct care staff shall be trained in first aid and cardiopulmonary resuscitation.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-6. Minimum staff for services

- (a) **Staffing.** Adequate trained staff shall be on duty, awake, and present at all times, 24 hours a day, 7 days a week, to meet the needs of residents and to carry out all the processes listed in the assisted living center's, written emergency and disaster preparedness plan for fires and other natural disasters.
- (b) **Limitations on one-person staffing.** An assisted living center that has only one direct care staff member on duty shall:
 - (1) Disclose the one-person staffing and the plan for dealing with urgent and emergent situations to residents and their representatives before admission or prior to one-person staffing if such staffing was not previously practiced by the assisted living center; and,
 - (2) Have in place a plan, approved by the Department, for dealing with urgent or emergent situations, including resident falls, during periods when the assisted living center has only one

direct-care staff member on duty.

(c) **Units designed to prevent or limit resident access to areas outside the designated unit or program.** An assisted living center shall have a minimum of two (2) staff members on duty and awake on all shifts if an assisted living center has a unit or program designed to prevent or limit resident access to areas outside the designated unit or program. A minimum of one (1) direct care staff is required to be on duty and awake at all times within the unit or program designed to prevent or limit resident access to areas outside the designated unit or program.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

SUBCHAPTER 11. QUALITY OF CARE

310:663-11-1. Quality assurance committee

Each assisted living center shall establish and maintain an internal quality assurance committee that meets at least quarterly. The committee shall:

- (1) monitor trends and incidents;
- (2) monitor customer satisfaction measures; and
- (3) document quality assurance efforts and outcomes.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-11-2. Quality assurance representatives

The quality assurance committee shall include at least the following:

- (1) registered nurse or physician if a medical problem is to be monitored or investigated;
- (2) assisted living center administrator;
- (3) direct care staff person or a staff person who has responsibility for administration of medications; and
- (4) pharmacist consultant if a medication problem is to be monitored or investigated.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 13. RESIDENT CONTRACT

310:663-13-1. Resident service contract

(a) Each assisted living center shall furnish to each resident a complete and understandable copy of the resident service contract.

(b) All rights, privileges and assurances guaranteed to residents under these rules or marketing materials are deemed incorporated in any

contract between an assisted living center and a resident.

(c) The assisted living center shall ensure that the resident or the resident's representative, if any, is informed of all provisions of the resident service contract.

(d) The assisted living center shall provide all services that are specified in the resident's current service contract.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:663-13-2. Contents of contract

Each resident service contract shall contain a clear statement of the following:

- (1) assisted living center's name and address;
- (2) admission criteria;
- (3) services provided by the assisted living center;
- (4) discharge criteria;
- (5) dispute resolution and grievance procedures;
- (6) charges for services;
- (7) a provision that the written contract constitutes the entire agreement between the resident and the assisted living center not excluding the marketing materials and the requirements of this Chapter;
- (8) term, renewal and cancellation of contract;
- (9) conformity with state law;
- (10) a provision in the event that a resident's condition merits transfer, the transfer shall be initiated within five (5) working days and progress on the transfer shall be noted in the resident's record.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 15. RESIDENT RIGHTS AND RESPONSIBILITIES

310:663-15-1. Resident rights

Each assisted living center and its staff shall be familiar with and shall observe all resident rights and responsibilities enumerated under Title 63 O.S. Section 1-1918(B).

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:663-15-2. Guardians and power of attorney

No owner, operator, administrator or employee of a continuum of care facility or assisted living center subject to the provisions of the Continuum of Care and Assisted Living Act, Nursing Home Care Act, or the Residential Care Act, shall be appointed power of attorney, durable power of attorney, guardian or limited guardian of a resident unless the owner, operator, administrator or employee is the spouse of the resident, or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment.

[**Source:** Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹*See Editor's Note at beginning of this Chapter.*

310:663-15-3. Complaints

(a) **Procedures.** The assisted living center shall make available to each resident or the resident's representative a copy of the assisted living center's complaint procedure. The assisted living center's complaint procedures shall be followed. The assisted living center's complaint procedure shall include at least the following requirements.

(1) The assisted living center shall list in its procedures:

(A) The names, addresses and telephone numbers of assisted living center staff persons designated to receive complaints for the assisted living center;

(B) Notice that a good faith complaint made against the assisted living center shall not result in reprisal against the person making the complaint; and

(C) Notice that any person with a complaint is encouraged to attempt to resolve the complaint with the continuum of care facility's or assisted living center's designated complaint staff, that the person may submit a complaint to the Department or other entities without prior notice to the continuum of care facility or assisted living center.

(2) If a resident, resident's representative or assisted living center employee submits to the administrator or designated complaint staff a complaint concerning resident abuse, neglect or misappropriation of resident's property, the assisted living center shall comply with the Protective Services for Vulnerable Adults Act, Title 43A O.S. Sections 10-101 through 10-110 and OAC 310:663-19-1.

(b) **Posted complaint procedures.** Every assisted living center shall conspicuously post for display in an area accessible to residents, employees and visitors, the continuum of care facility's or assisted living center's complaint procedure specified in paragraph (a) and a description, provided by the Department, of complaint procedures established under this rule and the name, address and telephone number of a person authorized by the Department to receive complaints. A copy of the complaint procedure shall also be given to each resident, the resident's representative, or where appropriate, the court appointed guardian.

[Source: Added at 24 Ok Reg 2007, eff 6-25-07 ¹; Added at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:663-15-4. Prohibited restrictions and fees

Residents shall have *the freedom of choice regarding any personal attending physicians and all other providers of medical services and supplies without a financial penalty or fee charged by the assisted living center* [Title 63 O.S. Section 1-890.3 (A)(8)].

[Source: Added at 34 Ok Reg 1297, eff 10-1-17]

SUBCHAPTER 17. SURETY BONDS OR DEPOSITS

310:663-17-1. Purpose of surety bonds or deposits

This Subchapter applies to any continuum of care facility or assisted living center with contractual obligations to provide an unlimited term of services based on a fixed, prepaid fee. This Subchapter is not applicable to continuum of care facilities or assisted living centers that do not have contractual obligations to provide an unlimited term of services based on a fixed, prepaid fee. This Subchapter establishes the amounts of assets needed to qualify for waivers and reductions of deposits and bonds for such continuum of care facilities or assisted living centers.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-2. Net worth requirement

(a) The continuum of care facility's or assisted living center's net worth shall be calculated as assets minus liabilities, plus fully subordinated debt.

(b) The continuum of care facility or assisted living center shall maintain cash or cash equivalents sufficient to meet its obligations as they become due.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-3. Consideration of arrangements

The financial requirements in OAC 310:663-17-4 through OAC 310:663-17-9 shall apply to a continuum of care facility or assisted living center that provides an unlimited term of services for a fixed prepaid fee, unless it demonstrates that a requirement does not apply. To decide if a requirement applies, the Department shall consider the continuum of care facility or assisted living center's organizational structure, financial arrangements, fiduciary responsibilities, accounting controls and risk sharing arrangements.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-4. Errors and omissions policy

(a) Each continuum of care facility or assisted living center shall file evidence of an errors and omissions policy to protect residents financially from the continuum of care facility's or assisted living center's errors.

(b) The policy shall be no less than five hundred thousand dollars (\$500,000) annual aggregate for all claims made during the policy period.

(c) The policy shall remain in force for at least one (1) year after licensure ends.

(d) Such policy shall be issued by an entity licensed or approved by the Oklahoma Insurance Commissioner to issue errors and omissions policies

in Oklahoma.

(e) Such policy shall be continuous in form, or renewed annually. If renewed annually, evidence of renewal shall be provided to the Department each year. The continuum of care facility or assisted living center shall ensure that the Department is notified of:

- (1) any lapse in coverage; or
- (2) termination of coverage at least thirty (30) days before termination.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-5. Fidelity bond

(a) The continuum of care facility or assisted living center shall provide evidence of fidelity coverage in addition to an errors and omissions insurance policy and other liability coverage. The named insured on the bond shall be the continuum of care facility or assisted living center. Insurance Services Office or Surety Association of America bond forms shall be acceptable. The fidelity bond shall be filed with the application.

(1) The bond shall be maintained through the term of licensure, and shall provide for discovery of losses at least one (1) year after termination or cancellation.

(2) The bond shall be executed by a surety company licensed by the Oklahoma Insurance Commissioner.

(3) The bond shall be continuous in form or may be renewed annually. If renewed annually, the continuum of care facility or assisted living center shall file evidence of renewal each year.

(4) Reimbursement to a continuum of care facility or assisted living center shall be from the first dollar of loss up to the full amount for which the person causing the loss is bonded.

(b) The amount of the bond shall be maintained at the greater of fifty thousand dollars (\$50,000) or ten (10) percent of the value of services the continuum of care facility or assisted living center provided in the prior calendar year, rounded to the nearest ten thousand dollars (\$10,000).

(c) The bond shall cover thefts, acts of dishonesty and embezzlement committed by the continuum of care facility's or assisted living center's employees, officers, directors or agents. (d) The continuum of care facility or assisted living center shall ensure that the Department is notified of:

- (1) any lapse in coverage; or
- (2) termination of coverage at least thirty (30) days before termination.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-6. Preference of claims

(a) If either the errors and omissions insurance policy or the fidelity bond is insufficient to pay all claims against the continuum of care facility or assisted living center, then claims shall be satisfied proportionately.

(b) A health provider's claim has the same priority as a resident's claim, if the provider agrees not to assert claims against residents.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-7. Liability insurance

In addition to the errors and omissions insurance policy and the fidelity bond, each continuum of care facility or assisted living center shall have liability insurance coverage to protect the interests of residents.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-8. Projections

(a) The Department may require a continuum of care facility or assisted living center to submit updates of projections required by OAC 310:663-21-5(a)(9). Each update shall explain any significant variance between operating results and previously forecast amounts.

(b) The Department may request a revision of a financial projection that is inconsistent with the continuum of care facility's or assisted living center's historic performance.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-9. Impairment

(a) A continuum of care facility or assisted living center with less than the minimum required net worth shall be considered an impaired continuum of care facility or assisted living center.

(b) The Department shall determine the amount of impairment. The amount of impairment may be based on a financial statement made by a continuum of care facility or assisted living center or on an examination report. The Department shall require the continuum of care facility or assisted living center to eliminate the impairment within ninety (90) days. If the continuum of care facility or assisted living center does not eliminate the impairment, the Department may revoke the continuum of care facility's or assisted living center's license.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 19. ADMINISTRATION, RECORDS AND POLICIES

310:663-19-1. Incident reports

(a) **Timeline for reporting.** All reports to the Department shall be made within one (1) Department business day of the reportable incident's discovery. A follow-up report of the incident shall be submitted to the Department within five (5) Department business days after the incident. The final report shall be filed with the Department when the full

investigation is complete, not to exceed ten (10) Department business days after the incident. Notifications to the Nurse Aide Registry using the ODH Form 718 must be made within one (1) Department business day of the reportable incident's discovery.

(b) **Incidents requiring report.** Each continuum of care facility and assisted living center shall prepare a written incident report for the following incidents:

- (1) allegations and incidents of resident abuse;
- (2) allegations and incidents of resident neglect;
- (3) allegations and incidents of misappropriation of resident's property;
- (4) accidental fires and fires not planned or supervised by facility staff, occurring on the licensed real estate;
- (5) storm damage resulting in relocation of a resident from a currently assigned room;
- (6) deaths by unusual occurrence, including accidental deaths or deaths other than by natural causes;
- (7) residents missing from the assisted living center upon determination by the assisted living
- (8) utility failure for more than eight (8) hours;
- (9) incidents occurring at the assisted living center, on the assisted living center grounds or during assisted living center sponsored events, that result in fractures, injury requiring treatment at a hospital, a physician's diagnosis of closed head injury or concussion, or head injuries that require more than first aid;
- (10) reportable diseases and injuries as specified by the Department in OAC 310:515 (relating to communicable disease and injury reporting); and,
- (11) situations arising where a criminal act is suspected. Such situations shall also be reported to local law enforcement.

(c) **Incidents involving another provider.** Each continuum of care facility and assisted living center shall promptly refer incidents involving another provider, including a hospice or home health agency, to the certification or licensure agency having jurisdiction over the provider.

(d) **Reports to the Department.** Each assisted living center shall report to the Department those incidents specified in 310:663-19-1(b). An assisted living center may use the Department's Long Term Care Incident Report Form.

(e) **Licensing boards.** Each assisted living center shall report allegations and incidents of resident abuse, neglect, or misappropriation of resident's property by licensed personnel to the appropriate licensing board within five (5) business days.

(f) **Notification of nurse aide registry.** Each continuum of care facility and assisted living center shall report allegations and occurrences of resident abuse, neglect, or misappropriation of resident's property by a nurse aide to the Nurse Aide Registry by submitting a completed "Notification of Nurse Aide Abuse, Neglect, Mistreatment or Misappropriation of Property" form (ODH Form 718), which requires the following:

- (1) facility/center name, address and telephone;

- (2) facility type;
- (3) date;
- (4) reporting party name or administrator name;
- (5) employee name and address;
- (6) employee certification number;
- (7) employee social security number;
- (8) employee telephone number;
- (9) termination action and date (if applicable);
- (10) other contact person name and address; and
- (11) the details of the allegation or occurrence of abuse, neglect, or misappropriation of resident property.

(g) Content of incident report.

- (1) The preliminary report shall at the minimum include:
 - (A) who, what, when, and where; and
 - (B) measures taken to protect the resident(s) during the investigation.
- (2) The follow-up report shall at the minimum include:
 - (A) preliminary information;
 - (B) the extent of the injury or damage if any; and
 - (C) preliminary findings of the investigation.
- (3) The final report shall, at the minimum, include preliminary and follow-up information and:
 - (A) a summary of investigative actions;
 - (B) investigative findings and conclusions based on findings;
 - (C) corrective measures to prevent future occurrences; and
 - (D) if items are omitted, why the items are omitted and when they will be provided.

(h) Emergency Response. In lieu of making incident reports during an emergency response to a natural or man-made disaster, the facility may coordinate its communications, status reports and assistance requests through the local emergency response coordinator, and file a final report with the Department within ten (10) days after conclusion of the emergency response.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08 ; Amended at 34 Ok Reg 1297, eff 10-1-17]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

310:663-19-2. Medication administration

- (a) Each assisted living center shall adopt written procedures to ensure safe administration of medications.
 - (1) Medications shall be administered only on a physician's order.
 - (2) The person responsible for administering medications shall personally prepare the dose, observe the swallowing of oral medication, and record the medication. Medications shall be prepared within one hour prior to administration.

(3) An accurate written record of medications administered shall be maintained. The medication record shall include:

(A) The identity and signature of the person administering the medication.

(B) The medication administered within one hour of the scheduled time.

(C) Medications administered as the resident's condition may require (p.r.n.) are recorded immediately, including the date, time, dose, medication, and administration method.

(D) Adverse reactions or results.

(E) Injection sites.

(F) An individual inventory record shall be maintained for each Schedule II medication prescribed for a resident.

(G) Medication error incident reports.

(4) A resident's adverse reactions shall be reported at once to the attending physician.

(b) An assisted living center may maintain nonprescription drugs for dispensing from a common or bulk supply if all of the following are accomplished.

(1) The assisted living center shall have and follow a written policy and procedure to assure safety in dispensing and documenting medications given to each resident.

(2) The assisted living center shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for each medication maintained in bulk.

(3) Only a licensed nurse, physician, pharmacist, certified medication aide or medication aide technician may dispense for administration these medications and only upon a physician's written order for as needed or nonscheduled dosage regimens. The physician's written order shall be maintained in the resident's clinical record.

(4) Bulk medications shall be stored in the medication area and not in resident rooms.

(5) The assisted living center shall maintain records of all bulk medications that are dispensed on an individual signed medication administration record.

(6) The assisted living center shall maintain the original label on the container as it comes from the manufacturer or on the unit-of-use or blister package.

(7) The assisted living center shall establish in its policy and procedure the maximum size of packaging and shall ensure that each resident receives the correct dosage. The assisted living center shall not acquire nor maintain a liquid medication in a package size that exceeds 16 fluid ounces.

(8) An assisted living center shall have only oral analgesics, antacids, and laxatives for bulk dispensing. No other category of medication shall be maintained as bulk medication.

(c) Antipsychotic drug administration shall be consistent with 63 O.S. § 1-881.

[**Source:** Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 17 Ok Reg 2069, eff 6-12-00 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08 ; Amended at 37 Ok Reg 1443, eff 9-11-20]

Editor's Note: ¹*See Editor's Note at beginning of this Chapter.*

310:663-19-3. Maintenance of records

- (a) There shall be an organized, accurate, clinical record, typewritten, electronic, or legibly written with pen and ink, for each resident admitted. The resident's record shall document all services provided under the direction of a licensed health care professional consistent with professional standards of practice.
- (b) Each resident's records shall be retained for at least five (5) years after the resident's transfer, discharge or death. Destruction of records shall be done in a manner to preserve resident confidentiality.
- (c) Records for the previous twelve (12) months of operation, whether original, electronic, or microfilm copies, shall be maintained in such form as to be legible and readily available upon request of the attending physician, the assisted living center and any person authorized by law to make such a request. Records more than twelve (12) months old, whether original, electronic, or microfilm copies, shall be maintained in such form as to be legible and available within seventy-two (72) hours upon request of the attending physician, the continuum of care facility or assisted living center, and any person authorized by law to make such a request.
- (d) Information contained in each resident's record shall be confidential and disclosed only to the resident, persons authorized by the resident, and persons authorized by law or rule.
- (e) Resident records shall be filed and stored to protect against loss, destruction, or unauthorized use.
- (f) The Department shall be informed in writing within five (5) business days of discovery whenever any resident's records are defaced, or destroyed, before the end of the required retention period.
- (g) If an assisted living center ceases operation, the Department shall be notified within five (5) business days of the arrangements for preserving the resident's record. The record shall be preserved for the required time and the information in the records shall be available to the health professionals or facilities assuming care of the resident so that continuity of care is available.
- (h) If the ownership of the assisted living center changes, the new licensee shall have custody of original or true and correct copies of all records required by this section for all current residents and the records shall be available to the former licensee and other authorized persons.
- (i) Incident reports required in 310:663-19-1. shall be retained, filed and stored to protect against loss, destruction, or unauthorized use for a period of two (2) years. Destruction of incident reports shall be done in a manner to preserve resident confidentiality.

[Source: Added at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:663-19-4. Policies

- (a) Each assisted living center shall have a written policy statement that expressly prohibits the abuse or neglect of residents or misappropriation

of resident property it serves. The policy shall include the facility's investigative procedures and actions to be taken when incidents of abuse or neglect of residents or misappropriation of resident's property occur.

(b) The administrator of the assisted living center who becomes aware of abuse or neglect of a resident or misappropriation of a resident's property shall immediately act to rectify the problem and shall make a report of the incident and its correction to the Department.

(c) The assisted living center shall provide staff, within ninety (90) days of employment, training in the identification of abuse and neglect of residents and misappropriation of resident property and the facility's policies and procedures concerning the same. Verification of the provision of training shall be written, signed by staff attending and retained in the personnel files.

[Source: Added at 27 Ok Reg 2541, eff 7-25-10]

SUBCHAPTER 21. APPLYING FOR A LICENSE

310:663-21-1. Application required

(a) Each continuum of care facility or assisted living center shall apply for a license on forms provided by the Department.

(b) The person or entity responsible for providing or arranging all required services and care shall be the applicant for establishment of the continuum of care facility or assisted living center and for the license.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

310:663-21-2. Deadlines for filing and period of license validity

(a) The application for establishment of a continuum of care facility or assisted living center shall be filed at or before the time when the application for an initial license is filed. Provided, however, that an application for establishment is not required in conjunction with the transfer of ownership or operation of a facility or center that is currently licensed under the Act and OAC 310:663.

(b) The license application shall be filed in accordance with the following deadlines.

(1) The application for an initial license of a new continuum of care facility or assisted living center shall be filed at least thirty (30) days before beginning operations.

(2) The application for an initial license, following a transfer of ownership or operation, shall be filed at least thirty (30) days before the final transfer. In the case of the appointment of a receiver as operator, this thirty (30) day advance filing requirement may be waived if the Department finds that an emergency exists which threatens the welfare of the residents. If an emergency is found to exist, the receiver shall file the license application before beginning operation of the assisted living center or continuum of care facility.

(3) The application for renewal of the license of an existing continuum of care facility or assisted living center, with no transfer of ownership or operation, shall be filed by the renewal date specified on the existing license.

(c) The renewal license shall expire three (3) years from the date of issuance. An initial license shall expire one hundred eighty (180) days after the date of issuance. Renewal licenses may be issued for a period of more than twelve (12) months, but not more than thirty-six (36) months, for the license period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates. [63 O.S. § 1-890.4 (D)].

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00 ; Amended at 21 Ok Reg 2436, eff 7-11-05 ; Amended at 39 Ok Reg 1390, eff 9-11-22]

310:663-21-3. Where to file

The application and the filing fees required under the Act and OAC 310:663-21-4 shall be delivered or mailed to the Department. The effective date of filing shall be the date the application and required fees are received by the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 16 Ok Reg 137, eff 10-14-98 (emergency); Amended at 16 Ok Reg 2519, eff 6-25-99]

310:663-21-4. Filing fees

(a) Each application to establish a continuum of care facility or assisted living center shall be accompanied by a non-refundable application fee of Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center. The maximum application fee for each facility or center shall be One Thousand Dollars (\$1000.00).

(b) Each application for an initial license, or renewal of the license, to operate a continuum of care facility or assisted living center shall be accompanied by a license fee. The initial license fee shall be Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center and the renewal license fee shall be Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center, per year of licensure, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from these fees. [63 O.S. § 1-890.4 (B)].

(c) If an application for an initial or renewal license includes an adult day care component, then an application for an adult day care license (OAC 310:605), must also be filed.

(d) The fee for a license renewal following an initial license, or for a license amendment to reflect a change in bed capacity, shall be prorated based on the number of days remaining until the current license expires, and, in the case of a change in bed capacity, the number of beds being added.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 16 Ok Reg 137, eff 10-14-98 (emergency); Amended at 16 Ok Reg 2519, eff 6-25-99 ; Amended at 21 Ok Reg 2436, eff 7-11-05 ; Amended at 39 Ok Reg 1390, eff 9-11-22]

310:663-21-5. Description of application forms

(a) The application for establishment of a continuum of care facility or assisted living center requests the following:

- (1) a description of the assisted living center or continuum of care facility and its operations, including the types and hours of staff, and maximum occupancy;
- (2) a description of the types of residents to be served;
- (3) a description of service to be offered, including any specialized services or units;
- (4) scaled and dimensioned architectural floor plans, life safety plans, and building code analysis, for an existing structure;
- (5) scaled and dimensioned architectural floor plans and specifications for new construction; and
- (6) contact person's name, address and telephone number.

(b) The application for an initial license of a continuum of care facility or assisted living center requests the following:

- (1) a description of the assisted living center or continuum of care facility and its operations, including the types and hours of staff, and maximum occupancy;
- (2) a description of the types of residents to be served;
- (3) a description of service to be offered, including any specialized services or units;
- (4) forms of all resident service contracts;
- (5) contact person's name, address and telephone number;
- (6) evidence of the applicant's financial resources;
- (7) evidence that the State Fire Marshal or authorized representative has inspected and approved the assisted living center or continuum of care facility;
- (8) a description of the procedure for receiving and resolving resident grievances and disputes; and
- (9) financial projections if the applicant is subject to the requirements of 310:663-17.

(c) The application to renew a license requests:

- (1) any changes in the information provided in OAC 310:663-21-5(b).
- (2) a summary of the resident grievance and dispute resolution activities for the preceding twelve (12) months.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 16 Ok Reg 137, eff 10-14-98 (emergency); Amended at 16 Ok Reg 2519, eff 6-25-99 ; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

SUBCHAPTER 23. APPROVING OR DISAPPROVING ESTABLISHMENT, AND ISSUING OR DENYING A LICENSE

310:663-23-1. Timeframes for review

The Department shall approve or disapprove the application for establishment, or issue or deny a license within thirty (30) days after receipt of application. This timeframe may be extended by ninety (90) days upon the mutual agreement of the applicant and the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

310:663-23-2. Transfer of license or approval to establish

No establishment shall be approved and no license shall be issued to any person other than the person making application. An approval to establish a continuum of care facility or assisted living center or a license shall not be transferred in whole or part to another person.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

310:663-23-3. Denial or disapproval of application

(a) An application for establishment or licensure may be disapproved or denied for failure to meet any of the standards in the Act or OAC 310:663.

(b) Within ten (10) days after disapproval or denial, the Department shall send written notice to the applicant. The notice of disapproval or denial shall include a statement of the deficiencies on which disapproval or denial was based and a notice of the opportunity for hearing if applicable.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

SUBCHAPTER 25. INSPECTIONS AND INVESTIGATIONS

310:663-25-1. Periodic inspections

(a) The Department shall inspect each continuum of care facility or assisted living center through an unannounced inspection at least once each fifteen (15) months, with a statewide average of twelve (12) months for all continuum of care facilities and assisted living centers.

(b) Prior to the termination of an initial license, the Department shall fully and completely inspect the assisted living center or continuum of care facility and, if it meets the applicable requirements for licensure, shall issue a license. If the Department finds that the continuum of care facility or assisted living center does not meet the requirements, the initial license may be extended once for a period not to exceed one hundred twenty (120) days from the expiration date of the initial license.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-25-2. Investigations

The Department whenever it deems necessary shall inspect, survey and evaluate each continuum of care facility or assisted living center to determine compliance with applicable licensure requirements.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-25-3. Outcome standards

To the extent allowed in this Chapter, if an assisted living center provides or arranges skilled nursing care, the Department shall assess the quality of that care against applicable standards of practice specified in Appendix B.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

310:663-25-4. Notice of violation, plans of correction, and right to hearing

(a) **Notice of Violation.** If upon survey or investigation the Department finds that the continuum of care facility or assisted living center is in violation of the Act or this Chapter, the Department shall provide written notice of the violation to the continuum of care facility or assisted living center.

(b) **Plan of Correction.**

(1) A continuum of care facility or assisted living center shall submit a plan of correction within ten (10) Department business days after receipt of notice of violation. Failure to timely submit a plan of correction shall be subject to the penalties provided in Title 63 O.S. Section 1-890.6.

(2) An acceptable plan of correction shall:

(A) Address how corrective action will be accomplished for those residents found to have been affected by the deficient practice.

(B) Address how the continuum of care facility or assisted living center will identify other residents having the potential to be affected by the same deficient practice.

Plans of correction specific to residents identified on the deficiency statement are acceptable only where the deficiency is determined to be unique to that resident and not indicative of a possible systemic problem.

(C) Address what measures will be put into place or systemic changes made to ensure that the deficient practice will not recur.

(D) Indicate how the continuum of care facility or assisted living center plans to monitor its performance to make sure that corrections are sustained. The continuum of care facility or assisted living center shall develop a plan for ensuring that correction is achieved and sustained. The actions taken to correct the deficient practice must be

evaluated for its effectiveness. The plan of correction shall be incorporated into the quality assurance system. At the revisit, the monitoring records may be reviewed to determine the earliest date of compliance. If there is no evidence of evaluation of the correction, the earliest correction date will be the date of the revisit. The continuum of care facility or assisted living center is not required to provide quality assurance minutes for the purposes of this section.

(E) Include dates when corrective action will be completed for each violation. The corrective action completion dates shall not exceed sixty (60) calendar days from receipt of notice of violation.

(F) Be signed by the administrator.

(3) Upon written request from the continuum of care facility or assisted living center, the Department may extend the time period within which the violations are to be corrected where correction involves substantial structural improvement. Such request shall be provided to the Department within the timeline specified at 310:663-25-4(b)(1) (relating to submission within ten (10) Department business days) or prior to expiration of the correction time originally approved. The burden of proof shall be on the licensee to show good cause for not being able to comply with the timeline in 310:663-25-4(b)(2)(E) (relating to correction within sixty (60) days).

(4) The Department shall provide written notice of the acceptance or rejection of a plan of correction within ten (10) Department business days. If the Department fails to provide notice of acceptance or rejection within the required time frame, notice will be provided as soon as time permits and any delay on the Department's part will result in a day for day off-set in any per diem penalty. If the Department finds that the plan of correction does not meet the requirements for an acceptable plan of correction as specified in this section the Department shall provide notice of the rejection and the reason for the rejection to the continuum of care facility or assisted living center. The continuum of care facility or assisted living center shall have ten (10) Department business days after receipt of the notice of rejection in which to submit an amended plan. If the amended plan is not timely submitted, or if the amended plan is rejected, the Department shall give notice of intent to pursue penalties, as provided in Title 63 O.S. Section 1-890.6., or notice of intent to conduct a revisit to determine if violations continue.

(5) Acceptance of the plan of correction by the Department does not absolve the continuum of care facility or assisted living center of the responsibility for compliance should the implementation not result in correction and compliance. Acceptance indicates the Department's acknowledgment that the continuum of care facility or assisted living center indicated a willingness to make timely corrections.

(6) If the violation has been corrected prior to submission and approval of a plan of correction, the continuum of care facility or assisted living center may submit a report of correction in place of a plan of correction. The report of correction shall address those requirements specified in this section.

(7) If a continuum of care facility or assisted living center desires to contest any Department action under this section, it shall send a written request for a hearing to the Hearing Clerk, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, OK 73117. The request for hearing shall be submitted within ten (10) Department business days of receipt of notice of the contested action.

(c) **Right to Hearing.** The Department shall notify the assisted living center in writing of the Department's intent to take remedial action, to impose an administrative penalty, or to take action against the license issued under the act, and of the rights of the assisted living center under this section, including without limitation the right to a hearing.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

SUBCHAPTER 27. REPORTS AND FILINGS

310:663-27-1. Application form changes

Any substantial change in the information originally reported in the license application shall be submitted to the Department for review.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-27-2. Department review

Within thirty (30) days after receipt, the Department shall approve or deny proposed changes or required filings.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 29. TERMINATING AND CONTINUING SERVICES

310:663-29-1. Terminating contracts

A continuum of care facility or assisted living center shall notify a resident, the resident's representative, and a member of the resident's family at least thirty (30) days before terminating or not renewing the resident's contract. Notification to family members of the termination of resident's contract shall only occur with the written permission of the resident or the resident's representative.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-29-2. Notice of voluntary closure

(a) **Timeline for notice of intent to close.** A continuum of care facility or assisted living center shall notify all residents, their representatives, and the Department in writing at least ninety (90) days before any of the following:

- (1) voluntary cessation of business; or
- (2) closure of all or part of a continuum of care facility or assisted living center.

(b) **Contents of notice.** The notice of closure shall state:

- (1) the proposed date of closing;
- (2) the reason for closing;
- (3) an offer to assist the resident in securing an alternative placement;
- (4) advise the resident or resident's representative on available housing alternatives and that where the resident is unable to choose an alternative placement and is not under guardianship, the Department shall be notified of the need for relocation assistance;
- (5) the facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents.

(c) **Final notice of closure.** Following the move-out of the last resident, the continuum of care facility or assisted living center shall provide the Department, in writing, the following:

- (1) the effective date of closure based on the discharge date of the last resident;
- (2) a list of residents transferred or discharged and the location to where they relocated, whether another continuum of care facility or assisted living center or alternative placement; and
- (3) the plan for storage of resident records pursuant to 310:663-19-3(g)(relating to preservation of resident records) and the name, address and phone number of the person responsible for the records.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98 ; Amended at 24 Ok Reg 2007, eff 6-25-07 ¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

SUBCHAPTER 31. SUSPENDING OR WITHDRAWING A LICENSE

310:663-31-1. Conditions to revoke or suspend

The Department may revoke or suspend a license issued to a continuum of care facility or assisted living center, or take such other steps as appropriate, if the continuum of care facility or assisted living center is not in compliance with the Act or OAC 310:663.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-31-2. Suspended license

(a) While a continuum of care facility's or assisted living center's license is suspended, the continuum of care facility or assisted living center shall not enroll, advertise or solicit additional business.

(b) The order suspending the license shall specify the period of suspension and conditions to be met for reinstatement.

(c) A continuum of care facility or assisted living center's license shall not be suspended without cause. Within ten (10) days of suspension, the Department shall send written notice to the applicant. The notice of suspension shall include a statement of the deficiencies on which the suspension was based and notice of the opportunity for hearing.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-31-3. Revoked license

(a) The continuum of care facility or assisted living center shall conduct no business except as may be essential to the orderly conclusion of its affairs when a continuum of care facility's or assisted living center's license is revoked. The Department may order such operations as needed to afford residents a practical opportunity for care and services.

(b) To reinstate a license after revocation, the continuum of care facility or assisted living center shall follow the procedures for an initial application specified at OAC 310:663-21.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

APPENDIX A. HOT WATER USE

Figure 1

	Resident Use		
	Bathing	Dietary	Laundry
Gallons (per hr. & bed)	6 1/2	4	4 1/2
Temperature	115° F. (46° C.)	*120° F. (49° C.)	**160° F. (70° C.)

* Rinse water temperature at automatic warewashing equipment shall be 180° (82.1° C.).

** Required temperature of 160°F (70° C.) in the laundry area is that measured in the washing machine and shall be supplied so that temperature may be maintained over the entire wash and rinse period. Attention is called to the fact that control of bacteria in laundry processing is dependent upon a number of inter-related factors such as detergent, bleach, number of rinses and temperature. In most instances, maximum overall economies with acceptable results can be achieved with the use of 160° F. (70° C.) water. Lesser temperature may require excessive bleaching or other chemical treatment that would be damaging to fabrics.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

APPENDIX B. REFERENCE LIST FOR STANDARDS OF PRACTICE

Figure 1

(Referring to OAC 310:663-25-3. Outcome Standards)

"Physical Examination and Health Assessment" - Third Edition - Carolyn Jarvis

"Medical-Surgical Nursing Assessment and Management of Clinical Problems" - Fifth Edition - Lewis, Heitkemper and Dirksen (Mosby)

"Handbook of Geriatric Nursing" - Second Edition - Lippincott, Williams and Wilkins

"Clinical Nursing Skills - Basic To Advanced Skills" - Fifth Edition - Smith, Duell and Martin

Oklahoma Board of Nursing Guidelines and Position Statements:

"A Decision-Making Model for Determining RN/LPN Scope of Practice Model - Model for Scope of Nursing Practice Decisions"

"Abandonment Statement"

"Advanced Practice Nurses with Prescriptive Authority Exclusionary Formulary"

"Delegation of Nursing Functions to Unlicensed Persons"

"Guidelines for Employment of Individuals Enrolled in or Non-Licensed Graduates of Nursing Education Programs"

"Guidelines for the Registered Nurse in Administering, Managing and Monitoring Patients Receiving Analgesia/Anesthesia by Catheter Techniques"

"Issuance of Temporary Licenses for RNs and LPNs"

"Licensure Verification and Photocopying of Nursing Licenses"

"Patient Assessment Guidelines"

"Refresher Course Policy"

"Wound Debridement by Licensed Nurses Guideline"

Standards of the American Nurses Association and Specialty Nursing Organizations:

"Nursing: Scope and Standards of Practice" Pub# 03SSNP - 2004

"Scope and Standards for Nurse Administrators" (Second Edition); Pub#03SSNA - 2004

Figure 2

"Scope and Standards of Diabetes Nursing Practice" (2nd Edition); Pub# DNP23 - 2003

"Scope and Standards of Forensic Nursing Practice" Pub# ST-4 - 1997

"Scope and Standards of Gerontological Nursing Practice" 2nd Edition; Pub# GNP21 - 2001

"Scope and Standards of Hospice and Palliative Nursing Practice" Pub# HPN22 - 2002

"Scope and Standards of Neuroscience Nursing Practice" Pub# NNS22 - 2002

"Scope and Standards of Nursing Informatics Practice" Pub# NIP21 - 2001

"Scope and Standards of Psychiatric-Mental Health Nursing Practice" Pub# PMH-20 - 2000

"Statement on the Scope and Standards for the Nurse Who Specializes in Developmental Disabilities and/or Mental Retardation" Pub# 9802ST - 1998

"Statement on the Scope and Standards of Oncology Nursing Practice" Pub# MS-23 - 1996

Editor's Note: ¹*See Editor's Note at beginning of this Chapter.*

[**Source:** Added at 24 Ok Reg 2007, eff 6-25-07 ¹; Added at 25 Ok Reg 2460, eff 7-11-08]

Editor's Note: ¹*See Editor's Note at beginning of this Chapter.*

CHAPTER 664. HOME CARE ADMINISTRATOR CERTIFICATION

[**Authority:** 63 O.S., §§ 1-104 and 1-1964]
[**Source:** Codified 6-11-98]

SUBCHAPTER 1. GENERAL PROVISIONS

310:664-1-1. Purpose

The rules of this Chapter implement *Title 63 O.S. Supp. 1996, § 1-1962*, establishing the minimum criteria for the issuance, maintenance, and renewal of a home care administrator certificate and the procedure for enforcement. This Chapter specifies qualifications which shall be met in order to be eligible to apply for, receive, maintain, and renew a home care administrator certificate. The minimum criteria for educational preparation, eligibility for the qualifying examination, and continuing education are established. Academic credentials, qualifications, and experience of instructors of approved curricula are also established.

[**Source:** Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-1-2. Definitions

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

"Accredited" means current credentials from a national accrediting agency or a nationally recognized regional accrediting agency or state approval agency appropriate to the missions and goals of the institution.

"Act" means the Home Care Act, [63 O.S. Supp. 1996, § 1-1960 et seq.].

"Board" means the State Board of Health.

"Certification" means verification of appropriate training and competency for a home care administrator as required by this Chapter.

"Competency" means experiential and educational preparation as specified by this Chapter and successful performance on the Oklahoma Home Care Administrator Preparedness Assessment.

"Continuing education" means education and training required for renewal of a home care administrator certificate.

"Deeming" means to grant a person who met one (1) criterion pursuant to 310:664-3-4 permission to challenge the Oklahoma Home Care Administrator Preparedness Assessment (OHCAPA) without completion of the Preparedness Program.

"Denial" means the Department's decision to preclude issuance of a home care administrator certificate to an individual.

"Department" means *the State Department of Health*[63 O.S. Supp. 1996, § 1-1961(3)].

"Disapproval" means the Department's decision to withhold approval of an application for a home care administrator certificate.

"Enforcement" means the Department's actions and processes to ensure compliance with promulgated rules.

"Governing body" means the entity having ultimate responsibility for a home care agency, including fiscal and legal authority.

"Home care agency" means *any sole proprietorship, partnership, association, corporation, or other organization which administers, offers or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence. The term "home care agency" shall not include individuals who contract with the Department of Human Services to provide personal care services, provided such individuals are not exempt from certification as home health aides [63 O.S. Supp. 1996, § 1-1961(4)].*

"Home care administrator" means *a person who operates, manages, or supervises, or is in charge of a home care agency [63 O.S. Supp. 1996, § 1-1961(7)].*

"Home study" means education that takes place in a physical setting other than an educational classroom, teleconferencing site, seminar, conference or professional association at which the student and instructor have interaction that is face-to-face or mediated by real-time two-way teleconferencing.

"Inactive status" means a certificate designated as a non-participant credential in the Department's records.

"Misappropriation of property" means the taking, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal or anything of value belonging to or under the legal control of a client or other legal authority, or the taking of any action contrary to any duty imposed by federal or state law prescribing conduct relating to the custody or disposition of a client's property.

"Non-renewal" means the Department's decision to deny the renewal of a home care administrator certificate.

"Oklahoma Home Care Administrator Preparedness Assessment" or **"OHCAPA"** means a Department-approved examination for a home care administrator candidate.

"OSBI" means the Oklahoma State Bureau of Investigation.

"Preparedness program" means the Department-approved activities and course designed to prepare a person to challenge the OHCAPA.

"Proctor" means a person approved by the Department to monitor the curriculum, testing, and hours required for continuing education and report non-compliance and substandard compliance by programs and enrolled persons to the Department.

"Provisional certificate" means a temporary credential that permits temporary employment as an administrator or alternate home care administrator.

"Qualified instructor" means a person with academic credentials commensurate with instruction at accredited state post secondary or higher education institutions or with other credentials that meet the Department approval pursuant to 310:664-5-5.

"Revocation" means the Department's decision to nullify a previously issued home care administrator certificate.

"Subunit" means a semi-autonomous organization that serves clients in a geographic area different from that of the parent agency.

"Suspension" means the Department's decision to render a home care administrator certificate void for a specified period of time.

"Waiver" means the Department's decision to allow a person who meets qualifications pursuant to 310:664-3-2 to receive a home care administrator certificate without challenging the OHCAPA.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 16 Ok Reg 3491, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2070, eff 6-12-00 ; Amended at 18 Ok Reg 3595, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1061, eff 5-13-02]

310:664-1-3. Applicability

(a) An individual who functions as a home care administrator shall meet the Department standards for certification and hold a home care administrator certificate.

(b) A home care administrator shall post the certificate or a Department-certified duplicate at the parent home care agency or subunit office and a copy at each branch. The certificate shall be displayed at a place noticeable to the public.

(c) A home care administrator shall not function concurrently at more than two (2) agencies or subunits.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 16 Ok Reg 3491, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2070, eff 6-12-00]

SUBCHAPTER 3. INITIAL CERTIFICATE PROCESS

310:664-3-1. Eligibility

An individual shall be eligible to apply for a home care administrator certificate by meeting one (1) of the following criteria:

- (1) Successfully completing a Department-approved preparedness program and the OHCAPA; or
- (2) Being deemed to have met the Department-approved preparedness program standards and successful completion of the OHCAPA.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 18 Ok Reg 3595, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1061, eff 5-13-02]

310:664-3-2. Certificate by waiver [REVOKED]

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 16 Ok Reg 3491, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2070, eff 6-12-00 ; Revoked at 18 Ok Reg 3595, eff 8-22-01 (emergency); Revoked at 19 Ok Reg 1061, eff 5-13-02]

310:664-3-3. Certificate by completion of the OHCAPA

An individual who has successfully completed the Department-approved preparedness program and the OHCAPA or who is otherwise deemed to meet the preparedness program standards and passed the

OHCAPA may apply for a home care administrator certificate. An individual shall apply for an initial home care administrator certificate within six (6) months after passing the OHCAPA. Failure to submit an application during the required time frame will result in the individual having to meet the deeming criteria and repeating the OHCAPA. The individual shall apply on the Department form. The application shall include, but not be limited to, the following information:

- (1) Name, complete home mailing address, and telephone number, of the applicant;
- (2) A copy of the results of a criminal arrest check conducted by the OSBI completed within sixty (60) days prior to the date of the application;
- (3) Evidence of successful completion of the OHCAPA; and
- (4) A non-refundable fee of one hundred forty dollars (\$140).

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 18 Ok Reg 3595, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1061, eff 5-13-02 ; Amended at 20 Ok Reg 2384, eff 7-11-03 ; Amended at 26 Ok Reg 1516, eff 6-11-09]

310:664-3-4. Deeming criteria

The Department may grant exceptions from the preparedness program requirement stated in this Chapter, for the purpose of allowing an individual to take the OHCAPA. An individual with one (1) of the following qualifications shall be eligible to take the OHCAPA without completion of the preparedness program:

- (1) Baccalaureate or higher degree from an accredited institution with at least one (1) year full time experience in home care within the immediate past two (2) years;
- (2) Associate or higher degree in a health field from an accredited institution and with at least one (1) year of full time employment in home care within the immediate past two (2) years;
- (3) Certificate of Achievement in Health Care Administration by completion of a minimum of thirty (30) college credit hours at an accredited institution in the State and with at least one (1) year of full time employment in home care within the immediate past two (2) years;
- (4) Registered nurse in the State and with at least one (1) year of full time experience in home care within the immediate past two (2) years; or
- (5) Evidence of achieving the passing score on the National Association for Home Care Executive Certification Program examination.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 18 Ok Reg 3595, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1061, eff 5-13-02]

310:664-3-5. Deeming application process

(a) An individual who desires to apply for deemed status shall apply on the Department form which shall include, but not be limited to, the following:

- (1) Name, complete home mailing address, and telephone number of the applicant;
 - (2) Copies of credentials which provide evidence of meeting any of the criteria specified in 310:664-3-4; and
 - (3) A non-refundable fee of eighty dollars (\$80.00).
- (b) The Department shall notify the individual of the decision to approve or disapprove the application within ninety (90) days.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 26 Ok Reg 1516, eff 6-11-09]

310:664-3-6. Provisional certificate

- (a) An individual may function as an administrator no longer than six (6) months with a provisional certificate, provided that one (1) of the deeming criteria as specified in OAC 310:664-3-4 has been acknowledged by the Department.
- (b) An individual shall apply on the Department form which shall include, but not be limited to, the following:
- (1) Name, complete home mailing address, and telephone number;
 - (2) The name and address of the agency where employed;
 - (3) A copy of written authorization by the administrator or member of the governing board allowing the individual to temporarily function as the administrator;
 - (4) Evidence of meeting the deeming criteria specified in OAC 310:664-3-4;
 - (5) A one (1) time, non-refundable fee of eighty dollars (\$80.00); and
 - (6) A copy of the results of a criminal arrest check conducted by the OSBI within sixty (60) days prior to submission of the application.
- (c) The Department shall notify the applicant of its decision within thirty (30) days from receipt of the application.
- (d) Any individual that alters any administrator certificate or allows alteration of any administrator certificate shall be denied a home care administrator certificate upon application.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 16 Ok Reg 3491, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2070, eff 6-12-00 ; Amended at 18 Ok Reg 3595, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1061, eff 5-13-02 ; Amended at 20 Ok Reg 2384, eff 7-11-03 ; Amended at 26 Ok Reg 1516, eff 6-11-09]

SUBCHAPTER 5. PREPAREDNESS PROGRAM

310:664-5-1. Qualifications of applicant

Applicants shall be a graduate of a high school accredited at the time of graduation by the State Department of Education or its equivalent in that high school's state, or shall have achieved a passing score on the General Education and Development (GED) examination, or shall have met the criteria for an adult high school diploma.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-5-2. Approved programs

- (a) The Department shall approve a preparedness program that meets the requirements specified in this Chapter.
- (b) An institution seeking approval shall apply on the Department form and submit the application fee of one hundred twenty five dollars (\$125.00) to the Department.
- (c) The Department shall review, approve, or disapprove a preparedness program and notify the applicant of its action within ninety (90) days.
- (d) An approved preparedness program shall allow a Department proctor or representative to make unannounced visits to review the program.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 23 Ok Reg 3166, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2018, eff 6-25-07 ; Amended at 26 Ok Reg 1516, eff 6-11-09]

310:664-5-3. Quality assurance

- (a) An approved preparedness program shall develop a method to assure quality of the course. The preparedness program shall assess the adequacy of course instruction for each quarter based on the method developed to assure quality in an annual report.
- (b) The annual report shall include, but not be limited to, a quantified expression of the following:
 - (1) Participant enrollment in the program each quarter; and
 - (2) Participants successfully completing the course each quarter.
- (c) The annual report shall be sent to the Department not later than fourteen (14) days following completion of the fourth quarter course.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-5-4. Curriculum

The preparedness program shall include at least one hundred sixty (160) hours which shall include, but is not limited to, the following course components:

- (1) Administrative skills, duties, and responsibilities;
- (2) Administrative procedures and strategic planning;
- (3) Community relations and public information;
- (4) Fiscal and information data management;
- (5) Human relations; and
- (6) Ethics.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-5-5. Instructor qualifications

The course shall be instructed by an interdisciplinary team composed of individuals with credentials commensurate with the standards of accredited state educational institutions and/or professionals with qualifications that meet Department approval.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-5-6. Program records

(a) The approved program shall maintain participant records for at least three (3) years which shall include, but not be limited to, the following:

- (1) Attendance records; and
- (2) Results of examination of course curriculum components.

(b) The approved program shall submit a report to the Department within fourteen (14) days of completion of each program which shall include, but is not limited to, the following:

- (1) The name of the institution providing the program;
- (2) The month and year of program completion; and
- (3) An alphabetical list of participants who successfully completed the course and who are eligible to take the OHCAPA.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-5-7. Program application

- (a) An institution which desires to sponsor a preparedness program shall apply on the Department form.
- (b) No preparedness program shall be operated, and no participant shall be solicited or enrolled, until the Department has approved the program.
- (c) The application shall include, but is not limited to, the following:
 - (1) A course syllabus that outlines course content including total hours for implementation, time per session, number of sessions, and the calendar dates for each session;
 - (2) Instructor qualification information;
 - (3) A copy of the certificate to be issued to participants at completion of program;
 - (4) Location of the classroom;
 - (5) Program objectives;
 - (6) A description of the learning environment including, but not limited to, the following:
 - (A) Location of and accessibility to the site;
 - (B) Adequacy of lighting;
 - (C) Accommodations for handicapped;
 - (D) Accessibility, safety, and sanitation of personal conveniences;
 - (E) Controlled system to heat and cool air; and
 - (F) Number of participants the classroom can accommodate.
 - (7) Letter(s) of agreement for instructional use of the facility signed by the facility administrator and the coordinating representative of the applicant.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-5-8. Notification of changes

- (a) An approved preparedness program shall notify the Department for approval when substantial changes to the program are proposed or impending. The Department shall have ninety (90) days after receipt of complete notice of substantial change to approve or deny the proposed change.
- (b) Substantial changes shall include, but not be limited to, the following:
 - (1) The curriculum;
 - (2) Methods of curriculum delivery;
 - (3) The primary instructors; or
 - (4) Location of the preparedness program.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-5-9. Program review and actions

- (a) The Department shall withhold approval of a preparedness program when one (1) of the following has occurred:
 - (1) Submission of incomplete or fraudulent application documents;
 - (2) Program failure to meet Department requirements;

- (3) Non-compliance of data transfer to the Department;
 - (4) Non-compliance with unannounced review visitation; or
 - (5) Failure rate of at least fifteen percent (15%) of persons challenging the OHCAPA who completed the program.
- (b) Withholding of approval shall mean that a preparedness program is discontinued until the Department is assured that the program has made the necessary corrections and is in compliance with the rules.
- (c) If the Department withholds approval of a preparedness program, the Department shall:
- (1) Notify the institution in writing of the reason for the withdrawal of approval; and
 - (2) Allow participants enrolled in the preparedness program an option to complete the curriculum at the institution or transfer to another Department-approved preparedness program.
- (d) An institution's coordinating representative of the preparedness program may request reconsideration of the Department's decision in accordance with Chapter 2 of this Title and appealed according to the Administrative Procedures Act.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-5-10. Voluntary termination of a preparedness program

- (a) When an institution terminates a Department-approved preparedness program, the program shall:
- (1) Notify the Department at least sixty (60) days in advance, in writing, stating the reason, plan, and date of intention to terminate; and
 - (2) Continue the preparedness program until currently enrolled participants have completed the curriculum and received a certificate of completion.
- (b) The institution shall notify the Department of its plan to safeguard the preparedness program records.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

SUBCHAPTER 7. REQUIREMENTS FOR EXAMINATION

310:664-7-1. Oklahoma Home Care Administrator Preparedness Assessment

- (a) The Oklahoma Home Care Administrator Preparedness Assessment (OHCAPA) shall be Department approved and offered at least quarterly.
- (b) The OHCAPA may be administered at a state vocational technical institution, state institution of higher education, or a professional testing and evaluation center in the State.
- (c) An individual shall sit for the OHCAPA within three (3) months after completing a preparedness program or being deemed. Failure to take the OHCAPA during the three (3) month time frame will require the individual to resubmit another application for the deeming process and a non-refundable fee of fifty dollars (\$50). The Department may grant an

applicant an exception or extension if such requirement causes an undue hardship for the applicant due to unusual circumstances or illness.

(d) Each approved OHCAPA exam developer shall provide the Department with the following:

- (1) Written job analysis studies to determine the pool of test questions;
- (2) Test question validation studies;
- (3) Test administration and scoring procedures;
- (4) Capabilities of providing examination results in the proper format to the Department within thirty (30) days of examination;
- (5) Assurances of test security;
- (6) A report following each test administration which specifies:
 - (A) Date of administration of the OHCAPA;
 - (B) Name and examination score for each examinee; and
 - (C) Name of the preparedness program which each examinee completed and the pass percentages for each preparedness program course.

(e) Each approved OHCAPA exam developer shall provide the examinee with the following:

- (1) A notice showing pass or fail results;
- (2) A notice specifying the areas of failure; and
- (3) A notice stating that three (3) OHCAPA challenges were not successful and completion of the preparedness program shall be required prior to another attempt to pass the OHCAPA.

(f) The Department may withhold approval of an OHCAPA examiner when one (1) or more of the following has been determined to occur:

- (1) Insufficient security measures in administration of testing;
- (2) Impropriety or tampering by OHCAPA examiners or by non-authorized persons;
- (3) Failure to provide the Department with examination results or reports pursuant to OAC 310:664-7-1(A)(B)(C); and
- (4) Allowing another entity not approved by the Department to score the examination.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 20 Ok Reg 2384, eff 7-11-03]

310:664-7-2. Successful completion of the OHCAPA

(a) An individual shall score at least seventy percent (70%) to pass the OHCAPA.

(b) An individual may retake the examination a total of three (3) times without completing or repeating a preparedness program.

(c) Upon written notice from the OHCAPA examiner of passing the OHCAPA, the individual may apply for a home care administrator certificate by following the procedure pursuant to OAC 310:664-3-3.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 20 Ok Reg 2384, eff 7-11-03]

SUBCHAPTER 9. CONTINUING EDUCATION REQUIREMENTS

310:664-9-1. Purpose

The purpose of this subchapter is to establish the continuing education requirements necessary for certificate renewal.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-9-2. Number of hours required

(a) A home care administrator shall complete and furnish documentation to the Department of at least twelve (12) hours of continuing education each year by July 31. The continuing education must be acceptable and verifiable per the requirements addressed at OAC 310:664-9-3 and OAC 310:664-9-4.

(b) No more than six (6) hours of continuing education accrued through home study shall be acceptable.

(c) No continuing education is required for the first renewal.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 18 Ok Reg 3595, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1061, eff 5-13-02 ; Amended at 20 Ok Reg 2384, eff 7-11-03]

310:664-9-3. Acceptable continuing education

(a) Continuing education curricular content is acceptable to the Department when it:

(1) Approximates any of the academic areas pursuant to OAC 310:664-5-4;

(2) Includes content which assists administrators in improving of professional competencies; or

(3) Occurs in a graduate or undergraduate course, seminar, workshop, conference, or professional association for the purpose of enhancing professional competency. Excludes independent reading and informal meetings that are informational in nature and are offered as a public service and not for the offering of continuing education.

(b) An acceptable instructor is an individual who has:

(1) Experience in home care administration; or

(2) Expertise in teaching and instructional methods suitable to the subject presented; or

(3) Academic qualifications and experience for the subject.

(c) If a home care administrator requires continuing education to renew additional credentials specific to clinical practice, no more than six (6) of the required twelve (12) hours for renewing a home care administrator certification may have a clinical emphasis.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 18 Ok Reg 3595, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1061, eff 5-13-02 ; Amended at 20 Ok Reg 2384, eff 7-11-03]

310:664-9-4. Documentation of attendance

(a) A home care administrator shall submit with the application verification of attendance documents for at least twelve (12) hours of continuing education. Acceptable documents include at least one (1) of the following:

- (1) A continuing education validation form furnished by the presenter or a certificate of attendance and an agenda;
 - (2) A letter on the sponsoring presenter's letterhead giving the name of the program, location, dates, subject taught, total number of hours attended, participant's name and presenter's name and credentials; or
 - (3) An official college transcript showing courses completed with credit issued or audit credit.
- (b) Only continuing education accrued in the preceding certificate renewal period is acceptable.
- (c) Submission of fraudulent continuing education hours shall be the cause for disciplinary action and may result in suspension or revocation of the certificate.
- (d) Documentation of home study shall include proof of registration for and completion of continuing education hours or units supplied by the provider of the home study education materials.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 19 Ok Reg 2097, eff 6-27-02 ; Amended at 20 Ok Reg 2384, eff 7-11-03]

310:664-9-5. Penalty for failure to fulfill continuing education

Failure to fulfill the continuing education requirements by the renewal date shall be cause for suspension and may result in revocation of the certificate.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

SUBCHAPTER 11. RENEWAL OF CERTIFICATION

310:664-11-1. Certification renewal process

- (a) A home care administrator is responsible for filing for certificate renewal before the expiration date.
- (b) Each certificate shall expire on each July 31 following its issuance.
- (c) Failure to renew by October 31st shall result in presumed nonrenewal of certificate and the individual shall not provide services as a home care administrator until and unless the individual files an application and meets requirements for renewal as follows.
- (1) If the individual applies within one year after expiration of the certificate, the individual shall provide proof of successful completion of twelve (12) hours of continuing education completed prior to the expired year;
 - (2) If the individual applies within two years after expiration of the certificate, the individual shall provide proof of successful completion of 12 hours of continuing education for the previous expired year and an additional twelve (12) hours of continuing education for the current year in which renewal is requested;
 - (3) If the individual applies more than two years but not more than five years after expiration of the certificate, the individual shall be required to pass the OHCAPA; and

- (4) If the individual applies more than five years after expiration of the certificate, the individual must successfully complete a preparedness program and the OHCAPA to be reinstated.
- (d) The renewal application shall include, but not be limited to, the following:
- (1) Documentation of the continuing education as specified in OAC 310:664-9-4;
 - (2) Renewal fee of fifty-five dollars (\$55.00) payable to the Department;
 - (3) Disclosure of any felony conviction since the previous application for certification or renewal;
 - (4) If the renewal is filed on or after August 31 and on or before September 30, a penalty of twenty-five dollars (\$25.00) payable to the Department; and
 - (5) If the renewal is filed on or after October 1 and before October 31, a penalty of fifty dollars (\$50.00) payable to the Department.
- An applicant shall submit \$50.00 each year up to \$100.00 for failing to renew within a two (2) year time frame as addressed at OAC 310:664-11-1(1) and (2).

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 16 Ok Reg 3491, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2070, eff 6-12-00 ; Amended at 18 Ok Reg 3595, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1061, eff 5-13-02 ; Amended at 20 Ok Reg 2384, eff 7-11-03 ; Amended at 26 Ok Reg 1516, eff 6-11-09]

310:664-11-2. Inactive status

- (a) A certificate may be placed on inactive status by written request by July 31, while the certificate is active and not expired. After five (5) years, such individual must meet the requirements addressed at OAC 310:664-3-1 and successfully pass the OHCAPA to become a certified home care administrator.
- (b) When a certificate is placed on inactive status, the certificate shall be returned to the Department.
- (c) Active status may be re-established upon submitting a completed renewal application, payment of a renewal fee prorated for one (1) year, and the submission of twelve (12) hours continuing education acquired since August 1st.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 20 Ok Reg 2384, eff 7-11-03]

310:664-11-3. Re-issuance of certificate

An individual may request a duplicate or amended certificate by submitting a written request with applicable supporting documentation and a nonrefundable fifteen dollar (\$15.00) fee.

[Source: Added at 26 Ok Reg 1516, eff 6-11-09]

SUBCHAPTER 13. ENFORCEMENT

310:664-13-1. Purpose

The purpose of the subchapter is to specify procedures for complaints against home care administrators, certificate denial, revocation, suspension and administrative penalties which are applicable to home care administrators.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-13-2. Violations and investigations

(a) Any person wishing to report an alleged violation by a home care administrator shall notify the Department in writing and shall include the following:

- (1) Nature of the alleged violation;
- (2) Name of the administrator;
- (3) Name, address, city of the agency, and location in which the alleged violation occurred.

(b) Upon receipt of a report, the Department shall acknowledge the report.

(c) The Department shall investigate the report to determine if there is enough evidence to support the alleged violation.

(d) Based on the results of the investigation the Department may:

- (1) Report to the person making the report that the alleged violation could not be substantiated;
- (2) Conduct an informal dispute resolution;
- (3) File an individual proceeding against an administrator seeking administrative penalties;
- (4) Suspend or revoke the certification of an administrator; or
- (5) Take other remedial actions.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 18 Ok Reg 3595, eff 8-22-01 (emergency); Amended at 19 Ok Reg 1061, eff 5-13-02]

310:664-13-3. Administrative penalties

(a) The Department may assess an administrative penalty against an administrator who fails to comply with any of the following:

- (1) A provision of the Act;
- (2) A requirement within this Chapter; or
- (3) A order issued by the Commissioner of Health.

(b) The Department may assess a penalty for permitting an agency to remain non-compliant with Department licensure regulations.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-13-4. Denial, revocation, non-renewal and suspension

The Department may deny an initial certificate application, renewal application or may deny, suspend, or revoke a home care administrator certificate upon proof of any of the following:

- (1) Obtaining or attempting to obtain a home care administrator certificate by fraud or deceit;
- (2) Conviction of a felony or a conviction of a crime involving violation of any narcotic or drug control law. The record of a

conviction or a copy certified by the Clerk of the Court or by the Judge in whose court the conviction is entered, is conclusive evidence of the conviction or the OSBI criminal arrest checks indicating a felony conviction;

- (3) Judicial determination of incompetence;
- (4) Submission of fraudulent credential documents or records of employment;
- (5) Submission of fraudulent continuing education records;
- (6) Failure to comply with any provision of this Chapter or continual non-compliance with the provision of the Home Care Act;
- (7) Abuse or neglect of a client or misappropriation of a client's property;
- (8) Representation as a certified home care administrator when not currently certified as a home care administrator; or
- (9) Altering any administrator certificate or allowing alteration of any administrator certificate.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98 ; Amended at 20 Ok Reg 2384, eff 7-11-03]

310:664-13-5. Hearings

(a) Hearings shall be conducted by the Commissioner of Health or his designee as specified in Chapter 2 of this Title. The Department shall order the most appropriate penalty at the conclusion of the evidence.

(b) The Department, either by order of the Commissioner or designee, shall issue a final order. A final order may be appealed in accordance with the Administrative Procedures Act.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

310:664-13-6. Reinstatement of a revoked or suspended certificate

(a) An individual seeking reinstatement of a certificate that has been revoked or suspended shall:

- (1) Apply on the Department form; and
- (2) Appear in person to the Department for presentation of facts relating to such request which shall include, but not be limited to:
 - (A) Complete documentation or evidence attested under oath and by witnesses of facts which demonstrate that the conditions or circumstances upon which the revocation or suspension was based no longer exist; or
 - (B) Letters of recommendation from employees, officers of courts, or respected members of the community which indicate that the conditions responsible for the revocation or suspension no longer exist.

(b) A suspended certificate shall not be reinstated until the period specified by the Department has elapsed.

(c) A revoked certificate shall not be reinstated for the period of two (2) years.

[Source: Added at 15 Ok Reg 2385, eff 6-11-98]

CHAPTER 665. HOSPITAL STANDARDS [REVOKED]

[**Authority:** 63 O.S.1981, §§ 1-701 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:665-1-1. General [REVOKED]

[**Source:** Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-1-2. Definitions [REVOKED]

[**Source:** Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-1-3. Modernization [REVOKED]

[**Source:** Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-1-4. Special design standards for the handicapped [REVOKED]

[**Source:** Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-1-5. Provisions for disasters [REVOKED]

[**Source:** Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-1-6. Codes and standards [REVOKED]

[**Source:** Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-1-7. Licensing fees [REVOKED]

[**Source:** Added at 11 Ok Reg 137, eff 10-8-93 (emergency); Added at 11 Ok Reg 2643, eff 6-25-94 ; Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 3. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS [REVOKED]

310:665-3-1. Licensure of hospital [REVOKED]

[**Source:** Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-3-2. Licensure or registration of personnel [REVOKED]

[**Source:** Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-3-3. Physician extenders [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-3-4. Conformity with other laws [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-3-5. Employee health examinations [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 5. SITE [REVOKED]

310:665-5-1. Location [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-5-2. Facility site design [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-5-3. Environmental pollution control [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 7. EQUIPMENT [REVOKED]

310:665-7-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-7-2. Classification [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-7-3. Equipment shown on drawings [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 9. SUBMITTAL REQUIREMENTS [REVOKED]

310:665-9-1. Submission of plans and specifications [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-9-2. Preparation of plans and specifications [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-9-3. Construction and inspection [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-9-4. Construction phasing [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-9-5. Nonparticipating conditions [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-9-6. Drawings [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-9-7. Equipment manuals [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-9-8. Design data [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 11. GENERAL HOSPITALS [REVOKED]

310:665-11-1. General considerations [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-2. Nursing unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-3. Intensive Care Unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-4. Newborn nurseries [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-5. Pediatric and adolescent unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-6. Psychiatric nursing unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-7. Surgical facilities [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-8. Obstetrical facilities [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-9. Emergency service [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-10. Radiology suite [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-11. Nuclear medicine [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-12. Laboratory suite [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-13. Rehabilitation therapy department [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-14. Respiratory therapy service [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-15. Morgue [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-16. Pharmacy [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-17. Dietary facilities [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-18. Administration and public areas [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-19. Medical records [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-20. Central services [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-21. General stores [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-22. Linen services [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-23. Facilities for cleaning and sanitizing carts [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-24. Employee facilities [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-25. Janitors' closets [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-26. Engineering service and equipment areas [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-27. Waste processing services [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

**310:665-11-28. General standards for details and finishes
[REVOKED]**

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

**310:665-11-29. Design and construction, including fire-resistive
standards [REVOKED]**

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-30. Elevators [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-31. Mechanical standards [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-32. Electrical standards. [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-11-33. Outpatient clinical services [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

**SUBCHAPTER 13. SPECIALIZED HOSPITALS AND
RELATED FACILITIES [REVOKED]**

310:665-13-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-13-2. Specialized hospital [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-13-3. Related facilities [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

**SUBCHAPTER 15. REHABILITATION FACILITIES
[REVOKED]**

310:665-15-1. General considerations [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-2. Evaluation unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-3. Psychological service unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-4. Social service unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-5. Vocational services unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-6. Patient dining, recreation, and day spaces [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-7. Dietary department [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-8. Personal grooming unit for inpatients [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-9. Activities for daily living unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-10. Administration and public areas [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-11. Engineering service and equipment areas [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-12. Linen services [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-13. Janitors' closet(s) [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-14. Employee facilities [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-15. Nursing unit (for inpatients) [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-16. Sterilizing facilities [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-17. Physical therapy unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-18. Occupational therapy unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-19. Prosthetics and orthotics unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-20. Speech and hearing unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-21. Dental unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-22. Radiology unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-23. Pharmacy unit [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-24. Details and finishes [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-25. Design and construction, including fire-resistive standards [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-26. Elevators [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-27. Mechanical standards [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-15-28. Electrical Standards [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 17. GOVERNING BODY [REVOKED]

310:665-17-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-17-2. Bylaws [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-17-3. Meetings [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-17-4. Medical staff [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-17-5. Administrator duties [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-17-6. All patients under physician's care [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-17-7. Physical plant [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-17-8. Institutional planning [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-17-9. Risk management [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 19. MEDICAL STAFF [REVOKED]

310:665-19-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-2. Responsibilities toward policies [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-3. Consultations [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-4. Staff appointments [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-5. Staff qualifications [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-6. Active staff [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-7. Other staff [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-8. Staff officers [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-9. Bylaws [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-10. Committees--general [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-11. Executive committee [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-12. Credentials committee [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-13. Joint conference committee [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-14. Medical records committee [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-15. Tissue committee [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-16. Infection control committee [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-17. Pharmacy and therapeutics committee [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-18. Meetings [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-19. Departments [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-19-20. Chief of service or department [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 21. NURSING DEPARTMENT [REVOKED]

310:665-21-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-21-2. Organization [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-21-3. Licensed registered nurse [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-21-4. Other nursing personnel [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-21-5. Qualifications [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-21-6. Evaluation and review of nursing care [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-21-7. Special care units [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 23. DIETARY DEPARTMENT [REVOKED]

310:665-23-1. Organization [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-23-2. Services and facilities [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-23-3. Diets [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 25. MEDICAL RECORDS DEPARTMENT [REVOKED]

310:665-25-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-2. Reports and records [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-3. Maintenance [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-4. Personnel [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-5. Identification; filing [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-6. Centralization of reports [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-7. Indices [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-8. Content [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-9. Authorship [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-10. Signature [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-11. Emergency medical records [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-12. Outpatient medical records [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-13. Promptness of record completion [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-25-14. Retention and preservation of records [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 27. PHARMACY OR DRUG ROOM [REVOKED]

310:665-27-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-27-2. Personnel [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-27-3. Supervision of pharmacy services [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-27-4. Delivery of service [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-27-5. Physical facilities of pharmacy [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-27-6. Drug-information services [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-27-7. Access to pharmacy or drug room [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-27-8. Drug handling [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 29. LABORATORIES [REVOKED]

310:665-29-1. General [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-2. Laboratory services [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-3. Clinical laboratory examinations [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-4. Availability of services [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-5. Personnel [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-6. Laboratory reports [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-7. Pathologist services [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-8. Tissue examination [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-9. Reports of tissue examination [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-10. Blood and blood products [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-11. Laboratory safety [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-12. Proficiency testing [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-13. Procedures [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-14. Quality control [REVOKED]

[Source: Revoked at 10 Ok Reg 2001, eff 6-1-93]

310:665-29-15. Laboratory services [REVOKED]

[Source: Added at 10 Ok Reg 2001, eff 6-1-93 ; Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 31. RADIOLOGY DEPARTMENT [REVOKED]

310:665-31-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-31-2. Radiological services [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-31-3. Hazards for patients and personnel [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-31-4. Personnel [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-31-5. Signed reports [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 33. MEDICAL LIBRARY [REVOKED]

310:665-33-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-33-2. Hospital library needs [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

SUBCHAPTER 35. COMPLEMENTARY DEPARTMENTS [REVOKED]

310:665-35-1. General [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-35-2. Department of surgery [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-35-3. Department of anesthesia [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-35-4. Department of dentistry and dental staff [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-35-5. Podiatry [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-35-6. Rehabilitation, physical therapy, and occupational therapy departments [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-35-7. Outpatient department [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-35-8. Emergency service or department [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

310:665-35-9. Social work [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

APPENDIX A. SOUND TRANSMISSION LIMITATIONS IN GENERAL HOSPITALS [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

**APPENDIX B. FILTER EFFICIENCIES FOR CENTRAL
VENTILATION AND AIR CONDITIONING SYSTEMS IN
GENERAL HOSPITALS [REVOKED]**

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

**APPENDIX C. VENTILATION REQUIREMENTS FOR
AREAS AFFECTING PATIENT CARE IN HOSPITALS,
SKILLED NURSING, OUTPATIENT, AND
REHABILITATION FACILITIES [REVOKED]**

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

APPENDIX D. HOT WATER USE [REVOKED]

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

**APPENDIX E. STATION OUTLETS FOR OXYGEN,
VACUUM (SUCTION), AND MEDICAL AIR SYSTEMS
[REVOKED]**

[Source: Revoked at 13 Ok Reg 9, eff 4-12-95 (emergency); Revoked at 12 Ok Reg 2427, eff 6-26-95]

CHAPTER 667. HOSPITAL STANDARDS

[**Authority:** 63 O.S., §§ 1-103a.1, 1-104 and 1-701 et seq.]

[**Source:** Codified 6-26-95 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 1. GENERAL PROVISIONS

310:667-1-1. Purpose

The purpose of this Chapter is to provide rules for hospitals as required by 63 O.S. § 1-705.

[**Source:** Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-1-2. Definitions

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

"Addition" means an extension or increase in floor area or height of a building structure.

"Administrator" means the chief executive officer for the hospital.

"Advanced practice nurse" means a licensed registered nurse recognized by the Oklahoma Board of Nursing as an advanced practice nurse. Advanced practice nurses shall include advanced registered nurse practitioners, clinical nurse specialists, certified nurse midwives, and certified registered nurse anesthetists.

"Automatic" means providing a function without the necessity of human intervention.

"Building" means a structure used or intended for supporting or sheltering any use or occupancy. The term "building" shall be construed as if followed by the words "or portions thereof."

"Chemical restraint" means the use of a medication for the purpose of discipline, convenience, or in an emergency situation to control mood or behavior and not required to treat a patient's condition.

"Combustible" means capable of undergoing combustion.

"Critical Access Hospital" means *a hospital determined by the State Department of Health to be a necessary provider of health care services to residents of a rural community* [63 O.S. § 1-701].

"Department" means the Oklahoma State Department of Health.

"Emergency hospital" means *a hospital that provides emergency treatment and stabilization services on a twenty-four-hour basis that has the ability to admit and treat patients for short periods of time* [63 O.S., § 1-701].

"Existing facility" means licensed hospitals that are in existence or have had final drawings for construction approved by the Department at the date this Chapter became effective. A general medical surgical hospital that converts to a critical access hospital is considered an existing facility.

"General medical surgical hospital" means *a hospital maintained for the purpose of providing hospital care in a broad category of illness and injury* [63 O.S. § 1-701]

"Governing body" means the person(s) having ultimate responsibility, including fiscal and legal authority for the hospital.

"Hospital" means *any institution, place, building, or agency, public or private, whether organized for profit or not, primarily engaged in the maintenance and operation of facilities for the diagnosis, treatment, or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity. Places where pregnant females are admitted and receive care incident to pregnancy, abortion or delivery shall be considered to be a "hospital" within the meaning of this article regardless of the number of patients received or the duration of their stay. The term "hospital" includes general medical surgical hospitals, specialized hospitals, critical access and emergency hospitals, and birthing centers* [63 O.S. § 1-701].

"Hospital campus" means inpatient and/or outpatient facilities located at different addresses operated under a common hospital license issued by the Department.

"Include" or **"Includes"** means include(s) but is not limited to.

"Licensed independent practitioner" means any individual permitted by law and by the licensed hospital to provide care and services, without direct supervision, within the scope of the individual's license and consistent with clinical privileges individually granted by the licensed hospital. Licensed independent practitioners may include advanced practice nurses with prescriptive authority, physician assistants, dentists, podiatrists, optometrists, chiropractors, and psychologists.

"Licensed practical nurse" means a person currently licensed to practice practical nursing in Oklahoma.

"Licensed/registered dietitian" means a person who is registered as a dietitian by the American Dietetic Association and is currently licensed as a dietitian in Oklahoma.

"Licensure" means the process by which the Department grants to persons or entities the right to establish, operate, or maintain any facility.

"Occupancy" means the purpose for which a building or portion thereof is used or intended to be used.

"Pharmacist" means a person who is currently registered by the Oklahoma State Board of Pharmacy to engage in the practice of pharmacy.

"Physical restraint" means any manual method or physical or mechanical device, material or equipment attached or adjacent to a patient's body that the patient cannot remove easily, that is not used for the purpose of therapeutic intervention or body alignment as determined by the patient's physician or licensed independent practitioner, and which restricts the patient's desired freedom of movement and access to his or her body.

"Physician" means a doctor of medicine (M.D.) or osteopathy (D.O.) currently licensed to practice medicine and surgery in Oklahoma.

"Physician assistant" means an individual licensed as a physician assistant in Oklahoma.

"Practitioner" means a dentist, podiatrist, chiropractor, optometrist, physician assistant, psychologist, certified nurse mid-wife,

advanced registered nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, physical therapist, occupational therapist, pharmacist, social worker or other individual currently licensed or authorized to practice as a medical professional in Oklahoma.

"Psychiatric hospital" means a specialized hospital maintained for the purpose of providing psychiatric care.

"Registered nurse" means a person currently licensed to practice registered nursing in Oklahoma.

"Rehabilitation hospital" means a specialized hospital maintained for the purpose of providing rehabilitation.

"Respiratory care practitioner" means *a person licensed by this state and employed in the practice of respiratory care* [59 O.S. § 2027]

"Specialized hospital" means *a hospital maintained for the purpose of providing hospital care in a certain category, or categories, of illness and injury* [63 O.S. § 1-701].

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 38 Ok Reg 2066, eff 9-11-21 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-1-3. Licensure

(a) Application for licensure.

(1) No person or entity shall operate a hospital without first obtaining a license from the Department. The license is not transferable or assignable.

(2) The applicant shall file a licensure application in a timely manner. The application shall be on forms provided by the Department, with a check of \$10.00 for each census bed, crib and bassinet, payable to the Oklahoma State Department of Health.

(3) The entity responsible for operation of the hospital and appointment of the medical staff shall be considered the applicant for the license. This entity may be a lessee if the hospital is leased and the lessee is the operating entity. For the purposes of licensure, a company providing administrative management of a hospital, which functions by contract with the governing body of the hospital, shall not be considered the entity responsible for operation.

(4) An application is not considered to be filed unless it is accompanied by the application fee.

(b) Application filing. An initial license application or renewal application shall be filed as follows:

(1) The application for an initial license for a new hospital shall be filed prior to or at the time final drawings for construction are submitted to the Department for review which shall be at least thirty (30) days before a hospital begins operation.

(2) The application for an initial license for a change of ownership or operation, shall be filed at least thirty (30) days before the transfer. The sale of stock of a corporate licensee, where a majority of the governing body does not change, is not considered a change of ownership or operation. The sale or merger of a

corporation that owns an operating corporation that is the licensed entity shall not be considered a change of ownership unless a majority of the governing body is replaced.

(3) The Department will mail a notice of renewal at least 60 days before the license expires.

(4) The application for renewal of a license of an existing hospital should be filed at least thirty (30) days before the expiration date of the current license to ensure that it is approved before the license expires.

(5) If the license expires without the Department receiving a renewal application, then the Department will mail a notice of non-renewal to the facility. A notice of non-renewal provides the licensee 30 days to:

(A) file the renewal application; or

(B) file a notice with intent to renew the license.

(6) If a licensee submits a notice with intent to renew the license, then the licensee receives an extra 30 additional days to file the renewal application. The 30 additional days begins from the date the Department receives the notice to renew the license.

(7) When a licensee fails to file the renewal application before the deadlines stated in this subsection the Department will mail a notice of non-licensure. The notice of non-licensure will inform the licensee:

(A) that the license is now considered surrendered; and

(B) identifies opportunities to show compliance.

(8) If the applicant files a renewal application before the deadlines provided in this subsection, then the license is considered renewed with no additional requirements.

(c) **Where to file.** The application and the license fee shall be delivered or sent to the Department. The effective date shall be the date the application and fee are received.

(d) **Forms.** The applicant for a license shall file application forms as follows:

(1) For an initial license of a new hospital, or for an existing hospital following a change in ownership or operation, the applicant shall file these forms: Application for License to Operate a Hospital or Related Institution; Board of Directors Information Sheet; and Designation of Licensed Beds Form.

(2) For renewal of a current license, the applicant shall file the Application for License to Operate a Hospital or Related Institution; Board of Directors Information Sheet; Designation of Licensed Beds Form; and a Fire Inspection Report For Hospitals.

(e) **Description of forms.** The forms used to apply for a hospital license are the following:

(1) The Application For License to Operate Hospital or Related Institution (Form 920) requests: identification of the type of license requested; the name and address of the hospital; the name and address of the operating entity; the number of beds and bassinets; the ownership of the building and grounds; the applicant's name; the chief executive officer/administrator's name; attachment for credentialed staff; and an affidavit attesting

the signature of the applicant.

(2) The Board of Directors Information Form (Form 929) requests: The names and addresses of the Board of Directors for the hospital.

(3) The Designation of Licensed Beds Form (Form 929) requests: A listing of the types of beds operated by the hospital and a total of the beds.

(4) The Fire Inspection Report for Hospitals (Form 928) requests: a check list of the annual inspection conducted by the local fire marshal.

(f) Eligibility for license.

(1) Hospitals making appropriate application that have been determined to be compliant with these standards are eligible for a license.

(2) A hospital may operate inpatient and outpatient facilities under one (1) license as a hospital campus as long as the following requirements are met:

(A) The facilities shall be separated by no more than fifty (50) miles. This requirement may be waived if the services of the facilities are totally integrated through telecommunication or by other means.

(B) The facilities are operated by the same governing body with one administrator.

(C) The medical staff for all facilities is totally integrated so that any practitioner's privileges extend to all facilities operated under the common license.

(3) An outpatient facility located at a different address from a hospital is eligible to be licensed as part of the hospital but is not required to be licensed.

(4) Each hospital shall participate in a functioning regional system of providing twenty-four (24) hour emergency hospital care approved by the Commissioner of Health in consultation with the Oklahoma Trauma Systems Improvement and Development Advisory Council. Participation in a regional system may include active participation of the hospital in the provision of emergency services based upon the system plan, participation of the hospital's medical staff in the provision of emergency services at other hospitals in the system based on the system plan, or payment into a fund to reimburse hospitals providing emergency services in the system.

(5) If an area of the state fails to develop a functioning regional system of providing twenty-four (24) hour emergency hospital care necessary to meet the state's needs for trauma and emergency care as established by the state-wide trauma and emergency services plan, the Commissioner of Health, in consultation with the Oklahoma Emergency Response Systems Development Advisory Council, shall develop a system for the area. Each hospital located in the area shall participate as specified by the system plan for that region.

(g) Regional system of emergency hospital care.

(1) In counties and their contiguous communities with populations of 300,000 or more, a functioning regional system of providing twenty-four (24) hour emergency hospital care shall include definitive emergency care for all clinical categories specified in OAC 310:667-59-7. In these regions, a functioning system shall only transfer emergent patients out of the system when treatment or diagnostic services are at capacity unless the patient has a special treatment need not normally provided by the system. Transfers out of the system may occur based upon the patient or the patient's legal representative's request or based upon a special circumstance for the transfer.

(2) In counties and communities with populations of less than 300,000, a functioning regional system of providing twenty-four (24) hour emergency hospital care shall include definitive care based upon the classification of hospital's emergency services in the region as specified in OAC 310:667-59-7. Transfers out of the regional system may be based upon lack of diagnostic or treatment capability or capacity. A functioning system shall not permit emergent patient transfers out of the system if the system has the capability and capacity to provide care unless the patient or patient's legal representative requests the transfer.

(3) A functioning regional system of providing twenty-four (24) hour emergency hospital care shall demonstrate compliance with OAC 310:667-1-3(g)(1) or (2) through system continuous quality improvement activities. Activities shall include monitoring of patient transfers and corrective actions when inappropriate transfers are identified. Special circumstance patient transfers shall be identified and reviewed through continuous quality improvement activities.

(h) **Quality indicators.** The Department, with the recommendation and approval of the Hospital Advisory Council, shall establish quality indicators to monitor and evaluate the quality of care provided by licensed hospitals in the state.

(1) The quality indicators shall focus on the following measurement areas:

- (A) Acute myocardial infarction (including coronary artery disease);
- (B) Heart failure;
- (C) Community acquired pneumonia;
- (D) Pregnancy and related conditions (including newborn and maternal care);
- (E) Surgical procedures and complications;
- (F) Patient perception measures such as satisfaction surveys; and
- (G) Ventilator-associated pneumonia and device-related blood stream infections for certain intensive care unit patients in acute care hospital settings.

(2) The quality indicators in use shall be periodically evaluated and revised as health care quality issues are identified and others are resolved.

(i) **Data submission requirements.**

- (1) The Department shall define the parameters and scope of each quality indicator, the beginning and ending dates of the period when each indicator will be in effect, how the indicator will be measured, any inclusionary or exclusionary criteria, and the frequency and format of how the data shall be reported.
- (2) Each hospital shall report applicable data related to these indicators to the Department in the specified format and within required time frames.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 21 Ok Reg 573, eff 1-12-04 (emergency); Amended at 21 Ok Reg 2785, eff 7-12-04 ; Amended at 21 Ok Reg 2437, eff 7-11-05 ; Amended at 24 Ok Reg 2018, eff 6-25-07 ; Amended at 36 Ok Reg 1730, eff 9-13-19 ; Amended at 38 Ok Reg 2066, eff 9-11-21]

310:667-1-4. Enforcement

- (a) **Inspections.** All hospitals required to have a license are subject to inspection by Department staff. This includes hospitals under construction that have submitted final drawings and made application for a license. These inspections may be routine or conducted as a result of a complaint investigation.
- (b) **Adverse actions.** The State Commissioner of Health may suspend or revoke any hospital license based on any of the following:
 - (1) Violation of any provisions of 63 O.S. 1991, § 1-701 et seq. or this Chapter.
 - (2) Permitting, aiding or abetting the commission of any illegal act in the licensed hospital.
 - (3) Conduct of practices deemed by the Commissioner to be detrimental to the welfare of patients of the hospital.
- (c) **Hearings.** Hearings shall be conducted according to the Administrative Procedures Act and Chapter 2 of this Title 310:002.
- (d) **Appeals.** A final order of the Commissioner of Health may be appealed to the District Court by any party affected or aggrieved by the order.
- (e) **Revocation.** If a license is revoked, 63 O.S. Section 1-706(E) states what must occur to obtain a new license.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 38 Ok Reg 2066, eff 9-11-21]

310:667-1-5. Purpose, authority and indoor tobacco smoke

- (a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]
- (b) The Commissioner of Health has conducted a study and is recommending these measures to the Board of Health under his authority as stated in section 1-106 of the Public Health Code. [63 O.S. §

1-106] The Board has the authority to establish prevention programs for non-communicable disease and to promulgate rules for the control of causative or toxic substances, which can cause disease under section 1-502b of the Public Health Code. [63 O.S. § 1-502b] The Board is adopting this rule under its authority in sections 1-104 and 1-1526 of Title 63 of the Oklahoma Statutes. [63 O.S. §§ 1-104 & 1-1526]

(c) Smoking or possessing a lighted tobacco product is prohibited in a hospital and within fifteen (15) feet of each entrance to a facility and of any air intakes; provided however, the hospital may provide a smoking room not available to the public for use by addicted patients with a physician's or licensed independent practitioner's order.

(d) An indoor smoking room may be provided if:

(1) It is completely enclosed;

(2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;

(3) It allows for visual observation of the patients from outside of the smoking room; and

(4) The plans are reviewed and approved by the Department.

(e) The walkway to the main entrance shall also be smoke free.

(f) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room.

(g) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.

[Source: Added at 19 Ok Reg 2097, eff 7-1-02]

SUBCHAPTER 3. PATIENT RIGHTS

310:667-3-1. General

(a) Policies describing mechanisms by which patient rights are protected shall be formulated by the medical staff, with input from administration, and approved by the governing body.

(b) Patients have a right to considerate and respectful care from all personnel involved.

(c) Policies regarding care of the patients shall consider differences in culture and religion which may result in differences in how illness is perceived.

(d) Patients have the right, upon request, regardless of reimbursement mechanisms, to be informed of customary charges, in advance, for the type of hospital stay anticipated.

(e) The hospital shall inform each patient, or when appropriate the patient's representative, of the patient's rights, in advance of furnishing or discontinuing patient care whenever possible.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-3-2. Advance directives

Written policies and procedures relating to advance directives with respect to all adult individuals receiving care shall be maintained by the facility. These policies and procedures shall comply with existing state and federal laws.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-3-3. Medical therapies

The policies and procedures concerning medical therapies shall include:

- (1) Consideration of a patient's right to be involved in health care decisions, in collaboration with a physician or licensed independent practitioner.
- (2) Consideration of a patient's right to accept or reject medical care to the extent permitted by law.
- (3) A patient's right to information necessary to enable the patient to make informed treatment decisions. This information shall be presented in plain language and in a format which the patient can understand; e.g., in their language if they do not speak English, sign language for the deaf, or other appropriate methods.
- (4) Policies for patients who are diagnosed as terminal and the therapies which are aimed at optimizing comfort and alleviating pain.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-3-4. Itemized patient bill

After receiving a written request from a patient, survivor, or legal representative as may be appropriate, facilities shall provide an itemized statement of the specific nature of charges or expenses incurred by the patient. The facility shall have a written policy, such as chart audits, to resolve differences of opinion concerning hospital charges.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-3-5. Patient restraint

Patients have the right to be free from physical or chemical restraint unless such restraint is required to prevent injury to the patient or others or prevent serious disruption in the therapeutic environment. The responsibility for restraining any patient shall be limited to the patient's attending physician or licensed independent practitioner although physical restraint may be temporarily applied in emergency situations in accordance with established written policies at the direction of a registered nurse. Each facility shall have policies regarding the use of physical and chemical restraints and these policies shall comply with all requirements specified in these rules and other appropriate state and federal requirements. Each patient or their legal representative shall have access to these policies upon request.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-3-6. Seclusion

Patients have the right to be free from seclusion unless seclusion is required to prevent injury to the patient or others or prevent serious disruption to the therapeutic environment. The responsibility for ordering seclusion of any patient shall be limited to the patient's attending physician or licensed independent practitioner although seclusion may be temporarily employed in emergency situations in accordance with established written policies at the direction of a registered nurse who immediately obtains verbal consent from a physician or licensed independent practitioner. Each facility shall have policies regarding the use of seclusion and these policies shall comply with all requirements specified in these rules and other appropriate state and federal requirements. Each patient or their legal representative shall have access to these policies upon request.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 5. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

310:667-5-1. Licensure or registration of personnel

(a) Staff of the hospital shall be licensed or registered in accordance with applicable state laws and shall provide care according to the requirements of their respective practice Acts.

(b) Each student who is participating in a recognized training program to become a physician or a non-physician practitioner may be allowed to carry out patient care responsibilities under the supervision of their instructor as a part of their training. Physicians and other practitioners serving as instructors shall be appropriately licensed or registered and shall have been granted appropriate clinical privileges if required by the medical staff bylaws. Each hospital that allows student training shall authorize and limit student patient care activities through approved policies and procedures.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-5-2. Non-physician practitioners

Those hospitals using non-physician practitioners, such as physician assistants, advanced registered nurse practitioners, certified nurse midwives, certified registered nurse anesthetists, psychologists, or other practitioners, shall clearly define the role, limitation and mechanism of supervision in their job description, contract, or bylaws, as appropriate, to insure compliance with state law and good-practice

standards for each practitioner.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-5-3. Conformity with other laws

The hospital shall be in conformity with federal, state, and local laws relating to fire and safety, to communicable and reportable diseases, to occupational safety and health, and to other relevant matters.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-5-4. Employee and/or worker health examinations

(a) **Pre-employment.** Each employee and/or worker (with or without patient care responsibilities, paid or volunteer, full-time or part-time: physicians, nurses, emergency medical personnel, dental professionals and students, medical and nursing students, laboratory and pharmacy workers, hospital volunteers, and administrative staff, including food service workers) in the hospital shall have a pre-employment health examination, which shall include (but not be limited to):

(1) An immunization history shall be part of each pre-employment examination or application for hospital privileges. The immunization history shall include documentation of immunity to measles, mumps, rubella and varicella.

(A) Birth before 1957 is considered acceptable evidence of immunity to measles, mumps, and rubella, with the exception that birth before 1957 is not acceptable evidence of immunity to rubella for female employees and/or workers born before 1957 who can become pregnant.

(B) Persons born in 1957 or later can be considered immune to measles, mumps or rubella only if they have documentation of one of the following:

(i) measles or mumps disease diagnosed by a physician or licensed independent practitioner;

(ii) laboratory evidence of measles, mumps, or rubella immunity; or

(iii) vaccination on or after the first birthday with two doses of live measles vaccine separated by at least 28 days, at least one dose of live mumps vaccine, and at least one dose of live rubella vaccine.

(C) Persons can be considered immune to varicella if they have a reliable history of having had varicella or if they have received one dose of varicella vaccine on or after the first birthday prior to the 13th birthday, or two doses of varicella vaccine separated by at least 28 days on or after the 13th birthday.

(D) Serologic screening need not be done before vaccinating against measles, mumps, rubella and varicella unless the facility considers it cost-effective.

(E) Serologic screening is not necessary for persons who have documentation of appropriate vaccination or other acceptable evidence of immunity to measles, mumps, rubella, and varicella.

(F) Contraindications to MMR or varicella vaccines should be followed.

(2) Hepatitis B vaccine shall be offered consistent with 29 CFR Section 1910.1030 (Occupational Exposure to Bloodborne Pathogens).

(3) Each hospital shall meet Occupational Safety and Health Act standards applicable to the facility.

(b) **Periodic health examinations.** A test for tuberculosis shall be performed. All tests and examinations shall be in conformance with the "Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019" guidelines for preventing the transmissions of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention.

(1) Follow-up examinations for employees and/or workers who react significantly to a tuberculin skin test shall be conducted.

(2) Employees and/or workers with an initial negative chest x-ray, whether they take appropriate preventive therapy (treatment of latent tuberculosis infection) or not, shall be exempt from yearly, routine chest x-rays unless signs or symptoms suggestive of tuberculosis develop.

(3) Employees and/or workers with a documented reactive skin test and a proven negative chest x-ray, whether they have taken appropriate preventive therapy (treatment of latent tuberculosis infection) or not, shall be exempt from yearly, routine chest x-rays unless signs or symptoms suggestive of tuberculosis develop.

(4) Employees and/or workers with documented prior reactive tuberculin skin tests shall be seen yearly by medical personnel to determine if signs or symptoms are present. The results of such examinations shall be recorded on the individual employee's and/or worker's health record.

(c) **Interim health examinations.** Employees and/or workers, when found to be likely to transmit a communicable disease as determined by a physician or licensed independent practitioner, shall be removed from patient contact duties, consistent with state and federal laws, until such time as a physician or licensed independent practitioner certifies that the risk of transmission of communicable disease is within acceptable limits as defined by the infection control program in its written policies and procedures.

(d) **Follow-up examinations.** Follow-up of an employee and/or workers, who, while employed at the facility, is a contact to active tuberculosis:

(1) An employee and/or worker who is a known tuberculosis contact shall have a tuberculin skin test. If this test is reactive for the first time, the individual shall have a chest x-ray. If the individual with a reactive skin test does not take preventive medication (treatment of latent tuberculosis infection), the employee and/or worker shall be monitored.

(2) If an employee and/or worker is a known, recent tuberculosis contact, he or she shall have a tuberculin skin test and, if non-reactive, and if the individual is asymptomatic for tuberculosis, then a repeat tuberculin skin test shall be done in three (3) months. If the employee and/or worker is symptomatic, an x-ray shall be done immediately.

(3) If an employee and/or worker is a contact to active tuberculosis and has a documented previous reactive skin test, he or she shall be exempt from yearly, routine x-rays unless signs or symptoms develop suggestive of tuberculosis.

(e) **Annual influenza vaccination program.** Each hospital shall have an annual influenza vaccination program consistent with the recommendations of the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices that shall include at least the following:

(1) The offer of influenza vaccination onsite, at no charge to all employees and/or workers in the hospital or acceptance of documented evidence of current season vaccination from another vaccine source or hospital;

(2) Documentation of vaccination for each employee and/or worker or a signed declination statement on record from each individual who refuses the influenza vaccination for other than medical contraindications; and

(3) Education of all employees and/or workers about the following:

(A) Influenza vaccination;

(B) Non-vaccine influenza control measures; and

(C) The symptoms, transmission, and potential impact of influenza.

(4) Each hospital influenza vaccination program shall conduct an annual evaluation of the program including the reasons for non-participation.

(5) The requirements to complete vaccinations or declination statements for each employee and/or worker may be suspended by the hospital's medical staff executive in the event of a shortage of vaccine as recognized by the Commissioner of Health.

(f) **Health examination records.** A file shall be maintained for each employee and/or worker, containing the results of the evaluations and examinations specified at OAC 310:667-5-4 (a) through (d) and the dates of illnesses as relate to employment.

(g) **Credentialing records.** For credentialed non-employee workers, including physicians, hospitals may meet these requirements if as part of the credentialing process such workers provide evidence of an immunization history and tuberculin skin test, consistent with the tuberculosis control program required at 310:667-5-4(b), in the form of a signed attestation statement from the non-employee worker that documents the worker's immunization history and the date and results of the latest tuberculin skin test.

Reg 2054, eff 6-25-09 ; Amended at 37 Ok Reg 1445, eff 9-11-20]

310:667-5-5. Health care information system

Each hospital shall be in compliance with the Oklahoma Health Care Information System Act [63 O.S., Section 1-115 et seq.] and the rules promulgated thereto.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 7. GOVERNING BODY

310:667-7-1. General

The hospital shall have an effective governing body legally responsible for the hospital and the quality of patient care provided.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-7-2. Bylaws

The governing body shall have adopted bylaws in accordance with legal requirements.

- (1) The bylaws shall be in writing and available to all members of the governing body.
- (2) The bylaws shall:
 - (A) Stipulate the basis upon which members shall be selected, their term of office, and their duties and requirements.
 - (B) Specify to whom responsibilities for operation and maintenance of the hospital, including evaluation of hospital practices, may be delegated; and the methods established by the governing body for such individuals responsible.
 - (C) Provide for the designation of necessary officers, their terms of office and their duties, and for the organization of the governing body into essential committees.
 - (D) Specify the frequency with which meetings shall be held.
 - (E) Provide for the appointment of members of the medical staff.
 - (F) Provide mechanisms for the formal approval of the organization, bylaws, rules and regulations of the medical staff and its departments in the hospital.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-7-3. Meetings

- (a) The governing body shall meet at regular, stated intervals.
- (b) Meetings shall be held frequently enough for the governing body to carry on necessary planning for growth and development and to evaluate

the conduct of the hospital, including the care and treatment of patients, the control, conservation, and utilization of physical and financial assets, and the procurement and direction of personnel.

(c) Minutes of meetings shall be maintained and approved by the governing body.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-7-4. Medical staff

(a) The governing body shall appoint members of the medical staff.

(b) A formal procedure shall be established, governed by written rules and regulations, covering the application for medical staff membership and the method of processing applications.

(c) The procedure related to the submission and processing of applications shall involve the administrator, credentials committee of the medical staff or its counterpart, and the governing body, all functioning on a regular basis.

(d) Selection of physicians and licensed independent practitioners and definition of their medical privileges, both for new appointments and reappointments, shall be based on written, defined criteria.

(e) Actions taken on applications for medical staff appointments by the governing body shall be put in writing and retained.

(f) Written notification of applicants shall be made by either the governing body or its designated representative

(g) Applicants, approved for medical staff appointment, shall sign an agreement to abide by the medical staff bylaws, rules and regulations. In instances where physician or licensed independent practitioner services are provided by a corporation, the corporation and/or individual physicians and licensed independent practitioners shall agree to comply with medical staff bylaws.

(h) There shall be a procedure for appeal and hearing by the governing body or other designated committee if the applicant or medical staff feels the appointment or privileging decision is unfair or wrong.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-7-5. Administrator duties

- (a) The administrator, as appointed by the governing body, shall act as the executive officer of the hospital, be responsible for the management of the hospital, and provide liaison for the governing body to the medical staff, nursing staff, and other departments of the hospital.
- (b) In discharging his or her duties, the administrator shall keep the governing body fully informed of the conduct of the hospital through written reports and by attendance at meetings of the governing body and meetings of the medical staff.
- (c) The administrator shall organize the day-to-day functions of the hospital through appropriate departmentalization and delegation of duties.
- (d) The administrator shall establish formal means of accountability on the part of the subordinates to whom he or she has assigned duties.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-7-6. All patients under physician's or licensed independent practitioner's care

- (a) The governing body shall be responsible for establishing a policy which requires that every patient shall be under the care of a physician or licensed independent practitioner.
- (b) Patients shall be admitted to the hospital only upon the recommendation of a physician or licensed independent practitioner.
- (c) A physician or licensed independent practitioner shall be on duty or on call at all times, and physically available if needed within twenty (20) minutes at the most.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-7-7. Physical plant

- (a) The governing body shall assure that the hospital is constructed, arranged, and maintained to ensure the safety of the patient and to provide facilities for diagnosis and treatment and for special hospital services appropriate to the needs of the community.
- (b) The governing body shall receive periodic reports from appropriate sources about the adequacy of the physical plant, equipment, and personnel, as well as any deficiencies.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-7-8. Institutional planning

The administrator, under the direction of the governing body, shall be responsible for an over-all plan and budget which provides for an annual operating budget and a capital-expenditure plan.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-7-9. Risk management

The facility shall have a risk-management program. A risk management program includes, but is not limited to, a system for identifying, evaluating, and minimizing risk exposures and a qualified person, defined in governing body bylaws, assigned to coordinate and/or perform indicated functions. The program shall include both clinical and non-clinical, including safety, functions. The governing body shall provide support for the program and receive periodic reports.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

SUBCHAPTER 9. MEDICAL STAFF

310:667-9-1. General

The hospital shall have a medical staff, organized under bylaws approved by the governing body and responsible to the governing body of the hospital for the quality of all medical care provided patients in the hospital and for the ethical and professional practices of its members. The medical staff includes fully licensed physicians and may include other licensed individuals permitted by law and by the hospital to provide patient care services in the hospital.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-9-2. Responsibilities toward policies

- (a) The medical staff shall be responsible for support of medical staff and hospital policies.
- (b) Medical staff members shall participate on various staff committees. Attendance requirements for committee members shall be established in the medical staff bylaws. Committee records shall verify that committee meetings are attended by members as required by approved bylaws.
- (c) There shall be prescribed, enforced disciplinary procedures for infraction of hospital and medical policies.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-3. Consultations

- (a) The medical staff shall have established policies concerning the holding of consultations.
- (b) The status of consultants shall be determined by the medical staff on the basis of an individual's training, experience, and competence. A consultant shall be qualified to give an opinion in the field in which his or her opinion is sought.
- (c) A consultation shall include a written opinion, signed by the consultant; the written opinion shall be included in the medical record. When operative procedures are involved, the consultation note, except in an emergency, shall be recorded prior to operation.
- (d) The patient's physician or licensed independent practitioner is responsible for requesting consultations when indicated. It is the duty of

the medical staff, through its chief of service and executive committee, to make certain that members of the staff do not fail in the matter of contacting consultants as needed and in a timely manner. The medical staff shall establish and enforce policies on appropriate methods to be used when contacting consultants.

(e) Routine procedures, such as diagnostic imaging and electrocardiogram determination, are not normally considered to be consultations.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-4. Staff appointments

(a) Staff appointments shall be made by the governing body, taking into account recommendations made by the active staff.

(b) The governing body has the legal right to appoint the medical staff and the obligation to appoint only those physicians and practitioners who are judged by their peers to be qualified and competent in their respective fields.

(c) Reappointments shall be made periodically, and recorded in the minutes of the governing body. Reappointment policies provide for a periodic appraisal of each member of the staff, including consideration of his or her physical and mental capabilities. Recommendations for reappointments shall be noted either in the credential committee or medical staff meetings minutes.

(d) Temporary staff privileges, for example locum tenens, shall be granted as specified in the medical staff bylaws for a limited time if the person is otherwise properly qualified for such.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-5. Staff qualifications

(a) Members of the staff shall be qualified legally, professionally, and ethically for the positions to which they are appointed.

(b) To select its members and delineate privileges, the hospital medical staff shall have a system, based upon definite workable standards, to evaluate each applicant and make recommendations to the medical staff and to the governing body regarding appointments.

(c) Privileges may be extended to duly licensed qualified persons to practice in their appropriate specialty fields only if appropriate to the services provided by the facility.

(d) Criteria for selection shall be individual character, competence, training, experience, judgement, and comity.

(e) Under no circumstances shall the accordance of staff membership or professional privileges in the hospital be based solely upon certification, fellowship, or membership in a specialty body or society. All qualified candidates shall be considered by the credentials committee.

(f) The scope of privileges for each member shall be specifically delineated or the medical staff shall define a classification system. If a system involving classification is used, the scope of the divisions shall be

well defined, and the standards which shall be met by the applicant are clearly stated for each category.

(g) Patient admission quotas or revenue generation minimums shall not be a condition for medical staff appointments or reappointments.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-9-6. Active staff

Regardless of any other categories having privileges in the hospital, there shall be an active staff, properly organized, which performs all of the organizational duties pertaining to the medical staff. These include:

- (1) Maintenance of the proper quality of all medical care and treatment in the hospital.
- (2) Organization of the medical staff, including adoption of rules and regulations for its government (which require the approval of the governing body), election of its officers, and recommendations to the governing body for appointments to the staff and delineation of hospital privileges.
- (3) Making other recommendations to the governing body for matters within the purview of the medical staff.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-7. Other staff

(a) In larger hospitals, and in some smaller hospitals, the medical staff may include one (1) or more of the categories in addition to the active staff. This in no way modifies the duties and responsibilities of the active staff.

(b) The categories of staff other than active may include the following:

- (1) **Honorary staff.** The honorary staff shall be composed of former active staff, retired or emeritus, and other physicians and practitioners of reputation whom the hospital desires to honor.
- (2) **Consulting staff.** The consulting staff shall be composed of recognized specialists willing to serve in such capacity. A member of the consulting staff may become a member of the active staff, but only if another appointment is made.
- (3) **Associate staff.** The associate staff shall be composed of those members who use the hospital infrequently or those less-experienced members undergoing a period of probation before being considered for appointment to the active staff.
- (4) **Courtesy staff.** The courtesy staff shall be composed of those who desire to attend patients in the hospital but who, for some reason not disqualifying, are ineligible for appointment in another category of the staff.
- (5) **Non-physician practitioners.** The medical staff may designate a category of staff membership for non-physician practitioners who are approved to provide services in an allied health profession. The roles of those persons approved by the

medical staff for this category of membership shall be clearly defined in accordance with OAC 310:667-5-2.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-8. Medical staff officers

- (a) There shall be such officers as may be necessary for the governance of the staff. These officers shall be members of the active staff and shall be elected by the active staff, unless this is precluded by medical staff policy.
- (b) The officers shall be elected from and by the active staff or appointed in accordance with medical staff policy on the basis of ability and willingness to assume responsibility and devote time to the office.
- (c) Where officers are elected, the process for election shall be delineated in the bylaws.
- (d) The chief of staff shall:
 - (1) Have direct responsibility for the organization and administration of the medical staff, in accordance with the terms of the medical staff constitution, bylaws, rules and regulations.
 - (2) In all medico-administrative matters, act in coordination and cooperation with the hospital administrator in implementing the policies adopted by the governing body.
 - (3) Be responsible for the function of the clinical organization of the medical staff and keeps or causes to be kept careful supervision over the clinical work in all departments.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-9. Medical staff bylaws

- (a) Bylaws shall be adopted to govern and enable the medical staff to carry out its responsibilities.
- (b) The bylaws of the medical staff shall be a precise and clear statement of the policies under which the medical staff regulates itself.
- (c) Medical staff bylaws, rules and regulations shall include the following:
 - (1) A descriptive outline of medical staff organization.
 - (2) A statement of the necessary qualifications which physicians and licensed independent practitioners shall possess to be eligible for medical staff privileges to work in the hospital, and/or the duties and privileges of each category of medical staff.
 - (3) A procedure for granting and withdrawing privileges to physicians and licensed independent practitioners.
 - (4) A mechanism for appeal of decisions regarding medical staff membership and privileges.
 - (5) A definite and specific statement forbidding the practice of the division of fees under any guise whatsoever.
 - (6) Provision for regular meetings of the medical staff.
 - (7) Provision for keeping accurate and complete medical records.
 - (8) A provision that all patient tissue removed in the hospital, except tissue specifically excluded by medical staff policy, shall be

examined by a pathologist and a report made of this examination.

(9) Provision for performing and documenting a routine examination of all patients upon admission and recording of pre-operative diagnosis prior to surgery.

(10) A rule permitting a surgical operation only on consent of the patient or his or her legal representative, except in emergencies.

(11) A rule providing that, except in emergency, consultation is required as outlined above.

(12) A regulation requiring physicians' and licensed independent practitioners' orders be recorded and signed.

(13) If dentists and oral surgeons, podiatrists, psychologists, or other allied health professionals are to be admitted to staff membership, the necessary qualifications, status, privileges, and rights of this group shall be stated in the bylaws.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-10. Committees-general

The structure of committee organization is a decision to be made by the medical staff as long as the required committee functions are carried out. A small staff may function as a committee-of-the-whole.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-9-11. Executive committee

(a) The executive committee (or its equivalent) shall coordinate the activities and general policies of the various departments, act for the staff as a whole under such limitations as may be imposed by the staff, and receive and act upon the reports of the medical records, tissue, and such other committees as the medical staff may designate.

(b) The committee shall meet at least nine (9) months out of each calendar year and maintain a permanent record of its proceedings and actions.

(c) Committee membership shall be made up of the officers of the medical staff, chiefs of major departments or services, and one (1) or more members elected at large from the active medical staff.

(d) The committee's functions and responsibilities shall include but not be limited to the following:

(1) Consider and recommend action to the administrator on all matters which are of a medico-administrative nature.

(2) Investigate any reports of breach of ethics by members of the medical staff, as referred to this committee by the credentials committee.

(3) Act as the program committee for staff meetings, unless this responsibility is delegated to a specific committee.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-9-12. Credentials committee

- (a) The credentials committee (or its equivalent) shall review applications for appointment and reappointment to all categories of the staff as often as needed and at least biennially. It shall delineate the privileges to be extended to the applicant and make appropriate recommendations to the governing body according to the procedure outlined in the hospital's medical staff bylaws.
- (b) The committee shall recommend individuals for initial appointment, hospital privileges, promotions, demotions, and reappointments.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-9-13. Medical records committee

- (a) The medical records committee (or its equivalent) shall supervise the maintenance of medical records at the required standard of completeness. Routine review and monitoring of records may be performed by hospital medical records staff or through the quality improvement program. On the basis of documented evidence, the committee shall review and evaluate the completeness of the record.
- (b) The committee shall be available to meet as often as necessary and shall submit a written report of meetings to the executive committee.
- (c) The committee's members shall represent a cross section of the clinical services. In large hospitals, each major clinical department may have its own committee.
- (d) Membership shall be staggered so that experienced committee physicians shall always be included. Senior residents may serve on this committee.
- (e) Review of the record for completeness may be performed for the most part by medical record staff. In addition, on-the-spot scanning of current inpatient records for completeness shall be performed.
- (f) The committee shall:
 - (1) Recommend to the medical staff the approval of, use of, and any changes in form or format of the medical record.
 - (2) Advise and recommend policies for medical record maintenance and supervise the medical records to insure that details shall be recorded in the proper manner and that sufficient data shall be present to evaluate the care of the patient.
 - (3) Insure proper filing, indexing, storage, and availability of all patient records.
 - (4) Advise and develop policies to guide the medical record administrators or medical record staff, medical staff, and administration so far as matters of privileged communication and legal release of information are concerned.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-14. Tissue committee

- (a) The tissue committee (or its equivalent) shall review and evaluate all surgery performed in the hospital on the basis of agreement or disagreement among the pre-operative, post-operative, and pathological diagnoses, and on the acceptability of the procedure undertaken.

Reviews may be conducted by hospital staff or conducted as a part of the quality improvement program. All reviews shall be conducted based on criteria established by the committee.

(b) The committee shall be available to meet as often as necessary and shall submit a written report to the executive committee.

(c) This committee's work shall include continuing education through such mechanisms as utilization of its findings in the form of hypothetical cases or review of cases by category at staff meetings or publishing in coded form physicians' standings in the hospital regarding percentage of cases in which normal tissue is removed.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-9-15. Pharmacy and therapeutics committee

(a) A pharmacy and therapeutics committee (or its equivalent), composed of physicians, licensed independent practitioners, pharmacists, and registered nurses, shall assist in the formulation of broad procurement, storage, distribution, use, and safety procedures, and all other matters relating to drugs in hospitals and shall advise the medical staff and the pharmacist.

(b) The committee shall meet at least quarterly and shall:

(1) Serve as an advisory group on matters pertaining to the choice of drugs.

(2) Monitor and enforce stop-order policies.

(3) Monitor and control the use of preventive antibiotics and the use of antibiotics in the presence of infection.

(4) Develop and review periodically a formulary or drug list for use in the hospital.

(5) Establish standards concerning the use and control of investigational drugs in research and the use of recognized drugs.

(6) Evaluate clinical data concerning new drugs or preparations requested for use in the hospital.

(7) Make recommendations concerning drugs to be stocked on the nursing-unit floors and by other services.

(8) Provide information to the medical staff on the relative cost of equivalent or generic medicines.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-16. Meetings of the medical staff

(a) Meetings that include the medical staff shall be held at least monthly to review, analyze, and evaluate the clinical work of its members.

(1) The number and frequency of these meetings shall be determined by the active staff and clearly stated in the bylaws of the staff.

(2) Attendance requirements for each individual member of the staff and for the total attendance at each meeting shall be clearly stated in the bylaws of the staff, and attendance records shall be kept.

(3) Adequate minutes of all meetings shall be kept.

- (4) The method adopted to insure adequate evaluation of clinical practice in the hospital shall be determined by the medical staff, e.g. quality improvement meetings, meetings of medical records and tissue committees in which clinical practice is discussed and evaluated and reports made to the active staff, active staff meetings, etc., and shall be clearly stated in the bylaws.
- (b) Minutes of such meetings shall provide evidence of the following:
 - (1) A review of the clinical work done by the staff on at least a monthly basis according to policies established by the medical staff to monitor clinical activities.
 - (2) Discussion of agenda items, such as committee reports received.
 - (3) Names of members and staff present.
 - (4) Duration of meeting.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-17. Departments

- (a) Division of staff into services or departments to fulfill medical staff responsibilities promotes efficiency and is recommended in general hospitals with seventy-five (75) or more beds. Each autonomous service or department shall be organized and function as a unit.
- (b) Medical staff members of each service or department shall be qualified by training and demonstrated competence and be granted privileges based on their individual training and competence.
- (c) In those hospitals where the review and evaluation of clinical practice are done by committees of the medical staff or by monthly meetings of the entire staff, departmental meetings shall be optional. In those hospitals where the clinical review is done by the departments, each service or department shall meet at least once a month. Records of these meetings shall be kept and shall become part of the records of the medical staff.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-9-18. Chief of service or departments

- (a) The chief of service or department shall be a member of the service or department, qualified by training and by definition in the medical staff bylaws. The chief of service or department shall be responsible to the medical staff as to the qualifications of service or department members. He or she shall make recommendations to the department for the professional care of patients and make recommendations to the medical staff as to the planning of hospital facilities, equipment, routine procedures, and any other matters concerning patient care.
- (b) Each chief of service shall be selected as required by medical staff bylaws or hospital policies based on recommendations of the medical staff.
- (c) Duties and responsibilities of the chief shall include, in addition to those cited above:

(1) Responsibility for arranging and expediting inpatient and outpatient departmental programs embracing organization, educational activities, supervision, and evaluation of the clinical work.

(2) Responsibility for enforcement of the hospital medical staff bylaws, rules and regulations, with special attention to those pertaining to the chief's department.

(3) Maintaining the integrity of the medical records in the department.

(4) Representing the department, in a medical advisory capacity, to the administration and governing body.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

SUBCHAPTER 11. QUALITY IMPROVEMENT

310:667-11-1. General

There shall be an ongoing, comprehensive quality improvement program, approved by the governing body, which shall identify problems in the facility, suggest solutions, and monitor results.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-11-2. Quality improvement plan

(a) A written quality improvement plan shall be developed, approved, and implemented by the governing body with advice from the medical staff.

The plan shall include but not be limited to the following:

(1) Methods of evaluating all patient services to assure quality of care, including those provided under contract.

(2) Methods of evaluating off-site health care organizations for appropriateness of use and the degree to which the services aid in the provision of quality patient care.

(3) Evaluation of all surgeries, inpatient and outpatient.

(b) The evaluation of nosocomial infections and accompanying medication therapy shall be linked to the hospital-wide quality improvement program through regular reporting by appropriate hospital committees and functions such as pharmacy and therapeutics, infection control, pharmaceutical services, etc.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-11-3. Quality improvement committee

A quality improvement committee (or its equivalent) shall meet at least quarterly to evaluate the quality of patient care and address problems identified by the various services. All organized hospital services shall report findings to the committee on at least a quarterly basis or more frequently if findings require immediate action by the committee.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-11-4. Quality improvement implementation

There shall be documentation that the hospital has taken action to address problems identified by hospital services. There shall be documentation that the hospital is monitoring the effectiveness of the proposed solutions.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-11-5. Communication

The facility shall establish mechanisms to communicate quarterly quality improvement summaries to the governing body and to the medical staff.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

SUBCHAPTER 13. INFECTION CONTROL

310:667-13-1. Infection control program

Each hospital shall establish an infection control program to provide a sanitary environment and avoid sources and transmission of infections. The program shall include written policies and procedures for identifying, reporting, evaluating and maintaining records of infections among patients and personnel, for ongoing review and evaluation of all aseptic, isolation and sanitation techniques employed in the hospital, and development and coordination of training programs in infection control for all hospital personnel.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-13-2. Infection control committee

The infection control committee (or its equivalent) shall meet at least quarterly. If central services are discussed such as the dietary service, employee health, engineering or maintenance, housekeeping, laundry, material management, surgical services, pharmacy, or laboratory, at least one individual with appropriate background who can speak for the relevant department(s) attends the meeting or is consulted.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-13-3. Policies and procedures review

(a) The infection control committee shall evaluate, revise as necessary, and approve the type and scope of surveillance activities utilized at least annually.

(b) Infection control policies and procedures shall be reviewed periodically and revised as necessary, based on current scientific knowledge, accepted practice guidelines, and applicable laws and regulations.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-13-4. Policies and procedures content

The policies and procedures outlined by the infection control program shall be approved by the infection control committee and contain at least the following:

- (1) A requirement that a record of all reported infections generated by surveillance activities include the identification and location of the patient, the date of admission, onset of infection, the type of infection, the cultures taken, the results when known, any antibiotics administered and the physicians and practitioners responsible for care of the patient.
- (2) Specific policies related to the handling and disposal of biomedical waste.
- (3) Specific policies and procedures related to admixture and drug reconstitution, and to the manufacture of intravenous and irrigating fluids.
- (4) Specific policies regarding the indications for and types of isolation to be used for each infectious disease. These policies shall incorporate the concepts of Standard Precautions and utilize the recommended transmission-based categories of Contact, Airborne, and Droplet isolation procedures where deemed appropriate by the medical staff.
- (5) A definition of nosocomial infection.
- (6) Designation of an infection control officer, who coordinates the infection control program.
- (7) A program of orientation of new employees and other workers, including physicians, and a program of continuing education for previously employed personnel concerning infection control. Written documentation shall be maintained indicating new employees have completed the program and that previously employed have attended continuing education.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-13-5. Universal birth dose hepatitis B vaccination

All Oklahoma birthing hospitals shall implement a procedure to ensure that the hepatitis B vaccination is administered to all live infants within twelve hours of birth and recorded in the Oklahoma State Immunization Information System. A parent or guardian may refuse hepatitis B vaccination of their newborn on the grounds of medical reasons or that such vaccination conflicts with their religious tenets or personal beliefs. A refusal based on medical reasons shall include a statement in the medical record by a physician stating that the physical condition of the newborn is such that the vaccination would endanger the life or health of the child and that the child should be exempt from the vaccination requirement. A refusal based on the parent's or guardian's religious tenets or personal beliefs shall be documented in the newborn's medical record.

[Source: Added at 29 Ok Reg 1603, eff 7-12-12]

SUBCHAPTER 15. NURSING SERVICE

310:667-15-1. General

The hospital shall have an organized nursing department. A registered nurse shall be on duty at all times, and registered nursing services shall be available for all patients at all times.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-15-2. Organization

There shall be an organized departmental plan of administrative authority with the delineation of responsibilities and duties of each category of nursing personnel.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-15-3. Registered nurse

(a) There shall be an adequate number of registered nurses to meet the following minimum staff requirements: director of the department; assistants to the director for evening and night services; supervisory and staff personnel for each department or nursing unit to insure the immediate availability of a registered nurse for bedside care of any patient when needed; and registered nurse on duty at all times and available on-site for all patients on a twenty-four (24) hour basis.

(b) The staffing pattern shall insure the availability of registered nursing care for all patients on a twenty-four (24) hour basis every day.

(c) If a licensed practical nurse or nurse aide is assigned care of patients who do not generally need skilled nursing care, there shall be a registered nurse supervisor who makes frequent rounds and is immediately available to give skilled nursing care when needed. This registered nurse shall be free to render bedside care and not be occupied in the operating room, delivery room, or emergency room for long periods of time.

(d) The ratio of registered nurses to patients and the ratio of registered nurses to other nursing personnel shall be adequate to provide proper supervision of patient care and staff performance, based on patient acuity.

(e) A registered nurse shall assign the nursing care of each patient to other nursing personnel in accordance with the patient's acuity and the nursing staff available.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-15-4. Other nursing personnel

There shall be other ancillary nursing personnel in sufficient numbers to provide nursing support as needed under the supervision of a registered nurse. The training and supervision of these personnel shall be appropriate for the duties assigned.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-15-5. Qualifications

(a) Individuals selected for the nursing staff shall be qualified by education and experience for the positions they are assigned.

(b) The director of nursing shall make recommendations regarding the selection and promotion of nursing personnel based on their qualifications and capabilities and recommend the termination of employment when necessary.

(c) The qualifications required for each category of nursing staff shall be in written policy and job descriptions and shall be available for review.

(d) The functions of nursing personnel shall be clearly defined in written policies and procedures.

(e) Verification of current licensure and credentials shall be maintained in the personnel files or department of nursing.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-15-6. Evaluation and review of nursing care

(a) There shall be a continuous review and evaluation of the nursing care provided for patients. There shall be written nursing care procedures and nursing care plans for patients.

(b) Nursing care policies and procedures shall be written and be consistent with current standards of practice and be reviewed and revised as necessary.

(c) A registered nurse shall assess, plan, supervise, and evaluate the nursing care for each patient.

(d) Nursing care plans shall include assessment, planning, intervention, and evaluation. Nursing care plans shall be established for each inpatient and be revised as necessary.

(e) Nursing notes shall be informative and descriptive of the nursing care given and include assessment, interventions, and evaluation.

(f) Only the following shall be permitted to administer medications, and in all instances, in accordance with state and federal law:

- (1) A licensed physician or licensed independent practitioner;
- (2) A registered nurse;
- (3) A licensed practical nurse; or
- (4) Other practitioners, if designated by the medical staff and authorized by law.
- (5) Facilities participating in a program for training nursing students may permit nursing students to administer medications to patients provided the facility has on file an agreement between the nursing school and the facility, outlining protocols for participation, scope of involvement, education levels of students, level of supervision, and a current roster of nursing students in the program. Specific details relating to the operation of the program shall be included in the facility's policies and procedures manual.

(g) All medical orders shall be signed by the prescribing physician or practitioner. Telephone or verbal orders for medications, treatments and tests shall be given only to the practitioner authorized by administration to receive these orders and be signed by the prescribing physician or practitioner. Other orders may be accepted by staff as designated by medical staff policy, consistent with state and federal laws. The person taking the telephone or verbal order shall read the order back to the physician or practitioner to ensure it was correctly understood and verify on the order the fact that the order was read back. Each facility, within its own procedures and protocols, shall establish a verification process to be placed on orders to demonstrate that the order was read back to the physician.

(h) Telephone or verbal orders may be authenticated as described at OAC 310:667-19-2(c)(4).

(i) Blood product transfusions and intravenous medications shall be administered as required by written hospital policy in accordance with state and federal law. Hospital staff administering blood products or intravenous medications shall be trained regarding hospital policies before they are allowed to carry out these responsibilities.

(j) An effective hospital procedure shall be established for reporting transfusion reactions and adverse drug reactions.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 18 Ok Reg 2032, eff 6-11-01 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08 ; Amended at 30 Ok Reg 1966, eff 7-25-13]

310:667-15-7. Special-care units

(a) Areas providing specialized nursing care shall be well defined by policies and procedures specific to the nursing services such as intensive care, coronary care, obstetrics, nursery, emergency services, and renal units.

(b) Specific policies and procedures shall supplement basic hospital nursing policies and procedures for special-care units. Nursing policies and procedures of special-care units shall be in accordance with current standards of practice and shall include but not be limited to:

- (1) Protocol for resuscitation and disaster situations.

- (2) Immediate availability of emergency equipment and drugs.
 - (3) Appropriate and safe storage of pharmaceuticals and biologicals.
 - (4) Programs for maintenance and safe operation of all equipment.
 - (5) Appropriate infection-control measures.
 - (6) Control of visitors and nonessential personnel.
 - (7) Documentation of quality improvement.
- (c) Special-care unit nursing services shall be integrated with other hospital departments and services.
- (d) Supervision of nursing care in the unit shall be provided by a registered nurse with relevant education, training, experience, and demonstrated current competence.
- (e) All nursing personnel shall be prepared for their responsibilities in the special-care unit through orientation, ongoing inservice training, and continuing education programs. A planned, formal training program shall be required for registered nurses and licensed practical nurses and shall be of sufficient duration and substance to cover applicable patient care responsibilities in the specialcare unit.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-15-8. Patient physical restraint

- (a) Patients may be physically restrained only by order of a physician or licensed independent practitioner who has determined such restraint is required to prevent injury to the patient or others or prevent serious disruption in the therapeutic environment. Orders for physical restraint shall include a statement of reason for the restraint and specify which approved facility methods and devices shall be used. Alternative measures to the use of physical restraints shall be evaluated prior to their use. Physical restraints shall not be imposed for discipline or convenience purposes.
- (b) Emergency physical restraint to ensure the physical safety of the patient, staff, or other patients may be initiated by a registered nurse who obtains written or verbal consent from a physician or licensed independent practitioner within a time-frame specified by written facility policy. Verbal physical restraint orders shall be signed by the physician or licensed independent practitioner as soon as possible within twenty-four (24) hours. Physical restraint orders shall automatically terminate as specified by facility policy, or sooner as warranted by the patient's condition. If physical restraint is to continue past the time-frame specified by facility policy, a new order shall be obtained from a physician or licensed independent practitioner.
- (c) Patients may be restrained only in accordance with documented specific policies established by the medical staff and the governing body. These policies shall include circumstances in which restraint is appropriate and specific techniques and devices that shall be used for restraint.
- (d) Physically restrained patients shall be monitored as required by facility policy and justification for continued restraint shall be

documented. A physically restrained patient shall have restraint devices released at time-frames specified by facility policy; and the patient shall be repositioned, exercised, or provided range of motion and toileted as necessary.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-15-9. Patient chemical restraint

(a) Patients may be chemically restrained only by order of a physician or licensed independent practitioner who has determined that the chemical restraint is required to prevent injury to the patient or others or prevent serious disruption in the therapeutic environment. Alternative measures to the use of the chemical restraint shall be evaluated prior to their use. Chemical restraint shall not be imposed for discipline or convenience purposes.

(b) Orders for medications used in chemical restraint shall specify the duration and frequency of administration and shall comply with specific stop order policies established by the medical staff for medications used for these purposes.

(c) Patients who are chemically restrained shall be continuously monitored to ensure that side effects are observed and reported to the attending physician or licensed independent practitioner. Monitoring observations and reports to physicians and licensed independent practitioners shall be documented.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 17. FOOD AND NUTRITIONAL SERVICES

310:667-17-1. Organization

(a) The clinical nutritional services shall be under the supervision and direction of a licensed/registered dietitian on a full-time or consultant basis. The number of dietitians shall be adequate to supervise or direct the nutritional aspects of patient care and services, considering the size, scope, and complexity of the needs of the patient.

(1) The licensed/registered dietitian shall be responsible for approval of menus, including modified diets, review of clinical policies and procedures, evaluation of the nutritional services and staff education in continuing education programs.

(2) The licensed/registered dietitian shall provide for patient/family counseling on modified diets as needed, any required nutritional assessments, and development of clinical policies and procedures.

(3) If the licensed/registered dietitian is employed on a part-time or consultant basis, a designee for clinical aspects of patient care shall be a certified dietary manager or a registered dietary

technician.

(4) The licensed/registered dietitian or designee shall enter nutritional status information into the medical record.

(5) Part-time and consultant licensed/registered dietitians shall prepare written reports concerning all services rendered.

(b) The food and nutrition services manager may or may not be a licensed/registered dietitian. If the manager is not a licensed/registered dietitian, the manager is only responsible for administrative management and does not direct clinical nutritional activities.

(c) Personnel shall be adequate in number and training to carry out the preparation and serving of foods and other related functions with the proper and necessary sanitary procedures. The food service staff shall complete a basic orientation program before working in the food service area. This orientation shall include, but not be limited to, basic dietary guidelines, infection control including food safety, and fire and safety precautions.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-17-2. Services and facilities

(a) **Equipment.** Equipment used in the preparation and handling of food in hospitals shall bear the seal of the National Sanitation Foundation (NSF) or comply with the requirements of the NSF (Rules and Regulations Pertaining to Food Establishments).

(b) **Nourishment room.** A room accessible to nursing staff shall be provided for the preparation and serving of light refreshments, equipped with equipment for warming food, refrigerator, and lavatory. This room may serve as the location for an ice machine.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-17-3. Diets and menus

(a) At least three (3) palatable meals or their equivalent shall be served daily, at regular times with not more than fifteen (15) hours between a substantial evening meal and breakfast. Menus shall be planned and followed to meet nutritional needs of patients, in accordance with physicians' or licensed independent practitioners' orders and to the extent medically possible, in accordance with the Dietary Reference Intakes (DRIs) of the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences.

(b) Diets shall be prescribed by the physician or licensed independent practitioner responsible for the care of the patient. All modified diets shall be prescribed by the patient's physician or licensed independent practitioner according to the latest edition of the Oklahoma Diet Manual or other equivalent approved diet manual. The Oklahoma Diet Manual or other equivalent manual shall be approved by the licensed/registered dietitian and medical staff and shall be available to all medical, nursing, and food service personnel.

(c) Nourishments shall be available and may be offered at anytime in accordance with approved diet orders.

- (d) Menus covering all prescribed diets shall be approved, dated, and periodically reviewed by a licensed/registered dietitian.
- (1) Modified diet orders not covered with an approved menu shall be planned in writing, reviewed, and approved by the licensed/registered dietitian or designee with consultation by the licensed/registered dietitian.
- (2) All modified diets shall be efficiently served under the general supervision of a licensed/registered dietitian, a certified dietary manager, or a registered dietary technician.
- (e) The portioning of menu servings shall be accomplished with the use of portion-control serving utensils.
- (f) All modified diets shall be prepared separately, as necessary, from regular diets.
- (g) An identification system shall be established to assure that each patient receives their prescribed diet as ordered.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-17-4. Food preparation and storage

- (a) Potentially hazardous food, as defined in Chapter 257 of this Title, shall be maintained at one hundred-forty (140) °F (approximately 60 °C) or above or at an internal temperature of forty-one ° F (approximately 5 °C) or below. A product thermometer shall be available (metal stem-type numerically scaled indicating temperature, accurate to plus or minus two (2) °F and used to check internal food temperatures).
- (b) Milk and milk products shall be served, handled and stored in accordance with the requirements of Chapter 257 of this Title.
- (c) All ice which is in contact with food or drink shall come from a source approved by the Department, including storage, transportation, handling, and dispensing, which shall be in a sanitary manner, approved by the Department in accordance with Chapter 257 of this Title.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 24 Ok Reg 2018, eff 6-25-07]

310:667-17-5. Sanitation

- (a) The food and nutritional services shall be inspected and approved by state or local health agencies and licensed as a Food Service Establishment. Written reports of the inspection; e.g., Food Establishments Inspection Report Forms, shall be on file at the hospital with notations made by the hospital of action taken to correct violations.
- (b) Storage, preparation, and serving of food shall be in compliance with the requirements of Chapter 257 of this Title, including adequate and proper space for each activity.
- (c) The system to be used for dishwashing shall be approved by the Department and operated in accordance with approved procedures and requirements of Chapter 257 of this Title.
- (d) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Adequate carriers and containers shall be provided for the

collection and transportation, in a sanitary manner, of garbage and refuse from food service areas of the hospital to the place of disposal in accordance with the requirements of Chapter 257 of this Title.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 24 Ok Reg 2018, eff 6-25-07]

SUBCHAPTER 19. MEDICAL RECORDS DEPARTMENT

310:667-19-1. General

The hospital shall have a medical records department with administrative responsibility for medical records. A medical record shall be maintained, in accordance with accepted professional principles, for every patient receiving care in the facility.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-19-2. Reports and records

(a) Reports shall be made by each hospital to the appropriate agency, including but not limited to the following:

- (1) Communicable disease.
- (2) Births and deaths.
- (3) Periodic reports to the Department on forms supplied for this purpose.
- (4) Newborn hearing screening. The hospital shall proceed pursuant to 310:540-1-3 (relating to newborn hearing screening).
- (5) Newborn metabolic disorder screening.
 - (A) **Testing of newborns.** The hospital shall proceed pursuant to 310:550-3-1 (relating to newborn metabolic disorder screening).
 - (B) **Blood specimen collection for hospital births.** The hospital shall proceed pursuant to 310:550-5-1 (relating to newborn metabolic disorder screening).
 - (C) **Pulse oximetry screening for birthing hospitals.** The hospital shall proceed pursuant to 310:550-5-2 (relating to pulse oximetry screening).
 - (D) **Screening for premature/sick infants.** The hospital shall proceed to 310:550-5-1 (relating to newborn metabolic disorder screening).
 - (E) **Newborn screening hospital recording.** The hospital shall proceed pursuant to 310:550-7-1 (relating to newborn metabolic disorder screening).
 - (F) **Pulse oximetry screening hospital recording.** The hospital shall proceed pursuant to 310:550-7-1 (relating to newborn pulse oximetry screening).
 - (G) **Parent, guardian and health care provider education.** The hospital shall proceed pursuant to 310:550-13-1 (relating to newborn disorder screening).

(H) **Training.** The hospital shall proceed pursuant to 310:550-13-1 (relating to newborn disorder screening).

(6) **Birth defects.** Each hospital shall have the capability of producing a list of patients up to six (6) years of age who have been diagnosed with a birth defect(s), and all women discharged with a diagnosis of stillbirth, miscarriage, or poor reproductive outcome. On request, each hospital shall make the medical records of these individuals available to the State Department of Health.

(7) **Abortions.** Attending physicians shall complete and submit to the Department a report form for each abortion performed or induced as required by 63 O.S. 1999, Section 1-738.

(b) **Record of patient admission.**

(1) All persons admitted to any institution covered by these standards shall be under the care of a doctor of medicine (M.D.) or osteopathy (D.O.) duly licensed to practice medicine and surgery in the State of Oklahoma or a licensed independent practitioner, whose name shall be shown on the admitting record.

(2) The hospital admitting record also shall show the following for each patient.

(A) Full name of patient with age, sex, address, marital status, birth date, home phone number, date of admission, and admitting diagnosis.

(B) Next of kin, with address, phone number, and relationship.

(C) Date and time of admission, the admission and final diagnoses, and the name of physician or licensed independent practitioner.

(D) Any advanced directive for health care as defined in the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act.

(3) Special clinical reports shall be kept, including the following:

(A) Obstetrical patients throughout labor, delivery, and post-partum.

(B) Newborn, giving the infant's weight, length, and other notes relative to physical examination.

(C) Surgical and operative procedures, including pathological reports.

(D) Record of anesthesia administration.

(c) **Orders for medications, treatments, and tests.**

(1) All medication orders shall be written in ink and signed by the ordering physician or practitioner authorized by law to order the medication, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician- approved hospital policy after an assessment for contraindications. The order shall be preserved on the patient's chart.

(2) All orders shall be written in ink and signed by the ordering physician or practitioner. Orders received by resident physicians shall be co-signed if required by medical staff bylaws. The order shall be preserved on the patient's chart.

(3) All orders taken from the physician or practitioner, for entry by persons other than the physician or practitioner, shall be countersigned.

(4) Telephone or verbal orders may be authenticated by an authorized physician or practitioner other than the ordering physician or practitioner when this practice is defined and approved in the medical staff bylaws. If allowed, medical staff bylaws must identify the physicians or practitioners who may authenticate another physician's or practitioner's telephone or verbal order, e.g. physician partners or attending physicians or practitioners, and define the circumstances under which this practice is allowed. The bylaws must also specify that when a covering or attending physician or practitioner authenticates the ordering physician's or practitioner's telephone or verbal order, such an authentication indicates that the covering or attending physician or practitioner assumes responsibility for his or her colleague's order and verifies the order is complete, accurate, appropriate, and final. The person taking the telephone or verbal order shall read the order back to the physician or practitioner to ensure it was correctly understood and verify on the order the fact that the order was read back. Each facility, within its own procedures and protocols, shall establish a verification process to be placed on orders to demonstrate that the order was read back to the physician.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 18 Ok Reg 2032, eff 6-11-01 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08 ; Amended at 30 Ok Reg 1966, eff 7-25-13 ; Amended at 31 Ok Reg 1619, eff 9-12-14 ; Amended at 36 Ok Reg 1730, eff 9-13-19 ; Amended at 38 Ok Reg 2066, eff 9-11-21]

310:667-19-3. Maintenance

(a) A medical record shall be maintained for every patient admitted for care in the hospital. Such records shall be kept confidential.

(b) Only authorized personnel shall have access to the record.

(c) Written consent of the patient shall be presented as authority for release for medical information unless this release is otherwise authorized by law.

(d) Medical records generally shall not be removed from the control of the hospital except upon court order or as authorized by law. Department staff shall be authorized to obtain copies or review any medical record to assure compliance with these rules or other parts of this Title. Information from medical records used by the Department for regulatory purposes shall not disclose individual patient names.

(e) Any person who is or has been a patient of a physician or licensed independent practitioner, hospital, or other medical facility shall be entitled to obtain access to the information contained in all his or her medical records upon request. This request for medical information shall include minors when such request is made by the parent or legal guardian. Copies of all medical records shall be furnished pertaining to his or her case upon the tender of the expense of such copy or copies. There is an exception to the general rule that a patient has an absolute

right to the information in or a copy of his or her medical record. Oklahoma law provides *...that this entitlement to medical records shall not apply to psychiatric records* {76 O.S. 1991, §19}.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-19-4. Personnel

Qualified personnel adequate to supervise and conduct the activities of the medical records department shall be provided.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-19-5. Identification and filing

(a) A system of identification and filing to insure the prompt location of a patient's medical record shall be maintained.

(b) A system of retrieval bearing at least the full name of the patient, the address, the birth date, and the medical record number shall be available.

(c) Filing equipment and space shall be adequate to house the records and facilitate retrieval and ensure an environment secure from unauthorized individuals.

(d) A unit record shall be maintained so that both inpatient and outpatient treatments are in one folder. Records maintained in an electronic format will be considered a unit record if they are retrievable by a single patient identifier and immediately available for review by physicians, practitioners and patient care staff.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-19-6. Centralization of reports

(a) All clinical information pertaining to a patient's stay shall be centralized in the patient's record.

(b) The original of all reports shall be filed in the medical record.

(c) All reports or records shall be completed and filed within a period consistent with good medical practice and not longer than thirty (30) days following discharge.

(d) A report or record requiring a physician or licensed independent practitioner signature is not considered complete until signed by the physician or licensed independent practitioner.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-19-7. Indices

(a) Records shall be indexed according to disease, operation, and physician or licensed independent practitioner and kept up-to-date. For indexing, any recognized system may be used. The factors explaining the standard are as follows:

- (1) As additional indices become appropriate due to advances in medicine, their use shall be adopted.
 - (2) The index list for a specific disease or operation, according to a recognized nomenclature, shall include all essential data on each patient having that particular condition. "Essential data" shall include at least the medical record number of the patient so that the record may be located. All conditions for which the patient is treated during the hospitalization shall be so indexed.
 - (3) Diagnoses and operations shall be expressed in terminology which describes the morbid condition as to site and etiological factors or the method of procedure.
- (b) Indexing shall be current within sixty (60) days following discharge of the patient.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-19-8. Content

- (a) The medical record shall contain sufficient information to justify the diagnosis and warrant the treatment provided. The medical record shall contain the following information:
- (1) Identification data. Identification data shall include at least the patient's name, address, age and date of birth, sex, and marital status.
 - (2) Date of admission.
 - (3) Date of discharge.
 - (4) Chief complaint. The chief complaint shall consist of a concise statement describing the reason the patient is seeking medical attention.
 - (5) History of present illness. The history of the present illness shall include a detailed description of the patient's symptoms including:
 - (A) Location of pain;
 - (B) Quality of pain and symptoms;
 - (C) Severity;
 - (D) Timing;
 - (E) Duration;
 - (F) Modifying factors, i.e., things that worsen or alleviate symptoms; and
 - (G) Associated signs and symptoms.
 - (6) Past history. The past history shall include all previous illnesses and previous surgical procedures.
 - (7) Medication history. The medication history shall list all current medications and all known drug reactions/allergies.
 - (8) Social history. The social history shall include a description of the patient's social setting and use of tobacco and/or alcohol, illicit drugs, and work history.
 - (9) Family history. The family history shall include a description of the state of health of living first-degree relatives, and causes of death of first-degree relatives.

(10) Review of systems. Elements of the review of systems shall include:

- (A) General overall condition (fever, weight loss, stamina, etc.);
- (B) Head, eyes, ears, nose, throat;
- (C) Cardiovascular;
- (D) Respiratory;
- (E) Breasts;
- (F) Gastrointestinal;
- (G) Genitourinary;
- (H) Musculoskeletal;
- (I) Skin and lymphatics;
- (J) Neurological;
- (K) Psychiatric;
- (L) Hematologic;
- (M) Allergic; and
- (N) Immunologic.

(11) Physical examination. The physical examination shall include a record of the patient's vital signs at the time of the examination including height, weight, blood pressure, temperature, pulse rate, and respiratory rate. Negative findings for a system may be indicated in the record of the physical examination by the lack of an entry for that system. If the hospital allows negative findings for a system on physical examination to be documented by omission of an entry for that system, medical records policies and procedures shall specify whether the omission of an entry signifies the system was examined and no significant findings were noted or that no examination of that system was performed. Specific abnormal or pertinent negative findings of the examination of the affected or symptomatic body area(s) must be documented in regards to the following areas:

- (A) Head, eyes, ears, nose, and throat;
- (B) Neck;
- (C) Chest, including lungs, breasts, and axilla;
- (D) Cardiovascular, including peripheral pulses, and examination of abdominal aorta;
- (E) Abdomen;
- (F) Genitourinary;
- (G) Hematologic and Immunologic;
- (H) Musculoskeletal;
- (I) Neurological;
- (J) Psychiatric; and
- (K) Skin and lymphatics.

(12) Provisional diagnosis which shall be an impression (diagnosis) reflecting the examining physician's or licensed independent practitioner's evaluation of the patient's condition and shall be based mainly upon physical findings and history.

(13) Special examinations, if any, such as clinical laboratory reports, diagnostic imaging studies, consultation reports, etc. Consultation reports shall be a written opinion and shall be signed by the consultant, including his or her findings from the

history and physical examination of the patient.

(14) Treatment and medication orders.

(15) Diagnostic and medical procedure reports.

(16) Surgical records including anesthesia record, preoperative diagnosis, operative procedure and findings, postoperative diagnosis, and tissue diagnosis on all specimens examined. Tissue reports shall include a report of microscopic findings if hospital regulations require that microscopic examination be done. If only gross examination is warranted, a statement that the tissue has been received and a gross description shall be made by the laboratory and filed in the medical record.

(17) Progress and nursing notes shall give a chronological picture of the patient's progress and shall be sufficient to delineate the course and results of treatment. The condition of the patient shall determine the frequency with which they are made.

(18) Record of temperature, pulse, respiration, and blood pressure.

(19) Definitive final diagnosis expressed in terminology of a recognized system of disease nomenclature.

(20) Discharge Summary that shall be a recapitulation of the significant findings and events of the patient's hospitalization and condition upon discharge, including prescribed medications at time of discharge.

(21) Autopsy findings in a complete protocol shall be filed in the record when an autopsy is performed.

(b) Facsimile copies shall be acceptable as any portion of the medical record. If the facsimile is transmitted on thermal paper, that paper shall be photocopied to preserve its integrity in the record. Facsimile copies shall be considered the same as original copies.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-19-9. Authorship

Documentation of services shall be in accordance with The Centers of Medicare and Medicaid Services, Medicare Claims Processing Manual, Revision 4173, published November 30, 2018, incorporated herein by reference.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 36 Ok Reg 1730, eff 9-13-19]

310:667-19-10. Signature

(a) Records shall be authenticated and signed by a physician or licensed independent practitioner.

(b) Every physician or practitioner shall authenticate the entries which he or she makes except as allowed at OAC 310:667-19-2(c)(4) and OAC 310:667-19-10(e).

(c) A single signature on the face sheet of the record shall not suffice to authenticate the entire record.

(d) Rubber stamp signatures may be used in any place in the medical record that requires a signature, provided signature identification can be verified. Authentication of reports by physicians or practitioners shall not take place prior to review of the final report by the physician or practitioner. Facilities allowing physicians and practitioners to use signature stamps to authenticate entries in the medical record shall have on file a signed statement from each such physician or practitioner that they have jurisdiction over the stamp. The use of signature stamps shall be approved in writing by the hospital administrator and medical records committee (or equivalent).

(e) Reports of history and physical examinations and discharge summaries may be authenticated by an authorized physician or practitioner other than the physician or practitioner who performed the examination or produced the summary when this practice is defined and approved in the medical staff bylaws or rules and regulations. If allowed, medical staff bylaws or rules and regulations must identify the physicians or practitioners who may authenticate another physician's or practitioner's report of history and physical examination or discharge summary, e.g. physician partners or attending physicians or practitioners, and define the circumstances under which this practice is allowed. The bylaws or rules and regulations must also specify that when a covering or attending physician or practitioner authenticates another physician's or practitioner's report of history and physical examination or discharge summary, such an authentication indicates that the covering or attending physician or practitioner assumes responsibility for his or her colleague's report or summary and verifies the document is complete, accurate, and final.

(f) Electronic or computerized signatures may be used any place in the medical record that requires a signature, provided signature identification can be verified. Computerized authorization shall be limited to a unique identifier (confidential code) used only by the individual making the entry. Authentication of reports by physicians or practitioners shall not take place prior to review of the final report by the physician or practitioner. Electronic or computerized signature shall be the full, legal name of physician or practitioner and include the professional title. The use of computerized or electronic signatures shall be approved in writing by the hospital administrator and medical records committee (or equivalent). Each physician or practitioner using an electronic or computerized signature shall sign and file a statement in the hospital administrator's office which states that:

- (1) The physician or practitioner shall use an electronic or computer generated signature to authenticate his entries in the medical record;
- (2) The signature shall be generated by a confidential code which only the physician or practitioner possesses;
- (3) No person other than the physician or practitioner shall be permitted to use the signature.

310:667-19-11. Emergency medical records

(a) Complete medical records shall be kept on every patient seen and/or treated in the emergency room and shall contain as a minimum the following:

- (1) Patient identification.
- (2) Time and means of arrival.
- (3) History of disease or injury.
- (4) Physical findings.
- (5) Laboratory and x-ray reports, if any.
- (6) Diagnosis and therapeutic orders.
- (7) Record of treatment, including vital signs.
- (8) Disposition of the case.
- (9) Signature of the registered nurse.
- (10) Signature of the licensed independent practitioner, if applicable.
- (11) Signature of the physician, if applicable.
- (12) Documentation if patient left against medical advice.

(b) Medical records for patients seen and/or treated in the emergency room shall be organized and filed by the medical records department.

(c) Where appropriate, medical records of emergency services shall be integrated with those of the inpatient and outpatient services.

(d) Emergency medical records shall be kept, as a minimum, as required by state and federal statutes.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-19-12. Outpatient medical records

(a) Outpatient medical records shall be maintained and correlated with other hospital medical records.

(b) The outpatient medical record shall be filed in a location which ensures accessibility to the physicians and licensed independent practitioners, nurses, and other personnel of the department.

(c) The outpatient medical record shall be integrated with the patient's overall hospital record.

(d) Information contained in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, laboratory and other diagnostic tests, diagnosis, and treatment to facilitate continuity of care.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-19-13. Promptness of record completion

(a) Current records and those on discharged patients shall be completed promptly.

(b) All dictated reports shall include the date of dictation and the date of transcription.

(c) Medical record transcription shall be timely. Current records; e.g. progress notes, consultation reports, operative notes, radiology reports,

shall be transcribed and available for review in the medical record within forty-eight (48) hours of dictation.

(d) History and physical examinations shall be completed, signed, and placed in the medical record within forty-eight (48) hours following admission or not more than thirty (30) days prior to admission.

(e) When the medical history and physical examination are completed within thirty (30) days before admission, the hospital must ensure that an updated medical record entry documenting an examination for any changes in the patient's condition is completed. A timely review of the prior history and physical examination or an updated examination must be completed and documented in the patient's medical record within forty-eight (48) hours.

(f) Records of patients discharged shall be completed within thirty (30) days following discharge.

(g) If a patient is readmitted within thirty (30) days for the same condition, reference to the previous history and physical examination with an interval note shall suffice.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08]

310:667-19-14. Retention and preservation of records

(a) **State retention requirements.** Medical records shall be retained a minimum of five (5) years beyond the date the patient was last seen or a minimum of three (3) years beyond the date of the patient's death. Records of newborns or minors shall be retained three (3) years past the age of majority.

(b) **Preservation of records.**

(1) Hospitals may microfilm, put on optical disk, or adopt similar recording technology to record the medical records and destroy the original record in order to conserve space.

(2) Records reconstituted from the technology employed to conserve space shall be considered the same as the original and the retention of the technically retained record constitutes compliance with preservation laws.

(3) The minimum contents of a medical record to be recorded shall be as required by OAC 310:667-19-8.

(4) In the event of closure of a hospital, the hospital shall inform the Department of the disposition of the records. Disposition shall be in a manner to protect the integrity of the information contained in the medical record. These records shall be retained and disposed of in a manner consistent with the statute of limitations.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 21. DRUG DISTRIBUTION

310:667-21-1. General

(a) **Distribution of Drugs.** Every hospital shall provide routine and emergency drugs and biologicals in a safe and accurate manner to meet the needs of its patients, through an organized pharmacy directed by a pharmacist or a drug room under the supervision of a consultant pharmacist. Hospitals not having a licensed pharmacy shall have a drug room supervisor under the direction of a consultant pharmacist.

(b) **Scope of services.** Each hospital shall have drug and medication services commensurate with the size of the hospital and scope of services offered.

(c) **Organization.** An organizational chart shall be provided to display the distinct function of the pharmacy department in the hospital.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-21-2. Personnel

(a) **Pharmacist director or consultant.** The pharmacist director or consultant shall be responsible for all drugs that come into the hospital. The pharmacist shall be trained in the specialized functions of hospital pharmacy and be responsible to the administrator for developing, supervising, and coordinating all activities of the pharmacy or drug room, whether on a full-time or consultant basis. The consultant pharmacist shall visit the hospital a minimum of fifty-two (52) times per year, with no more than five (5) visits in any one month counted toward this total, and shall submit a report outlining issues encountered and decisions made during the visit. The responsibility and authority of the pharmacist shall be clearly defined in a written job description. The responsibilities include but are not limited to:

- (1) Establishes and implements intradepartmental and interdepartmental written policies and procedures regarding methods of reconciliation and control of drugs, including audit trails governing all areas of pharmaceutical services. These policies and procedures shall be in compliance with local, state, and federal laws and current professional principles and practices.
- (2) Establishes liaison with the administrator and the chief of the medical staff regarding written policies and procedures and their interaction and interdependency with the requirements of the medical staff bylaws and rules and regulations, the governing body rules and regulations, and administrative interdepartmental policies.
- (3) Employs an adequate number of pharmacists and other personnel, as required by department activities and services to implement pharmaceutical services.
- (4) Provides drug information services to physicians and licensed independent practitioners, dentists, nurses, and other health care staff.
- (5) Provides poison information services to physicians and licensed independent practitioners, dentists, nurses, and other health care staff.

(6) Provides inservice training to physicians and licensed independent practitioners, nurses, pharmacy staff, and other personnel as applicable.

(7) Provides documentation that orientation and staff-development training are provided to pharmacy personnel.

Documentation shall include but not be limited to:

(A) Formal orientation of new personnel to written policies of the department.

(B) Inservice education and staff development.

(C) Specialized training in admixture service.

(D) Outline of program content.

(E) Signatures of staff attending with title.

(8) Provides records of tax-free alcohol, investigational drugs, and controlled dangerous drug substances, as required by local, state, and federal laws, rules and regulations.

(9) Provides reviews of patient drug orders and requisitions to avoid possible errors in medication administration.

(10) Maintains a stock of drugs, as agreed in the formulary or drug list, for daily and emergency use.

(11) Develops quality assurance methods to determine that the activities of the department are within the interdepartmental and intradepartmental policies and procedures.

(12) Reports all deficiencies identified through quality assurance methods and the methods of correction of deficiencies to the chief executive officer, the departmental chief, and/or the pharmacy and therapeutics committee.

(13) Provides reports of all visits by the consulting pharmacist. The reports include documentation of consultation with the administrator or the administrator's designee. A copy of the consultant's visit reports shall be retained in the drug room.

(14) Make copies of current policies and procedures available to all appropriate personnel.

(15) Provides an agreement with other licensed pharmacists for provision of outside pharmacy services in case of emergency.

(b) **Pharmacist.** The pharmacist shall provide drugs in conformance with ordering physicians' or practitioners' orders, departmental policy, medical staff bylaws, and local, state, and federal rules and regulations and in accordance with current professional principles and practices. Proof of current licensure shall be available for all pharmacists. Pharmacists who serve as preceptors shall provide the approved preceptorship permit.

(c) **Drug room supervisor.** The drug room supervisor shall be a registered pharmacist, registered nurse, or a licensed practical nurse, who shall assist the pharmacist in procuring, receiving, storage, distribution, record keeping, and disposition of drug products and medications. The drug room supervisor shall be designated in writing by the consultant pharmacist and the administrator. All dispensing, compounding, labeling, and repackaging of drugs products shall be under the direct supervision of the pharmacist. The qualifications and duties of the drug room supervisor shall be provided in a written job description.

(d) **Other pharmacy staff.** Written job descriptions shall be available and a staff orientation, development, and inservice training program shall be provided to acquaint the staff of the requirements and limitation of their functions in the pharmacy.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-21-3. Supervision of pharmacy services

(a) At least one (1) pharmacist or drug room supervisor shall be assigned to the pharmacy or drug room during standard operating hours.

(b) Consultant pharmacist services shall be used when a staff pharmacist is not available.

(c) Consultant pharmacist services shall be provided in accordance with a written job description and a written agreement, which shall discuss the duties and responsibilities of the pharmacist, the terms of the agreement, be signed by both parties, and be dated.

(d) If the hospital maintains a drug room, only the functions of storage and distribution of properly packaged and labeled drugs may be performed by the drug room supervisor within the hospital. Drug products requiring repackaging and labeling shall be dispensed by a qualified pharmacist.

(e) The prescriber's original order or a copy shall be made available to the pharmacy or drug room prior to distributing or dispensing drugs and medications.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-21-4. Delivery of service

(a) Records shall be maintained of the transactions of the pharmacy (or drug room) to account for the receipt, distribution, disposition, and destruction of drugs and biologicals.

(b) A record of the stock of controlled dangerous drug substances on hand shall be maintained and the record shall be maintained in such a manner that the disposition of any particular item may be readily traced.

(c) Methods shall be provided of reconciliation of drugs distributed to the nurses station for administration to a patient.

(d) Floor stock shall be controlled. Distribution shall be in accordance with the floor stock drug list. A method shall be provided of reconciliation of floor stock drugs distributed for use in a procedure or for a particular patient.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-21-5. Physical facilities of pharmacy

(a) Facilities shall be provided for the storage, safeguarding, preparation and dispensing of drugs.

(b) The drug preparation area shall be clean, well lighted, and of sufficient size to ensure the safe preparation of drugs for administration.

- (c) The drug preparation areas shall be located so that the person preparing the drugs shall not be disturbed.
- (d) All drug storage areas shall be properly ventilated with appropriate humidity and temperature to eliminate drug deterioration.
- (e) Suitable sinks with hot and cold water, toileting, and handwashing facilities shall be available to the pharmacy/drug room.
- (f) Equipment and supplies shall be provided to adequately protect the personnel from toxic substances, including antineoplastic medications, and disposal of waste products in conjunction with local, federal and state laws.
- (g) Equipment, facilities, and floor space shall be provided for the preparation, storage, safeguarding, compounding, record keeping, packaging, distribution, dispensing, and methods of administration of drugs and biologicals.
- (h) Space, equipment, and facilities shall be available for the operation, record keeping, planning, training, administrative management, and facilitation of pharmacy services.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-21-6. Drug-information services

- (a) The hospital shall assure that current information on drugs and drug interactions is available to physicians, practitioners, nurses, and other health-care staff. The system for communicating drug information shall be appropriate for the size, scope, and complexity of the hospital.
- (b) Suitable, current, library of drug reference materials, books, journals, and teaching aids in hard copy or electronic format shall be available for drug information reference by pharmacy services and physicians and practitioners.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-21-7. Access to pharmacy or drug room

- (a) All drugs and biologicals shall be kept in a secure area. Drugs listed in Schedules II, III, IV, and V of the Comprehensive Drug Abuse and Control Act of 1970 must be kept locked within a secure area.
- (b) Provisions shall be made for obtaining drugs after the pharmacy or drug room is closed. The procedure shall specify the personnel permitted access to the drug storage area, method of maintaining drug control, and inventory and methods of record keeping of drugs and biologicals removed. Access to the drug room/pharmacy shall be restricted to authorized individuals.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08]

310:667-21-8. Drug handling

- (a) Drugs shall be given to hospital patients only upon written order of a physician or practitioner legally authorized to write a prescription, with the exception of influenza and pneumococcal polysaccharide vaccines,

which may be administered per physician-approved hospital policy after an assessment for contraindications. No change in an order shall be made without the approval of the prescriber. Telephone or verbal orders are discouraged but, when necessary, shall be written by an authorized employee and signed by the person legally authorized to write a prescription or meet the requirements at OAC 310:667-19-2(c)(4). The person taking the telephone or verbal order shall read the order back to the physician or practitioner to ensure it was correctly understood and verify on the order the fact that the order was read back. Each facility, within its own procedures and protocols, shall establish a verification process to be placed on orders to demonstrate that the order was read back to the physician.

(b) Single use units of controlled substances shall be used in the hospital except in the pharmacy where multiple dose vials may be used for IV admixtures.

(c) All Schedule drugs in the hospital, except those in the pharmacy, shall be verified by actual count at the change of shift by two (2) licensed nurses and documented. Schedule drugs outside the pharmacy which are contained in, and controlled by, an automated dispensing device may be verified by actual count at the time of each access and documented. Adequate day-to-day accountability-of-use records shall be maintained and shall include the date and time of each check of a schedule drug substance supply, the balance on hand, the names of patients receiving drugs, the physician's or prescribing practitioner's name, quantity of medication used and wasted, and the signatures of the two persons making the check. Wastage of schedule drugs shall be witnessed by at least two (2) persons, one (1) of which shall be a licensed health professional. Witnesses shall document wastage by signature.

(d) The medical staff shall establish a written policy that all toxic or dangerous drugs not specifically prescribed as to time or number of doses shall be automatically stopped after a reasonable time limit set by the staff. Examples of drugs ordinarily thought of as toxic or dangerous drugs include: controlled substances, sedatives, anticoagulants, antibiotics, oxytocics, and steroids.

(e) The administrator, or his or her authorized representative, shall inventory pharmacy controlled substances and alcohol at least annually.

(f) Drugs past the date of expiration shall be removed from stock and shall not be available for patient use.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 18 Ok Reg 2032, eff 6-11-01 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08 ; Amended at 30 Ok Reg 1966, eff 7-25-13]

SUBCHAPTER 23. DIAGNOSTIC AND TREATMENT SERVICES

310:667-23-1. General

The hospital shall have diagnostic and treatment services available to patients, either on site or by arrangement. Each service shall have

written policies and procedures including, but not limited to, the following:

- (1) A job description for every type of employee in the service.
- (2) A written list of procedures performed by the service that is available to the active staff physicians and practitioners.
- (3) Procedure for orientation of each new employee into the service.
- (4) Infection control procedures specific to the service.
- (5) Hospital safety plan.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-23-2. Radiological, computerized tomography, magnetic resonance imaging services

(a) **Radiology.** The hospital shall maintain or have available radiological services according to needs of the hospital.

(1) **Hazards for patients and personnel.**

(A) The radiological department shall be free of health and safety hazards for patients and personnel.

(B) Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards, and radiation hazards.

(C) Inspection of x-ray equipment shall be made once every two (2) years by a certified health physicist or members of the Diagnostic x-ray section of the Department, and hazards so identified shall be promptly corrected.

(D) The hospital shall identify those employees who are subject to significant occupational exposure to radiation while performing their job duties. All such workers shall be checked periodically for amounts of radiation exposure by the use of exposure meters or badge tests.

(E) With fluoroscopes, attention shall be paid to modern safety design and good operating procedures; records shall be maintained for the output of all fluoroscopes.

(F) Regulations based upon medical staff recommendations shall be established as to the administration of the application and removal of radium element, its disintegration products, and other radioactive isotopes.

(G) If mammography is performed at the facility, the facility shall have a current certificate from the Food and Drug Administration as required by the Mammography Quality Standards Act.

(2) **Personnel.**

(A) Personnel adequate to supervise and conduct the services shall be provided, and the interpretation of radiological examinations shall be made by physicians or licensed independent practitioners competent in the field according to individually granted clinical privileges.

(B) The hospital shall have a qualified radiologist, either full-time, part-time or on a consulting basis, both to supervise the department and to interpret films and studies that require specialized knowledge for accurate reading.

(C) If the activities of the radiology department extend to radiotherapy, the physician in charge shall be appropriately qualified.

(D) The amount of qualified radiologist and technologist time shall be sufficient to meet the hospital's requirements. A technologist shall be on duty or on call at all times.

(E) The use of all x-ray apparatus shall be limited to personnel designated as qualified by the radiologist or by an appropriately constituted committee of the medical staff. The same limitation shall apply to personnel applying and removing radium element, its disintegration products, and radioactive isotopes. Radiology technologists shall not independently perform fluoroscopic procedures.

Fluoroscopic procedures may be performed by radiology technologists only upon the written authorization of a qualified radiologist, and in the presence of a physician or licensed independent practitioner or by real time visualization through electronic means.

(3) Signed reports.

(A) Signed reports shall be filed with the patient's medical record and exact duplicates of the signed reports shall be kept in the department.

(B) Requests by the attending physician or licensed independent practitioner for x-ray examination shall contain a concise statement of reason for the examination.

(C) Reports of interpretations shall be written or dictated and signed by the radiologist, physician, or licensed independent practitioner making the interpretation.

(D) X-ray reports shall be preserved or microfilmed in accordance with the statute of limitations and OAC 310:667-19.

(E) X-rays and other images shall be maintained at least five (5) years. These images may be maintained in a digital or electronic format as long as a duplicate can be reproduced.

(b) Ultrasound imaging.

(1) Ultrasound imaging shall be performed only upon order of a physician or licensed independent practitioner.

(2) Ultrasound imaging shall be performed by a physician or licensed independent practitioner or by a technologist that has specific training in ultrasound imaging and designated as qualified by the radiologist.

(3) Reports of findings of ultrasound imaging shall be included in the patient's medical record.

(c) Computerized tomography and magnetic resonance imaging.

- (1) Computerized tomography and magnetic resonance imaging may be provided.
- (2) If used by the facility, all computerized tomography (CT) and magnetic resonance imaging (MRI) examinations shall be authorized by a written and signed order from a physician or licensed independent practitioner.
- (3) CT and MRI examinations shall be performed under the direction of and interpreted by a qualified radiologist who is a member of the hospital active or consulting medical staff.
- (4) CT and MRI examinations shall be performed by a radiology technologist with documented CT or MRI training and experience and designated as qualified by the radiologist.
- (5) A qualified physician or licensed independent practitioner shall be available during the administration of intravenous contrast media.
- (6) Oxygen and emergency medical supplies shall be maintained within the CT/MRI suite or be readily available. If the CT/MRI suite is a mobile unit, the mobile unit shall contain oxygen and emergency medical supplies.
- (7) CT/MRI films and reports shall be maintained at the hospital in the same manner as x-ray films and reports.
- (8) If the CT/MRI is a mobile unit, written infection control policy and procedures and safety plans shall be maintained as part of the overall hospital plans.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 21 Ok Reg 2785, eff 7-12-04]

310:667-23-3. Nuclear medicine

Nuclear medicine services may be provided. If provided, the entity providing nuclear medicine services shall be licensed by the Nuclear Regulatory Commission.

- (1) Nuclear medicine procedures shall be under the supervision of a physician who is a member of the medical staff.
- (2) Nuclear medicine services shall be supervised by a qualified and trained nuclear medicine technologist.
- (3) There shall be a sufficient number of qualified technical and supportive staff to perform the procedures provided by nuclear medicine.
- (4) Personnel that provide nuclear medicine services shall have written authorization by the physician director to provide these services.
- (5) All radioactive materials shall be purchased, stored, and administered in accordance with the standards approved by the medical staff and shall be in compliance with local, state, and federal laws. A record of the receipt and disposition of all radiopharmaceuticals shall be maintained for a minimum of five (5) years. The dose of radiopharmaceuticals shall be reverified prior to patient administration.
- (6) Equipment shall be appropriate for the types of services offered and shall be maintained, tested, and calibrated as

required by the manufacturer.

(7) There shall be written policies and procedures for all services offered which shall additionally include the following:

(A) Safety rules.

(B) Steps to take in the event of an adverse reaction.

(C) Clean up of spills.

(8) The policy and procedure manual shall be reviewed annually and revised as necessary.

(9) If diagnostic in-vitro laboratory testing is performed in this department, such testing shall conform to all conditions in 42 CFR part 493 (CLIA '88).

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-23-4. Laboratory

(a) The hospital shall have a well-organized, adequately supervised clinical laboratory with the necessary staff, space, facilities, and equipment to perform those services commensurate with the hospital's needs for its patients. All or part of these services may be provided by arrangements with certified reference laboratories.

(b) If a hospital directly provides laboratory services, it shall meet all conditions as set forth in 42 CFR part 493 and be certified to perform testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88). The hospital shall possess a current, unrevoked or unsuspended certificate appropriate for the extent of testing performed issued by the Department of Health and Human Services applicable to the category of examinations or procedures performed by the facility.

(c) If a hospital provides laboratory services under arrangement, the referral laboratory shall also meet the requirements of this section.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-23-5. Rehabilitation, physical therapy, and occupational therapy departments

(a) The rehabilitation, physical therapy, and occupational therapy departments, if offered, shall have effective policies and procedures relating to the organization and functions of the service(s) and shall be staffed by qualified therapists.

(b) Policies and procedures shall include, in addition to the above named items, the following:

(1) Standards of care.

(2) Criteria for assuring communication of the patient's therapy and progress to the physician or licensed independent practitioner.

(3) Assembly and operation of the equipment.

(4) Each procedure performed by each employee shall be designated in writing by the department head and shall include the amount of supervision required when performing the procedure.

- (5) Cleaning, disinfecting, and sterilizing procedures.
- (c) There may be a rehabilitation department, including both physical and occupational therapy and which may also include other rehabilitation services, such as speech therapy, vocational counseling, and other appropriate services, or there may be separate physical and/or occupational therapy departments.
- (d) The department head shall have the necessary knowledge, experience, and capabilities to properly supervise and administer the department. A rehabilitation department head shall be a physiatrist or other physician or practitioner with pertinent experience. If separate physical or occupational therapy departments are maintained, the department head shall be a qualified and licensed physical or occupational therapist (as appropriate) or a physician or practitioner with pertinent experience.
- (e) Facilities and equipment for physical and occupational therapy shall be adequate to meet the needs of the services and maintained in good condition.
- (f) Physical therapy or occupational therapy shall be given in accordance with the physician's or licensed independent practitioner's orders, and such orders shall be incorporated in the patient's record. These orders shall include:
- (1) Identification of the patient.
 - (2) Date.
 - (3) Physician's or licensed independent practitioner's name.
 - (4) Type, frequency, and duration of treatment.
 - (5) Physician or licensed independent practitioner signature.
- (g) Complete records shall be maintained for each patient provided such services and shall be part of the patient's record. Physical therapy records shall include:
- (1) Current written plan of care.
 - (2) Statement of treatment objectives.
 - (3) Statement of patient's long-term and short-term rehabilitation potential.
 - (4) Functional limitations.
 - (5) Individual treatments shall be documented.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-23-6. Respiratory therapy

- (a) The respiratory therapy service shall be under the supervision of a qualified physician or physicians. Respiratory therapy services, including equipment, shall be supervised by a licensed respiratory therapist.
- (b) Services may be performed by other respiratory care practitioners as long as a licensed respiratory therapist is readily available for consultation.
- (c) Respiratory care practitioners shall be on the premises whenever continuous ventilatory support is provided to patients.
- (d) All respiratory therapy personnel shall be trained in the following:
- (1) CPR techniques.
 - (2) Patient isolation techniques.

- (3) Safety rules and regulations for oxygen and oxygen equipment.
- (e) There shall be written policies and procedures, approved by the physician director and/or medical staff, which shall include, in addition to the above named items, the following:
- (1) Each procedure performed by each employee shall be designated in writing by the department head and shall include the amount of supervision required when performing the procedure.
 - (2) Fire safety and other safety procedures for the use of oxygen in a facility.
 - (3) Handling, storage and dispensing of therapeutic gasses.
 - (4) Infection control measures that address frequency of changing disposable equipment and frequency of cleaning reusable equipment.
 - (5) Assembly, operation, and maintenance of equipment.
 - (6) Steps to take in the event of an adverse reaction.
 - (7) Cleaning, disinfecting, and sterilizing procedures.
- (f) If arterial blood gasses are performed, the respiratory therapy department shall meet the provisions of 42 CFR part 493 (CLIA '88).
- (g) All respiratory therapy orders shall:
- (1) Originate from a physician or licensed independent practitioner.
 - (2) Specify the type, frequency, duration of treatment, and, if needed, the dose of medication.
- (h) Respiratory therapy reports of pulmonary function studies shall be prepared in duplicate and signed by the respiratory care practitioner responsible for the test or procedure. The original shall be placed in the patient's medical record and the duplicate shall be retained in the department.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-23-7. Pet therapy

If pet therapy is to be incorporated into therapeutic regimens, procedures shall require the animals to be utilized in this modality to be restricted to dogs (*canis familiaris*), cats (*felis domesticatus*), birds, and fish. Mammals shall be vaccinated annually for rabies and leptospirosis by a licensed veterinarian. Animals shall be evaluated for the presence of internal parasites semi-annually by a licensed veterinarian and shall be evaluated for the presence of external parasites as needed. Birds obtained for use in pet therapy shall be from breeding establishments free from avian chlamydiosis (*psittacosis*). Animals shall be humanely housed in designated areas under staff control. The infection control committee and the medical staff shall approve any program prior to initiation. The facility shall evaluate the temperament of animals before they are considered appropriate for pet therapy.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 25. SURGICAL SERVICES

310:667-25-1. Department of surgery

The department of surgery shall have effective policies and procedures regarding surgical privileges, maintenance of the operating rooms, and evaluation of the surgical patient.

(1) Surgical privileges shall be delineated for all physicians and practitioners doing surgery in accordance with the competencies of each physician or practitioner. A roster of physicians and practitioners, specifying the surgical privileges of each, shall be kept in the confidential files of the operating room supervisor and in medical staff credential records.

(2) In any procedure with unusual hazard to life, as defined by the medical staff, there shall be present and scrubbed as first assistant a physician designated by the credentials committee as being qualified to assist in major surgery.

(3) Second and third assistants at major operations, and first assistants at lesser operations, may be nurses, technicians, or other practitioners if designated by the medical staff as having sufficient training to properly and adequately assist at such procedures.

(4) The operating room log shall be complete and up to date and include the following information:

- (A) Patient's name.
- (B) Medical record number.
- (C) Name of surgeon.
- (D) Name of assistant(s).
- (E) Type of anesthetic and person administering.
- (F) Circulating nurse.
- (G) Scrub nurse.
- (H) Procedures performed.
- (I) Time surgery began and ended.
- (J) Other people present.

(5) There shall be an appropriate history and physical examination in the chart of every patient prior to surgery (whether the surgery is major or minor). If such has been transcribed, but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note by the physician or licensed independent practitioner in the chart.

(6) A properly executed consent form for the operation shall be in the patient's chart prior to surgery.

(7) There shall be adequate provisions for immediate post-operative care.

(8) An operative report describing techniques and findings shall be written or dictated immediately following surgery and signed by the surgeon.

(9) The surgical service shall cooperate with the infection control program in the investigation and correction of problems identified through infection control surveillance activities.

(10) The operating rooms shall be supervised by an experienced registered nurse.

(11) Surgical technicians and licensed practical nurses may be permitted to serve as "scrub nurses" under the direct supervision of a registered nurse; they shall not be permitted to function as circulating nurses in the operating room.

(12) The following equipment shall be available to the operating suites: call-in system, cardiac monitor, resuscitator, defibrillator, aspirator, thoracotomy set, and tracheotomy set. Thoracotomy set and tracheotomy set shall be defined by the medical staff and include instruments and supplies deemed necessary.

(13) The operating room suite and accessory services shall be so located that traffic in and out can be and is controlled, and there shall be no through traffic.

(14) Rules and regulations and/or policies related to the operating rooms shall be available and posted.

(15) The service shall be responsible for central sterile supply and shall adhere to the following:

(A) Sterilization equipment shall be provided which is adequate to properly sterilize the instruments and other supplies.

(B) Chemical, biological, and mechanical process indicators appropriate to the type of sterilizer shall be used to indicate items have been subjected to sterilization conditions. A sterilization process indicator shall be placed within each package to be sterilized. If the internal process indicator is not visible from the outside of the package, a separate indicator should be used on the outside of the package.

(C) Equipment for all sterilization methods shall be used, maintained, and monitored according to the manufacturer's written instructions. Sterilized items and packages shall be cooled, aerated, rinsed, dried, or otherwise handled according to the method of sterilization and manufacturer's instructions after sterilization.

(D) Each facility shall establish policies and procedures which describe the interval(s) during which sterile items are considered to remain sterile. Such policies may be event-related or time-related. Policies for event-related shelf life labeling shall take into consideration environmental sources of contamination, barrier properties of packaging materials, storage and distribution practices, inventory control, and frequency of handling between distributor and the user. Inventory control practices shall include a requirement that stock be rotated on a first in, first out basis and a lot control system shall be established to allow for traceability of the contents of each sterilized load in the event of a sterilizer failure or malfunction.

(E) Written or graphic records shall be maintained for each operation of the sterilizer, showing mechanical

monitoring of temperature, exposure time, pressure, humidity, chemical concentrations, and/or air removal as appropriate. Records shall also include the date and time for each operation, with other pertinent data, and the signature of the operator of the sterilizer.

(F) Periodic bacteriological testing of sterilizer performance shall be conducted at least weekly using a biologic indicator appropriate to the type of sterilizer and as recommended by the manufacturer. The results of all biological indicator tests shall be interpreted by qualified individuals in accordance with the manufacturer's instructions. Records of biological indicator testing shall include at least the date and time of the test, the identity of the sterilizer used, the test result, the identity of the individual interpreting the test, and a description of any corrective actions taken as a result of the test.

(G) Written policies and procedures shall be established and followed for the recall of reprocessed items in the event of a sterilization failure.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-25-2. Anesthesia services

(a) Anesthesia services may be provided through a separately organized department or as a service of the department of surgery. The service shall have effective policies and procedures regarding staff privileges, the administration of anesthetics, and the maintenance of strict safety controls.

(b) Each anesthesia service shall have written policies and procedures. These policies and procedures shall include, but not be limited to:

- (1) Pre-anesthesia evaluation.
- (2) Intraoperative anesthesia report.
- (3) Post-anesthesia follow-up report.
- (4) Approved anesthesia agents.
- (5) Drug accountability procedures in accordance with hospital policies.
- (6) Infection control in anesthesia procedures.
- (7) Safety procedures for oxygen and gas anesthetics.

(c) There shall be required for every patient:

- (1) Pre-anesthetic evaluation by a physician or other practitioner authorized to perform pre-anesthesia evaluations with findings recorded not more than forty-eight (48) hours before surgery.
- (2) Anesthetic record on a special form.
- (3) Post-anesthetic follow-up conducted during the post anesthesia recovery period by a person authorized to administer anesthesia to the patient, with findings recorded not more than forty-eight (48) hours after surgery.

(d) The anesthesia service shall be responsible for all anesthetics administered in the hospital.

- (e) In hospitals where there is no department of anesthesia, the department of surgery shall be responsible for establishing general policies and supervision for the administration of anesthetics.
- (f) If anesthetics are not administered by a qualified anesthesiologist, they shall be administered by a physician anesthetist, dentist, oral surgeon, podiatrist, or a certified registered nurse anesthetist under the supervision of the operating surgeon. The hospital medical staff shall designate in writing those persons qualified to administer anesthetics and delineate what the person is qualified to do.
- (g) During all general anesthetics, regional anesthetics, and monitored anesthesia care, the patient's oxygenation, ventilation, circulation and temperature shall be continually evaluated.
- (h) Safety precautions shall include where appropriate:
- (1) Shockproof and spark-proof equipment.
 - (2) Humidity control.
 - (3) Proper grounding.
 - (4) Safety regulations posted.
 - (5) Storage of oxidizing gases shall meet the standards of the National Fire Protection Association Code. The use of flammable anesthetics as anesthetic agents is forbidden.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08]

SUBCHAPTER 27. OUTPATIENT DEPARTMENT

310:667-27-1. Outpatient department

(a) **Organization.** The outpatient department, if utilized, shall be organized into sections (clinics), the number of which depends upon the size and the degree of departmentalization of the medical staff, available facilities, and the needs of the patients for whom it accepts responsibility.

(1) The outpatient department shall have appropriate cooperative arrangements and communications with community agencies, such as other outpatient departments, public health nursing agencies, the department of health, and welfare agencies.

(2) Clinics shall be integrated with corresponding inpatient services.

(3) Clinics shall be maintained for the following purposes:

(A) Care of ambulatory patients unrelated to admission or discharge.

(B) Study of pre-admission patients.

(C) Follow-up of discharged hospital patients.

(4) Patients, on their initial visit to the department, shall receive a general medical evaluation, and patients under continuous care shall receive an adequate periodic reevaluation.

(5) Established medical screening procedures shall be employed routinely.

(b) **Personnel.** There shall be such professional and nonprofessional personnel as are required for efficient operation.

- (1) A physician shall be responsible for the professional services of the department. Either this physician or a qualified administrator shall be responsible for administrative services.
 - (2) A registered nurse shall be responsible for the nursing services of the department.
 - (3) The number and type of other personnel employed shall be determined by the volume and type of work carried out and the type of patient served in the outpatient department.
- (c) **Facilities.** Facilities shall be provided to assure the efficient operation of the department.
- (1) The number of examination and treatment rooms shall be adequate in relation to the volume and nature of work performed.
 - (2) Suitable facilities for necessary laboratory tests shall be available, either through the hospital or some other facility approved to provide these services under 42 CFR part 493 (CLIA '88).
- (d) **Medical records.** Medical records shall be maintained and correlated with other hospital medical records.
- (1) The outpatient medical record shall be filed in a location which insures ready accessibility to the physicians, licensed independent practitioners, nurses, and other personnel of the department.
 - (2) The outpatient medical record shall be integrated with the patient's over-all hospital record.
 - (3) Information contained in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, laboratory and other diagnostic tests, diagnosis, and treatment to facilitate continuity of care.
- (e) **Liaison conferences.** Conferences, both departmental and interdepartmental, shall be conducted to maintain close liaison between the various sections with the department and with other hospital services.
- (1) Minutes of staff and/or departmental meetings shall indicate that a review of selected outpatient cases takes place and that there is integration of hospital inpatient and outpatient services.
 - (2) The outpatient department shall have close working relationships with the social work services.
- (f) **Location.** The outpatient department shall be located in the hospital facility or at a campus licensed as part of the hospital.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 29. EMERGENCY SERVICES

310:667-29-1. Emergency service or department

- (a) **General.** The hospital shall have procedures for the treatment of emergency cases. The hospital may meet this requirement through an organized emergency service department or by establishing emergency

protocols. Appropriate emergency signage shall be displayed when the hospital has an organized service or department.

(b) **Organization and direction.** The department or service shall be directed by qualified personnel and integrated with other departments of the hospital.

(1) There shall be written policies which shall be enforced to control emergency room procedures. Hospitals that do not offer maternity service shall have policies and procedures for treatment of this type of patient.

(2) The policies and procedures governing medical care provided in the emergency service or department shall be established. This shall be a continuing responsibility of the medical staff.

(3) The emergency service shall be supervised by a qualified member of the medical staff. Nursing functions shall be the responsibility of a registered nurse.

(4) The administrative functions shall be a responsibility of a member of the hospital administration.

(c) **Facilities.** Facilities shall be provided to assure prompt diagnosis and emergency treatment.

(1) Facilities shall be separate and independent of the operating rooms.

(2) The location of the emergency service shall be in close proximity of an exterior entrance of the hospital.

(3) Diagnostic and treatment equipment, drugs, supplies, and space, including a sufficient number of treatment rooms, shall be adequate in terms of the size and scope of services provided. An obstetrics pack and supplies shall be available at all times in the emergency room. A cardiac defibrillator and monitoring equipment shall be available to the emergency services.

(4) The emergency room shall be equipped with a base station radio using medical frequencies VHF 155.340 or UHF Medical Channels 1 through 10 and/or compatible frequencies with ambulance services operating in the area. The emergency room staff shall use this equipment to communicate with all emergency medical vehicles and relay the information from emergency medical personnel to the emergency room physician and/or nurse.

(d) **Medical and nursing personnel.** There shall be adequate medical and nursing personnel available at all times.

(1) The hospital shall be responsible for insuring adequate medical coverage for emergency services.

(2) Qualified physicians or licensed independent practitioners shall be regularly available at all times for the emergency service, either on duty or on call. If a physician or licensed independent practitioner is on call, he or she shall be able to present at the emergency room within twenty (20) minutes.

(3) A physician or licensed independent practitioner shall be responsible for all patients who arrive for treatment in the emergency service.

(4) Registered nurses shall be available on site at all times and in sufficient number to deal with the number and extent of emergency services.

(e) **Medical records.** Adequate medical records on every patient shall be kept.

(1) The emergency room record contains:

- (A) Patient identification.
- (B) Time and means of injury.
- (C) History of disease or injury.
- (D) Medication history and drug allergies.
- (E) Physical findings.
- (F) Laboratory and x-ray reports, if any.
- (G) Diagnosis and therapeutic orders.
- (H) Record of treatment including vital signs.
- (I) Disposition of the case.
- (J) Signature of the registered nurse.
- (K) Signature of the non-physician practitioner, if applicable.
- (L) Signature of the physician.
- (M) Documentation if the patient left against medical advice.

(2) Medical records for patients treated in the emergency service shall be organized by personnel from medical records department in accordance with facility policy.

(3) Where appropriate, medical records of emergency services shall be integrated with those of the inpatient and outpatient services.

(4) A proper method of filing records shall be maintained.

(f) **Drug and medication distribution and control.** Drugs in the emergency department shall be securely maintained and controlled by staff at all times. If the department does not have staff present at all times, all drugs shall be secured in sealed storage with devices placed to denote tampering. All Schedule II drugs shall be stored as specified in OAC 310:667-21-8(c). All drugs shall be administered and dispensed as required by state law.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-29-2. Patient transfers

Patient transfers shall be conducted in accordance with 42 U.S.C. (1395dd) and 42 U.S.C. (1395cc) and with the regulations at 42 CFR part 489.20 and 489.24.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Added at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 31. SOCIAL WORK SERVICES

310:667-31-1. Social work services

(a) **Availability of service.** Social work services shall be available to the patient, the patient's family, and other persons significant to the patient,

in order to facilitate adjustment of the individuals to the impact of illness and to promote maximum benefits from the health-care services provided. Services may be provided as follows:

- (1) An organized social work department or service within the hospital that has a fulltime, qualified social work director.
- (2) A qualified social worker employed on a part-time basis.
- (3) An outside social work service that is obtained through a written agreement, defining the role and responsibility of the outside services (consultant social workers).

(b) **Policies and procedures.** The method for providing social services shall be clearly defined and shall provide for supervision of the delivery of such services by a qualified social worker. Social work services shall be guided by written policies and procedures.

(c) **Adequate records.** Adequate documentation of social work services provided shall be part of the patient's medical record and shall include:

- (1) Observation and social assessment of the patient.
- (2) Plan of treatment and social work services provided.
- (3) Social work summary, including any recommendation for follow-up.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-31-2. Review and evaluation

The quality and appropriateness of social work services provided to patients shall be regularly reviewed, evaluated, and assured through the establishment of quality improvement mechanisms regardless of the mechanisms used to provide social services. This shall be accomplished and coordinated through the hospital quality improvement program.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

SUBCHAPTER 33. SPECIALIZED REQUIREMENTS - PSYCHIATRIC

310:667-33-1. General

(a) In addition to meeting requirements listed for general medical surgical hospitals in Subchapters 1 through 31 of this Chapter, psychiatric hospitals and psychiatric units of general medical surgical hospitals shall meet the additional requirements listed in this Subchapter.

(b) The psychiatric facility may be a distinct unit of a general medical surgical hospital or a freestanding psychiatric hospital which shall be licensed as a specialized hospital. If the facility is a unit of a general medical surgical hospital, this unit shall be distinctly identified. Beds shall not be commingled with acute care beds.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-33-2. Specialized requirements - personnel and policy

(a) Personnel.

(1) A physician with training and experience in psychiatry shall be appointed as medical director of the hospital or unit by the governing body based upon a recommendation from the medical staff. The medical director shall coordinate with other services provided by the hospital, and shall be responsible for developing policies concerning treatment and staffing.

(2) The diagnosis and treatment rendered to each patient in psychiatric hospitals or units shall be under the direction of a physician or licensed independent practitioner with training and experience in psychiatry.

(3) A registered nurse with experience in psychiatric nursing shall be responsible for nursing administration. At least one (1) registered nurse shall be assigned to care and provide active treatment for every fifteen (15) patients on each shift, except that if the unit census exceeds fifteen (15) patients but does not exceed twenty (20) patients during the shift, a licensed practical nurse may be substituted for the second required registered nurse. Licensed practical nurses and/or psychiatric nurse support staff shall be assigned by the registered nurse to support the care provided by the registered nurse and provide necessary active treatment.

(4) All personnel working within an area of psychiatric patients shall be trained in psychiatric patient care.

(b) Policies and procedures shall be developed and implemented that include at least the following:

(1) **Seclusion.** Patients shall be placed in seclusion only on the written order of the attending physician or licensed independent practitioner. Secluded patients shall be constantly monitored by facility staff while in seclusion. Patient seclusion shall terminate after four (4) hours unless the patient is reevaluated by the attending physician or licensed independent practitioner and a renewal order is received for the seclusion. Patients shall not be continuously secluded for longer than twenty-four (24) hours unless the attending physician or licensed independent practitioner attests in the patient's medical record that seclusion is necessary for the continued treatment of the patient.

(2) **Restraint.** Physical and chemical restraints shall be used in accordance with guidance outlined at OAC 310:667-3-5 and OAC 310:667-15-8 & 9. All staff providing active treatment or monitoring patients shall be trained in facility methods approved to physically hold or restrain patients before patient care responsibilities are assigned. These staff members shall be reoriented regarding these policies annually or when policies are revised.

(3) **Accommodations.**

(A) Patients shall be grouped for accommodations by gender, age, and treatment needs except as provided for at 310:667-33-2(b)(3)(B). As a minimum, children,

adolescent, and adult treatment programs shall be separate with distinct units for each. Nursing staff and support staff shall be assigned to each program and unit to appropriately monitor patients and provide active treatment. Children, adolescents, and adult patient groups shall not be allowed to commingle at anytime.

(B) Patients being primarily treated with diagnosis of anorexia nervosa, bulimia nervosa or other unspecified eating disorder diagnosis, who are separated by gender, and from other non-eating disorder patients, may be grouped for accommodations and treatment with adolescent and adult patients. Such programs shall ensure appropriate monitoring of commingled populations at all times, and shall provide sleeping arrangements with all private rooms, or separate semi-private rooms for adolescent patient(s) and adult patient(s).

(4) **Procedures.** General procedures for the unit shall include at least the following:

(A) A description of the scope of each therapeutic service provided and the qualifications of staff providing these services.

(B) A description of the process for the appointment of a medical director, who shall be a physician with qualifications as specified in section (a). The medical director shall be appointed by the governing body based upon recommendations made by the medical staff.

(C) A description of how staffing for monitoring and active treatment is provided on a twenty-four (24) hour basis.

(D) A description of how comprehensive treatment plans for each patient are developed and time-frames allowed for the development of an initial plan. Procedures shall also state how often comprehensive treatment plans are reviewed for possible revisions.

(E) If the patient is school age, the policies shall include arrangements to initiate appropriate educational exposure if the patient is to be hospitalized over five (5) days.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 2018, eff 6-25-07]

SUBCHAPTER 35. SPECIALIZED REQUIREMENTS REHABILITATION

310:667-35-1. General

(a) In addition to meeting requirements listed for general medical surgical hospitals in Subchapters 1 through 31 of this Chapter, rehabilitation hospitals and rehabilitation units of general medical surgical hospitals shall meet the following additional requirements listed in this Subchapter.

(b) The rehabilitation facility may be a distinct unit of a general medical surgical hospital or a free-standing rehabilitation hospital which shall be licensed as a specialized hospital. If the facility is a distinct unit, the unit shall be at least ten (10) beds. The unit shall be distinctly identified. Beds shall not be commingled with acute care beds.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-35-2. Services

(a) Each rehabilitation facility shall have written admission criteria that relate to the facility's program capabilities which are applied uniformly to all potential patients.

(b) Services shall be provided by qualified professionals in accordance with a written plan of treatment. All services except rehabilitative medicine and nursing may be provided on a contractual basis as long as patients' needs are met. All rehabilitation facilities shall provide at a minimum, the following clinical services.

- (1) Rehabilitative medicine.
- (2) Rehabilitative nursing.
- (3) Physical therapy.
- (4) Occupational therapy.
- (5) Speech therapy.
- (6) Social services.
- (7) Psychological services.
- (8) Orthotic and prosthetic services.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-35-3. Specialized requirements - policy and personnel

(a) Personnel.

(1) A physician with training and experience in rehabilitative medicine shall be appointed as medical director of the hospital or unit by the governing body based upon a recommendation from the medical staff. The medical director shall coordinate with other services provided by the hospital, and shall be responsible for developing policies concerning treatment and staffing.

(2) The diagnosis and treatment rendered to each patient in rehabilitation hospitals or units shall be under the direction of a physician or licensed independent practitioner with training and experience in rehabilitative medicine. Every patient, upon admission, shall have written orders from a physician or licensed independent practitioner for the immediate care of the patient.

(3) A registered nurse with experience in rehabilitation medicine shall be responsible for nursing administration. The number of registered nurses, licensed practical nurses and nursing support staff required on each shift to formulate and carry out the nursing components of the individual treatment plan for each patient shall be determined based upon acuity and the rehabilitative nursing needs of the patients.

(4) All other required services shall be supported by adequate qualified staff who may be employed or under contract to provide services. All professional staff whether employed or under contract shall be licensed or certified as required by state law.

(b) **Policies and procedures.** Policies and procedures shall be developed implemented that include at least the following:

- (1) The scope of each clinical service.
- (2) The appointment of a medical director, who shall be a physician qualified by training, experience, and knowledge of rehabilitative medicine.
- (3) A description of how staffing is arranged for twenty-four (24) hour services.
- (4) Admission procedures and criteria.
- (5) Patient evaluation procedures, including a policy which requires a treatment plan for each patient based on a functional assessment and evaluation. This policy shall require the initial treatment plan to be developed within seventy-two (72) hours of admission, and a comprehensive individualized plan developed no later than one (1) week after admission. The plan shall state the rehabilitative problems, goals, required therapeutic services, prognosis, anticipated length of stay, and planned discharge disposition. This comprehensive plan shall be developed by a multidisciplinary team of professionals treating the patient and shall be approved by the attending physician or licensed independent practitioner.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-35-4. Special requirements - medical records

In addition to the basic medical record requirements for general medical surgical records, medical records for rehabilitative patients shall include the following:

- (1) The reason for referral or admission to the rehabilitation facility.
- (2) A summary of the patient's clinical condition, functional strengths and limitations, indications and contraindications for specific physical rehabilitation services, and prognosis.
- (3) Initial and comprehensive treatment plans as specified in 310:667-35-3(a)(5). The goals of treatment, any problems that may affect the outcome of rehabilitation, and criteria leading to the discontinuation of services shall be documented.
- (4) Treatment and progress records, with appropriate ongoing assessments as required by the patient's condition. A description of the perception of the patient and family toward, and their involvement in, physical rehabilitation services.
- (5) Assessment of physical rehabilitation achievement and estimates of further rehabilitation potential, entered on a timely basis, which shall be made at least monthly and included in the individualized comprehensive treatment plan.

(6) A discharge summary that includes the physical rehabilitation achieved, the medications and therapy prescribed at discharge, and recommendations for further rehabilitation.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

SUBCHAPTER 37. SKILLED NURSING UNITS

310:667-37-1. General

(a) Skilled nursing units may be established as distinct units of general medical surgical hospitals. These units shall be licensed as part of the hospital and be included in the licensed bed capacity. If a hospital provides a skilled nursing unit, this unit shall be separate and distinctly identified. Beds shall not be commingled.

(b) In addition to requirements listed for general medical surgical hospitals in Subchapters 1 through 31 of this Chapter, skilled nursing units shall comply with the requirements listed in this Subchapter.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-37-2. Administration

The skilled nursing unit shall be considered a department of the hospital and therefore shall be administered by the governing body and the administrator. The unit shall also have a full-time manager who may be the nursing director of the unit. This manager shall have the administrative authority and responsibility for the day to day operation of the unit.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-37-3. Skilled Nursing

All requirements of nursing service, Subchapter 15 of this Chapter, shall apply. In addition to these requirements, each skilled nursing unit shall have a full-time nursing director for the unit who is a registered nurse. If the director has responsibilities outside the unit, a qualified registered nurse shall serve as the assistant so that there is the equivalent of a full-time nursing director employed. The nursing director of the unit shall be responsible for development of nursing policies and procedures that are specific for long term care patients requiring services of the unit. The nursing director shall also assure appropriate nurse staffing is maintained in the unit.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-37-4. Rehabilitation provisions

Physical and occupational therapy shall be provided for patients in the skilled nursing unit. These services shall conform to requirements specified at 310:667-23-5.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-37-5. Patient restraint

Patient restraint shall be in accordance with requirements outlined at 310:667-3-5 and 310:667-15-8 & 9.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

SUBCHAPTER 39. CRITICAL ACCESS HOSPITAL**310:667-39-1. General**

A critical access hospital (CAH) is a hospital determined by the Department to be a necessary provider of health care services to residents of a rural community. The CAH shall be the sole provider of hospital services in the community and is to allow the provision of primary hospital care in a rural community that is unable to support a general medical surgical hospital.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00]

310:667-39-2. Affiliations, communications and agreements

(a) **Affiliations.** The CAH shall be affiliated with at least one (1) general medical surgical hospital to facilitate appropriate referrals and adequate support services. The affiliation shall be through a written agreement, contract for services, network affiliation, lease or through direct ownership by the supporting general medical surgical hospital.

(b) **Communications.** Direct communications shall be established between the CAH and any facility providing support services. These communications shall include the electronic sharing of patient data which may include telemetry and diagnostic imaging if local telecommunications have this capability. As a minimum, the CAH shall be able to send and receive patient information by facsimile and/or computer modem.

(c) **Agreements.** The CAH shall have a written agreement with an emergency medical service to accept and receive emergency transfers. This agreement shall provide arrangements for emergency and non-emergency transfers to and from the CAH and stipulate the stabilizing and treatment services available at the CAH. Direct communications shall be established between the emergency medical service and the CAH which allow the emergency medical service to directly contact the on-call physician or licensed independent practitioner and the on-call or on-site registered nurse providing emergency services.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-39-3. Admission criteria

The CAH shall establish inpatient admission criteria appropriate for the treatment and diagnostic services provided. The criteria may be based on diagnosis and patient acuity established by the medical and professional staff or the CAH may use diagnosis related groups (DRGs). The criteria shall be established and revised as necessary by the medical and professional staff and approved by the governing body. Stabilizing emergency treatment services provided shall not be restricted by inpatient admission criteria.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00]

310:667-39-4. Basic requirements and services

The CAH shall provide basic services as described in Sections 5 through 14 of this Subchapter and comply with Subchapters 1, 3, and 5 of this Chapter. The CAH may provide additional services beyond the basic core of required services if applicable sections of this Chapter are met.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-39-5. Governing body

(a) **General.** The CAH shall have an effective governing body legally responsible for all services and the quality of patient care provided. The majority of members of this body shall be residents of the incorporated community or service area of the CAH.

(b) **Organization.** The governing body may be an organized board or owner designated individual(s). The method for appointment, terms, officers required, meeting requirements, duties, and responsibilities shall be established in written bylaws which shall be available at the CAH. The governing body shall meet at established intervals and maintain minutes of meetings. Meetings may be conducted by teleconference if not otherwise prohibited by law.

(c) **Responsibilities.** The governing body's responsibilities shall include at least the following:

(1) Appointment and reappointment of members of the medical and professional staff by methods established in approved bylaws. These appointments shall be made based on recommendations received from the medical and professional staff and be consistent with state law.

(2) Approval of medical and professional staff bylaws, rules and regulations.

(3) Approval or denial of physician or practitioner privilege delineations recommended by the medical and professional staff.

(4) Consideration of reports received from the CAH concerning the quality of care provided. The governing body shall require corrective actions as necessary when inadequate patient care is identified.

(5) Ensure patients are admitted and discharged by a physician or licensed independent practitioner.

(6) Ensure a physician or licensed independent practitioner is available to communicate with CAH staff at all times. A physician or licensed independent practitioner shall be physically available as specified by CAH policy. If a physician or licensed independent practitioner functions as the physician or practitioner on-call for the CAH, the physician or licensed independent practitioner shall be physically available if necessary within twenty (20) minutes.

(7) Ensure the licensed independent practitioners and registered nurses on-call to the CAH are physically available if necessary within twenty (20) minutes.

(8) Designation of an administrator who shall be responsible for managing the facility. This person may have duties in addition to management responsibilities.

(9) Ensure the CAH is constructed, arranged, and maintained to ensure the safety of the patient, and to provide facilities for diagnosis and treatment appropriate to the needs of the community.

(10) Ensure the CAH is operated under an approved budget.

310:667-39-6. Medical and professional staff

(a) **General.** The CAH shall have an organized medical and professional staff responsible for the quality of care provided to all patients. The staff shall operate under bylaws approved by the governing body.

(b) **Composition.** The CAH shall have a medical and professional staff composed of one (1) or more physicians and which may also include one (1) or more licensed independent practitioners with privileges at the CAH. Privileges may also be extended to other health care professionals who are authorized by state law to provide treatment services.

(1) The staff shall periodically reexamine credentials and conduct appraisals of its members and make recommendations regarding reappointments and privilege delineations to the governing body. The staff shall also examine credentials of candidates for staff membership and make recommendations regarding appointments and privileges extended.

(2) Temporary staff privileges may be extended to qualified physicians, licensed independent practitioners and other professional staff as specified in the medical and professional staff bylaws.

(3) Patient admission quotas or revenue generation minimums shall not be a condition for appointment or reappointment.

(c) **Organization and accountability.** The medical and professional staff shall be well organized and accountable to the governing body for the quality of medical care provided to patients.

(1) The staff shall be organized and elect officers as required by approved medical staff bylaws. Officers of the staff shall hold active privileges and may include elected licensed independent practitioners. The chief of staff (or equivalent) shall be a physician who shall be responsible for organization and enforcement of the bylaws.

(2) The staff shall meet at least monthly as a committee of the whole to review the quality of medical care provided, fulfill committee functions specified in the staff bylaws, and to consider and recommend actions to the governing body. Meetings may include staff from the affiliated general medical surgical hospital or other off-site physicians or practitioners who have privileges at the CAH and may be conducted by teleconference. Minutes of meetings shall be maintained and available for review at the CAH.

(d) **Medical and professional staff bylaws.** The medical and professional staff shall adopt and enforce bylaws to carry out their responsibilities. The medical staff bylaws shall:

(1) Be approved by the governing body.

(2) Include a statement of the duties and privileges of each category of the medical and professional staff. These categories shall include a category of licensed independent practitioner, and may include a category of supervised practitioner in addition to other categories; e.g, active, courtesy, consulting, etc.

(3) Describe the organization of the medical and professional staff.

- (4) Describe the qualifications for each category of the medical and professional staff.
- (5) Require each inpatient to have a history and physical examination performed no more than thirty (30) days before, or forty-eight (48) hours after, admission by a physician or licensed independent practitioner. The examination shall be approved and signed by the physician or licensed independent practitioner. The approval and signature may be performed electronically or by facsimile.
- (6) When the medical history and physical examination are completed within thirty (30) days before admission, the hospital must ensure that an updated medical record entry documenting an examination for any changes in the patient's condition is completed. A timely review of the prior history and physical examination or an updated examination must be completed and documented in the patient's medical record within forty-eight (48) hours.
- (7) Specify the procedure for determining the privileges to be granted to individual physicians and practitioners initially and on reappointment and the process for physicians and practitioners to request these privileges.
- (8) Specify the mechanism to withdraw privileges of staff members and the circumstances when privileges shall be withdrawn.
- (9) Specify the mechanism for appeal of decisions regarding staff membership and privilege delineations.
- (10) Specify the mechanism for monitoring and controlling the use of preventive antibiotics and the use of antibiotics in the presence of infection.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08]

310:667-39-7. Quality improvement

- (a) **General.** There shall be an ongoing quality improvement program, approved by the governing body, which shall identify problems in the facility, suggest solutions, and monitor results.
- (b) **Quality improvement plan.** A written quality improvement plan shall be developed, approved, and implemented by the governing body with advice from the medical and professional staff. The plan shall include but not be limited to the following:
 - (1) Methods of evaluating all patient services to ensure quality of care, including those provided under contract.
 - (2) Methods of evaluating off-site health care services for appropriateness of use and the degree to which the services aid in the provision of quality patient care.
 - (3) The evaluation of nosocomial infections and accompanying medication therapy shall be linked to the hospital-wide quality improvement program through regular reporting by appropriate

hospital committees and functions such as pharmacy and therapeutics, infection control, pharmaceutical services, etc.

(4) Evaluation of all surgical procedures if surgery is performed at the facility.

(5) Methods of evaluating licensed independent practitioner services to ensure these services are provided in conformance with facility policy and state law.

(6) Methods of evaluating on-call services to ensure staff are available as required.

(c) **Quality improvement committee.** The CAH may establish a quality improvement committee or this function may be fulfilled by the medical and professional staff committee of the whole. Quality improvement activities shall be reported by facility staff to the committee at least every three (3) months or more frequently if findings require immediate action by the committee.

(d) **Quality improvement implementation.** There shall be documentation that the CAH has taken appropriate action to address problems identified. The CAH shall document the monitoring of the effectiveness of the proposed solutions.

(e) **Communication.** Quality improvement committee reports shall be communicated at least every three (3) months to the governing body. If the quality improvement committee meets separately from the medical and professional staff committee of the whole, these reports shall also be communicated at least every three (3) months to the medical and professional staff.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-39-8. Infection control program

(a) **General.** The CAH shall establish an infection control program to provide a sanitary environment and avoid sources and transmission of infections. The program shall include written policies and procedures for identifying, reporting, evaluating and maintaining records of infections among patients and personnel. The program shall provide an ongoing review and evaluation of all aseptic, isolation and sanitation techniques employed in the hospital and coordinate training programs in infection control for all personnel.

(b) **Infection control committee.** The CAH may establish an infection control committee (or equivalent) or this function may be fulfilled by the medical and professional committee of the whole. The committee shall meet at least quarterly.

(c) **Policies and procedures review.**

(1) The infection control committee shall evaluate, revise as necessary, and approve the type and scope of surveillance activities utilized at least annually.

(2) Infection control policies and procedures shall be reviewed periodically and revised as necessary, based on current scientific knowledge, accepted practice guidelines, and applicable laws and regulations.

(d) **Policies and procedures content.** The policies and procedures outlined for the infection control program shall be approved by the infection control committee and contain at least the following:

- (1) A requirement that a record of all reported infections generated by surveillance activities include the identification and location of the patient, the date of admission, onset of the infection, the type of infection, the cultures taken, the results of cultures when known, any antibiotics administered and the physicians or practitioners responsible for care of the patient.
- (2) Specific policies related to the handling and disposal of biomedical waste.
- (3) Specific policies and procedures related to admixture and drug reconstitution, and the manufacture of intravenous and irrigating fluids.
- (4) Specific policies regarding the indications for and types of isolation to be used for each infectious disease. These policies shall incorporate the concepts of Standard Precautions and the recommended transmission-based categories of Contact, Airborne, and Droplet isolation procedures as deemed appropriate by the medical and professional staff.
- (5) A definition of nosocomial infection.
- (6) Designation of an infection control officer, who coordinates the infection control program.
- (7) Policies for orienting new employees and an ongoing continuing education program for currently employed personnel concerning infection control. Written documentation shall be maintained indicating new employees have completed orientation and that all current personnel have attended continuing education.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-39-9. Nursing service

(a) **General.** Each CAH shall have an organized nursing service which provides twenty-four (24) hour nursing services for patients. The nursing service shall be supervised by a registered nurse.

(b) **Organization.** The nursing service shall be well-organized with written policies delineating administrative and patient care responsibilities. The director of nursing shall be a registered nurse who shall be responsible for the operation of the service, including determining the staff necessary to provide nursing care for all areas of the CAH. Nursing care shall be provided as specified by written procedures approved by the director of nursing and the governing body. All nursing procedures shall be consistent with state and federal law and current standards of practice. Procedures shall be reviewed and revised as necessary.

(c) **Staffing.** The nursing service shall have adequate numbers of licensed nurses and other nursing personnel available to provide nursing care to all patients as needed based on patient census and acuity. At least

one (1) registered nurse shall be on duty on-site to furnish or supervise all nursing services whenever patient care is provided. If the CAH has no inpatients, the registered nurse may be available on an on-call basis provided he or she is available to return to the CAH in a period of time not to exceed twenty (20) minutes.

(d) Qualifications.

(1) Individuals selected for the nursing staff shall be qualified by education and experience for the positions they are assigned. The CAH shall verify current licensure of licensed nurses and maintain documentation of verification.

(2) The selection and promotion of nursing service personnel shall be based on their qualifications and capabilities. The director of nursing shall have input regarding the employment, promotion, evaluation and termination of all nursing service personnel.

(3) The qualifications required for each category of nursing staff shall be in written policy and job descriptions, and shall be available in the CAH for reference. The functions of all nursing service personnel shall be clearly defined by written policy.

(e) Delivery of care.

(1) A registered nurse shall assess, plan, supervise, and evaluate the nursing care for each patient.

(2) Each inpatient shall have a nursing care plan that includes assessment, planning, intervention, and evaluation. Nursing care plans shall be revised as necessary.

(3) Nursing notes shall be informative and descriptive of the nursing care given and include assessment, interventions, and evaluation.

(4) All drugs and biologicals shall be administered in accordance with state and federal laws by authorized individuals. Orders for drugs, biologicals, treatments and tests shall be in writing and signed by the prescribing physician or practitioner who shall be authorized by law to write a prescription, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment for contraindications. When telephone or verbal orders for drugs, biologicals, treatments and tests are used, they shall be given only to a practitioner authorized by administration to receive these orders and signed by the prescribing practitioner or meet the requirements at OAC 310:667-19-2(c)(4). The person taking the telephone or verbal order shall read the order back to the physician or practitioner to ensure it was correctly understood and verify on the order the fact that the order was read back. Each facility, within its own procedures and protocols, shall establish a verification process to be placed on orders to demonstrate that the order was read back to the physician.

(5) Blood products and intravenous medications shall be administered as required by CAH written policy in accordance with state and federal law. CAH staff administering blood products or intravenous medications shall be trained regarding hospital policies before they are allowed to carry out these responsibilities.

(6) There shall be an effective procedure for reporting transfusion and adverse drug reactions to the attending physician or licensed independent practitioner and the prescribing physician or practitioner. Errors in drug administration and adverse reactions shall be compiled and reported through the quality assurance committee to the medical and professional staff.

(7) All nursing service personnel shall be trained and currently certified to perform cardio-pulmonary resuscitation (CPR) and shall be knowledgeable of all CAH emergency protocols.

(f) **Patient restraint.** If patients are physically restrained, the CAH shall comply with all requirements specified in OAC 310:667-15-8. If patients are chemically restrained, the CAH shall comply with all requirements specified in OAC 310:667-15-9.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 18 Ok Reg 2032, eff 6-11-01 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08 ; Amended at 30 Ok Reg 1966, eff 7-25-13]

310:667-39-10. Food and nutritional services

(a) **General.** The CAH shall directly provide or contract for organized food and nutritional services that are directed and staffed by qualified personnel. If the CAH has a contract with an outside food management company to provide services on-site or cater food to the CAH, the company shall comply with all requirements specified in this section.

(b) **Organization.**

(1) Clinical nutritional services shall be under the supervision and direction of a licensed/registered dietitian on a full-time, part-time, or consultant basis. The dietitian shall be responsible for approval of menus and modified diets, review of clinical policies and procedures, evaluation of nutritional services and staff continuing education. If dietitian services are provided on a part-time or consultant basis, the responsibilities of the dietitian shall be clearly defined in a written job description and summary reports of consultant visits shall be written and on file. The dietitian shall be responsible for, or shall designate a person in writing, to carry out clinical nutritional activities. The clinical nutritional activities shall include but not be limited to patient and family counseling on modified diets as needed, any required nutritional assessments, and development of clinical nutritional policies and procedures. If dietitian services are provided on a part-time or consultant basis, a dietitian shall be available for telephone consultation daily and shall be able to approve menus and modified diets electronically.

(2) The food and nutritional services manager may or may not be a licensed/registered dietitian. If the manager is not a licensed/registered dietitian or certified dietary manager, the manager shall be responsible only for administrative management and shall not direct clinical nutritional activities.

(3) Personnel shall be adequate in number and training to carry out the preparation and serving of foods and other related

functions with the proper and necessary sanitary procedures. The food service personnel shall complete a basic orientation program before working in the food service area. This orientation shall include, but not be limited to: basic dietary guidelines, infection control including food safety, and fire and safety precautions.

(c) Services and facilities.

(1) Equipment used in the preparation and handling of food shall bear the seal of the National Sanitation Foundation (NSF) or comply with the requirements of the NSF (Rules and Regulations Pertaining to Food Establishments).

(2) A nourishment room accessible to the nursing staff shall be provided for the preparation and serving of light refreshments. This room shall be equipped with equipment for warming food, a refrigerator, and a lavatory. This room may serve as the location for an ice machine.

(d) Diets and menus.

(1) At least three (3) palatable meals or their equivalent shall be served daily, at regular times with not more than fifteen (15) hours between a substantial evening meal and breakfast. Menus shall be planned and followed to meet nutritional needs of patients, in accordance with the prescribing physician or practitioner diet orders and to the extent medically possible, in accordance with the Dietary Reference Intakes (DRIs) of the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences.

(2) All diets shall be prescribed by the physician or practitioner responsible for the care of the patient. Modified diets shall be prescribed according to the latest edition of the Oklahoma Diet Manual or other equivalent approved manual. The Oklahoma Diet Manual or other equivalent approved diet manual shall be approved by the licensed/registered dietitian, the medical and professional staff and the governing body. The manual shall be available to all medical, nursing, and food service personnel.

(3) Nourishments shall be available and may be offered at anytime in accordance with approved diet orders.

(4) Menus covering all prescribed diets shall be approved, dated, and periodically reviewed by a licensed/registered dietitian. Modified diet orders not covered with an approved menu shall be planned in writing, reviewed, and approved by a licensed/registered dietitian. The licensed/registered dietitian approval of the modified diet may be performed electronically.

(5) The portioning of menu servings shall be accomplished with the use of portion-control serving utensils.

(6) All modified diets shall be prepared separately, as necessary, from regular diets.

(7) An identification system shall be established to ensure that each patient receives the prescribed diet as ordered.

(e) Food preparation and storage.

(1) Potentially hazardous food, as defined in chapter 256 of this Title, shall be maintained at one hundred-forty (140)°F

(approximately 60°C) or above or at an internal temperature of forty-one (41)°F (approximately 5°C) or below. A product thermometer shall be available, metal stem-type numerically scaled indicating temperature, accurate to plus or minus two (2) degrees F and used to check internal food temperatures.

(2) Milk and milk products shall be served, handled and stored in accordance with the requirements of Chapter 256 of this Title.

(3) All ice which is in contact with food or drink shall come from a source approved by the Department. Storage, transportation, handling, and dispensing shall be in a sanitary manner, approved by the Department in accordance with Chapter 256 of this Title.

(f) Sanitation.

(1) The food and nutritional services shall be inspected and approved by state or local health agencies and licensed as a Food Service Establishment. Written reports of the inspections; e.g., Food Establishment Inspection Report Forms, shall be maintained with notations made of the action taken to correct violations.

(2) Storage, preparation, and serving of food shall be in compliance with the requirements of Chapter 256 of this Title, including adequate and proper space for each activity.

(3) The system used for dishwashing shall be approved by the Department and operated in accordance with approved procedures and requirements of Chapter 256 of this Title.

(4) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Adequate carriers and containers shall be provided for the sanitary collection and transportation of garbage and refuse from food service areas to the place of disposal in accordance with the requirements of Chapter 256 of this Title.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-39-11. Medical record services

(a) **General.** The CAH shall have medical record services that ensure a medical record is maintained for every patient evaluated or treated in the facility. Medical record services shall be appropriate to the scope and complexity of the services performed and shall ensure prompt completion, filing, and retrieval of records. In general, services such as transcription, computer indexing and coding, and electronic storage may be performed off-site as a contracted service as long as the medical record remains under the control of the CAH. The CAH shall ensure that medical records maintained by a contracted service remain confidential and can be immediately accessed by CAH staff.

(b) **Reports to agencies and the Department.** The CAH shall comply with all requirements specified in OAC 310:667-19-2(a) regarding the reports made to agencies and the Department.

(c) **Content.** The medical record shall contain information to justify patient admission and treatment, support the diagnosis, and describe the patient's progress and response to treatment and services received. All

entries shall be legible and complete, and shall be authenticated and dated promptly by the person, identified by name and discipline, who is responsible for ordering, providing or evaluating the service furnished.

(1) The author of each entry shall be identified and shall authenticate their entry. Authentication may include written signatures or computerized or electronic entries. If computerized or electronic authentications are used, the CAH shall comply with all requirements specified at OAC 310:667-19-10(e). Telephone and verbal orders shall be authenticated by the physician or practitioner giving the order as soon as possible within forty-eight (48) hours or meet the requirements at OAC 310:667-19-2(c)(4). Reports of history and physical examinations and discharge summaries shall be authenticated by the authorized physician or practitioner who performed the examination or produced the summary or meet the requirements at OAC 310:667-19-10(e) if authenticated by another physician or practitioner. Signature stamps may be used to authenticate entries in the medical record provided the requirements at OAC 310:667-19-10(d) are met.

(2) All inpatient records shall document the following as appropriate:

(A) Patient identifying information including individuals to be contacted in case of an emergency.

(B) Evidence of a physical examination, including a health history, performed not more than thirty (30) days prior to admission or within forty-eight (48) hours after admission. The history and physical examination shall be completed, signed and placed in the record within 48 hours of admission.

(C) Admitting diagnosis.

(D) Results of all consultative evaluations of the patient and appropriate findings by clinical and other staff involved in the care of the patient.

(E) Documentation of complications, hospital acquired infections, and unfavorable reactions to any drug or biological.

(F) Properly executed informed consent forms for procedures and treatments performed. The medical and professional staff shall establish which procedures or treatments require informed consent consistent with Federal and State law.

(G) All physicians' or practitioners' orders, nursing notes, reports of treatment, medication records, diagnostic reports, vital signs and other information necessary to monitor the patient's condition.

(H) Discharge summary with outcome of hospitalization, disposition of case, medications at the time of discharge, and provisions for follow-up care.

(I) Reports. All reports and records shall be completed and filed within a period consistent with good medical practice and not longer than thirty (30) days following discharge.

(J) Final diagnosis.

(d) **Maintenance of records.** The CAH shall maintain a medical record for each inpatient and outpatient. Medical records shall be accurately written, promptly completed, properly filed and retained, and accessible. The CAH shall use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries.

(1) Medical records shall be retained at least five (5) years after the date the patient was last seen or at least of three (3) years after the date of the patient's death. Records of newborns or minors shall be retained three (3) years past the age of majority. Medical records may be maintained in their original form or may be preserved by other means as specified by OAC 310:667-19-14(b).

(2) The CAH shall have, or provide, a system of coding and indexing medical records. The system shall allow for timely retrieval by diagnosis and procedure, in order to support medical care evaluation studies.

(3) Medical records shall be confidentially maintained. Information from, or copies of, records shall be released only to authorized individuals in accordance with state law, and the CAH shall ensure that unauthorized individuals cannot gain access to, or alter medical records. Original medical records shall be released only in accordance with federal or state laws or by court order.

(4) Facsimile copies shall be acceptable as any portion of the medical record. If the facsimile is transmitted on thermal paper, that paper shall be photocopied to preserve its integrity in the record. Facsimile copies shall be considered the same as original copies.

(5) In the event of closure of the CAH, the CAH shall inform the Department of the disposition of the patient medical records. Disposition shall be in a manner to protect the integrity of the information contained in the medical record. These records shall be retained and disposed of as specified by OAC 310:667-19-14(b)(4).

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 18 Ok Reg 2032, eff 6-11-01 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 21 Ok Reg 2785, eff 7-12-04 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08]

310:667-39-12. Drug distribution

(a) **General.** The CAH shall provide routine and emergency drugs and biologicals in a safe and accurate manner to meet the needs of the patients. The CAH may provide all drug distribution services directly with a complete licensed hospital pharmacy or a drug room. The drug room may be provided directly by the CAH or by contract with a licensed pharmacy. The medical and professional staff and the CAH pharmacist shall be responsible for oversight of drug distribution services and shall approve policies and procedures that ensure compliance with state and federal laws and minimize drug errors. If required, the CAH shall

annually register with the Oklahoma State Board of Pharmacy.

(b) Personnel.

(1) The drug distribution service shall be directed by a pharmacist on a full-time, part-time, or consultant basis. The pharmacist shall be responsible for developing, supervising, and coordinating all activities of drug distribution in the CAH. The responsibility and authority of the pharmacist shall be clearly defined in a written job description. All compounding, packaging, labeling and dispensing of drugs and biologicals shall be performed or directly supervised by the pharmacist.

(2) If the CAH only maintains a drug room, drugs and biologicals shall be distributed and administered only to inpatients of the CAH. The pharmacist director shall be available at least as a consultant and a registered or licensed practical nurse shall be designated in writing as the drug room supervisor to ensure drugs and biologicals are properly distributed and stored. The drug room supervisor may have other job responsibilities in the CAH as long as drug distribution services are adequately maintained.

(c) Delivery of services.

(1) Drugs and biologicals shall be kept in a locked storage area and distributed in accordance with applicable standards of practice, consistent with state and federal laws. Outdated, mislabeled, or otherwise unusable drugs and biologicals shall not be maintained available for patient use. Storage of drugs and biologicals shall be in accordance with the manufacturer's instructions.

(2) Records shall be maintained of the transactions of the pharmacy or drug room to account for the receipt, distribution, disposition and destruction of all drugs and biologicals.

(3) A record of the stock of controlled dangerous drug substances on hand shall be maintained in a manner so that the disposition of any particular item may be readily traced. All Schedule II drugs shall be maintained as specified in OAC 310:667-21-8(c).

(4) All drugs and biologicals shall be provided to patients only upon written order of a physician or practitioner authorized by law to write a prescription, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment for contraindications. The prescriber's original order or a copy shall be available to the pharmacy or drug room prior to distributing or dispensing the drug or biological. The order may be electronically transmitted. Methods shall be provided to ensure the reconciliation of all drugs distributed for patient administration.

(5) Access to the pharmacy or drug room shall be restricted to authorized individuals when the pharmacist or drug room supervisor is unavailable. The CAH shall establish written procedures which permit authorized individuals access, establish methods of maintaining drug inventory and control, and require record keeping of drugs removed.

(6) Floor stock medications shall be controlled and maintained to limit after hours access to the pharmacy or drug room.

Distribution shall be in accordance with a floor stock drug list which shall be established for each floor stock area. A method shall be provided for reconciliation of floor stock drugs distributed for use in a procedure or for a particular patient. The pharmacist shall check all floor stock medication areas at least monthly to ensure records are accurate and stock continues to be suitable for use.

(7) Drugs and biologicals not specifically prescribed as to length of time or number of doses shall be automatically stopped after a reasonable time established by the medical and professional staff.

(8) Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the attending physician or licensed independent practitioner. As appropriate, reports of errors and adverse reactions shall be made to the CAH quality assurance committee.

(9) Abuse and loss of controlled substances shall be immediately reported to the pharmacist director and to the administrator who shall make required reports to local, State and Federal authorities. If the CAH maintains a pharmacy or drug room, the administrator, or the administrator's authorized representative, shall inventory pharmacy controlled substances and alcohol at least annually.

(10) Information relating to drug interactions, drug therapy, side effects, toxicology, dosage, indications for use, routes of administration and poison control shall be made available by the pharmacist director to nursing service and the medical and professional staff.

(11) Drugs and biologicals maintained by the CAH shall be based on a formulary established by the medical and professional staff.

(d) **Physical facilities.** The CAH shall maintain, as appropriate, adequate facilities to ensure drugs and biologicals are safely compounded, packaged, dispensed and stored as required. Equipment and supplies shall be provided to adequately protect personnel from toxic substances and to ensure the integrity of any medication or parenteral solution.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-39-13. Diagnostic services

(a) **Radiological services.** The CAH shall maintain or have available diagnostic radiological services according to the needs of the patients.

(1) Radiological services shall be free from hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards, and radiation hazards.

(2) Diagnostic x-ray equipment shall have a current permit issued by the Department and shall be inspected at least every two (2)

years by a certified health physicist or by Department staff. Any identified hazards shall be promptly corrected.

(3) The hospital shall identify those employees who are subject to significant occupational exposure to radiation while performing their job duties. All such workers shall be checked periodically for amounts of radiation exposure by the use of exposure meters or badge tests.

(4) The CAH shall have a qualified radiologist available on a full-time, part-time or consulting basis both to supervise services and interpret diagnostic images that require specialized knowledge for accurate reading. Diagnostic images may be electronically transmitted or delivered off-site for interpretation by the radiologist. The interpretation of radiological examinations shall be made by physicians or licensed independent practitioners competent in the field according to individually granted clinical privileges. Reports of interpretations shall be written or dictated and signed by the radiologist, physician, or licensed independent practitioner making the interpretation. All diagnostic image interpretations shall be incorporated into the patient's medical record with a duplicate copy kept with the image.

(5) The use of diagnostic x-ray equipment shall be limited to personnel designated as qualified by the radiologist or the medical and professional staff. Fluoroscopic procedures may be performed by radiology technologists only upon the written authorization of a qualified radiologist, and in the presence of a physician or licensed independent practitioner or by real time visualization through electronic means.

(6) The CAH shall maintain copies of reports and diagnostic images for at least five (5) years.

(7) If the CAH provides imaging services other than routine diagnostic x-ray, the CAH shall comply with appropriate sections of OAC 310:667-23-2.

(b) Laboratory services.

(1) The CAH shall have a well-organized, adequately supervised clinical laboratory with necessary staff, space, facilities, and equipment to perform those services commensurate with the needs of its patients. All or part of these services may be provided by arrangements with certified reference laboratories as long as services are available on an emergency basis twenty-four (24) hours a day.

(2) If a CAH directly provides laboratory services, it shall meet all conditions as set forth in 42 CFR part 493 and be certified to perform testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88). The CAH shall possess a current, unrevoked or unsuspended certificate appropriate for the extent of testing performed issued by the Department of Health and Human Services applicable to the category of examinations or procedures performed by the facility.

(3) If a CAH provides laboratory services under arrangement, the referral laboratory shall also meet the requirements of this

section. Referral laboratories used by the CAH shall have the ability to electronically transmit emergency test results.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-39-14. Emergency services

(a) **General.** The CAH shall provide emergency stabilization and treatment services commensurate with emergency medical needs of the community and CAH service area. All services shall be provided in accordance with acceptable standards of practice, compliant with applicable state and federal laws.

(b) **Organization and direction.** The service shall be directed by personnel deemed qualified by the governing body and integrated with other services of the CAH. Although the service may function as a separate department, the CAH may also provide this service with staff from other areas who are trained in emergency services and who are available if needed in the emergency area.

(1) Services shall be organized under the direction of a qualified member of the medical and professional staff. Nursing functions shall be the responsibility of a registered nurse and shall be supervised by the director of nursing.

(2) There shall be written policies and procedures that establish protocols for emergency services provided. Policies shall also include written procedures for stabilization and transfer of patients whose treatment needs cannot be met at the CAH. If the CAH does not offer maternity services, emergency service policies shall include protocols for emergency deliveries.

(c) **Facilities, medications, equipment and supplies.** Facilities, medications, equipment and supplies shall be provided to ensure prompt diagnosis and emergency medical treatment.

(1) Facilities shall be separate and independent from operating, delivery, or inpatient rooms. The emergency services area shall be in close proximity to an exterior entrance of the CAH.

(2) Medications commonly used in life-saving procedures shall be provided. These shall include but not be limited to the following drugs and biologicals: analgesics, local anesthetics, antibiotics, serums and toxoids, antiarrhythmics, cardiac glycosides, antihypertensives, diuretics, electrolytes, plasma expanders and replacement solutions.

(3) Equipment and supplies commonly used in life-saving procedures shall be provided. These shall include but not be limited to: airways, endotracheal tubes, laryngoscope, ambu bag/valve/mask, obstetrics pack, tracheostomy set, oxygen, tourniquets, immobilization devices, nasogastric tubes, splints, IV therapy supplies, suction machine, defibrillator, cardiac monitor, chest tubes, and indwelling urinary catheters.

(4) The emergency service shall be equipped with a base station radio using medical frequencies VHF 155.340 or UHF Medical Channels 1 through 10 and/or compatible frequencies with

emergency medical services operating in the area. Direct communications between the emergency service and the on-call physician or licensed independent practitioner and the on-call or on-site registered nurse shall be established as specified at OAC 310:667-39-2(b).

(d) **Medical and nursing personnel.** There shall be adequate medical and nursing personnel qualified in emergency care available at all times to meet the emergency service needs of the CAH.

(1) A physician or licensed independent practitioner shall be available at all times to directly communicate with CAH staff providing emergency care. The physician or licensed independent practitioner shall be able to be physically present at the CAH as specified by written facility policy.

(2) A physician or licensed independent practitioner shall be on duty or on call at all times. This physician or practitioner shall be able to present at the CAH in a period of time not to exceed twenty (20) minutes.

(3) A registered nurse shall be available at all times to assess, evaluate, and supervise the nursing care provided. If the CAH has no inpatients, the registered nurse may be available on an on-call basis if he or she can return to the CAH in a period of time not to exceed twenty (20) minutes when a patient presents to the emergency service. All emergency medical patients shall be evaluated on-site by a registered nurse unless the patient is evaluated on-site by a physician or licensed independent practitioner.

(4) Adequate support staff shall be available on-site to meet the emergency service needs of the CAH. If the CAH has no inpatients and registered nursing services are provided on an on-call basis, the emergency service shall be staffed with at least an intermediate or paramedic level emergency medical technician. All CAH staff providing emergency services shall have current CPR certification.

(e) **Emergency medical records.**

(1) Adequate medical records on every patient shall be kept. Each record shall contain the following as applicable:

(A) Patient identification.

(B) Time and means of injury.

(C) History of disease or injury.

(D) Physical findings.

(E) Laboratory and x-ray reports, if any.

(F) Diagnosis and therapeutic orders.

(G) Record of treatment including vital signs.

(H) Disposition of the case.

(I) Signature of the registered nurse.

(J) Signature of the licensed independent practitioner, if applicable.

(K) Signature of the physician, if applicable.

(L) Documentation if the patient left against medical advice.

(2) Medical records for patients treated by the emergency service shall be organized and where appropriate integrated with inpatient records. A method of filing (hard copy or electronic) shall be maintained which assures prompt retrieval.

(f) **Drug and biologicals distribution and control.** Drugs and biologicals in the emergency service shall be securely maintained and controlled by staff at all times. If the service does not have staff present at all times, all drugs and biologicals shall be secured in sealed or locked storage with devices placed to denote tampering. All Schedule II drugs shall be stored as specified by OAC 310:667-21-8(c). All drugs and biologicals shall be administered and dispensed as required by state law.

(g) **Patient examinations, treatments and transfers.** Patient examinations, treatments and transfers shall be conducted in accordance with 42 U.S.C. (1395dd) and 42 U.S.C. (1395cc) and with the regulations at 42 CFR part 489.20 and 489.24.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 692, eff 12-16-99 (emergency); Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 40. EMERGENCY HOSPITAL

310:667-40-1. General

An emergency hospital (EH) is a hospital that provides emergency treatment and stabilization services on a twenty four (24) hour basis that has the ability to admit and treat patients for short periods of time. The EH shall be the sole provider of hospital services in the community and is to allow the provision of emergency and stabilizing care in a community that is unable to support a general medical surgical or critical access hospital. The EH shall only provide emergency medical services and limited inpatient stabilization or observational care. Non-emergent surgical, scheduled obstetrical deliveries, and invasive diagnostic services requiring anesthesia or sedation shall not be provided. The EH shall be limited to no more than ten (10) inpatient stabilization and observational beds.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-2. Affiliations, communications and agreements

(a) **Affiliations.** The EH shall be affiliated with at least one (1) general medical surgical hospital to facilitate appropriate referrals and adequate support services. The affiliation shall be through a written agreement, contract for services, network affiliation, lease or through direct ownership by the supporting general medical surgical hospital.

(b) **Communications.** Direct communications shall be established between the EH and any facility providing support services. These communications shall include the electronic sharing of patient data which may include telemetry and diagnostic imaging if local telecommunications have this capability. As a minimum, the EH shall be

able to send and receive patient information by facsimile and/or computer modem.

(c) **Agreements.** The EH shall have a written agreement with an emergency medical service to accept and receive emergency transfers. This agreement shall provide arrangements for emergency and non-emergency transfers to and from the EH and stipulate the emergency and stabilizing treatment services available at the EH. Direct communications shall be established between the emergency medical service and the EH which allow the emergency medical service to directly contact the on-call physician or licensed independent practitioner and the on-call or on-site registered nurse providing emergency services.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-3. Stabilization or observational admissions

The EH shall establish inpatient stabilization and observational admission criteria appropriate to treat patients that require short periods of extended care that cannot be provided in an emergency room setting. The criteria may be based on diagnosis and patient acuity established by the medical and professional staff or the EH may use diagnosis related groups (DRGs). Such admission criteria shall not in any way be based on payer source. The criteria shall be established and revised as necessary by the medical and professional staff and approved by the governing body. Stabilizing emergency treatment services provided shall not be restricted by inpatient admission criteria.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-4. Basic requirements and services

The EH shall provide basic services as described in Sections 5 through 16 of this Subchapter and comply with Subchapters 1, 3 and 5 of this Chapter. The EH shall not provide additional services.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-5. Governing body

(a) **General.** The EH shall have an effective governing body legally responsible for all services and the quality of patient care provided.

(b) **Organization.** The governing body may be an organized board or owner designated individual(s). The method for appointment, terms, officers required, meeting requirements, duties, and responsibilities shall be established in written bylaws which shall be available at the EH. The governing body shall meet at established intervals and maintain minutes of meetings. Meetings may be conducted by teleconference if not otherwise prohibited by law.

(c) **Responsibilities.** The governing body's responsibilities shall include at least the following:

- (1) Appointment and reappointment of members of the medical and professional staff by methods established in approved bylaws.

These appointments shall be made based on recommendations received from the medical and professional staff and be consistent with state law.

(2) Approval of medical and professional staff bylaws, rules and regulations.

(3) Approval or denial of physician and practitioner privilege delineations recommended by the medical and professional staff.

(4) Consideration of reports received from the EH concerning the quality of care provided. The governing body shall require corrective actions as necessary when inadequate patient care is identified.

(5) Ensure patients are admitted and discharged for inpatient stabilization or observational care by a physician or licensed independent practitioner.

(6) Ensure a physician or licensed independent practitioner is available to communicate with EH staff at all times. A physician or licensed independent practitioner shall be physically available if necessary as specified by EH policy.

(7) Ensure adequate EH staff are physically available on-site to provide required emergency, stabilization, and observational services.

(8) Designation of an administrator who shall be responsible for managing the facility. This person may have duties in addition to management responsibilities.

(9) Ensure the EH is constructed, arranged, and maintained to ensure the safety of the patient, and to provide facilities for emergency, stabilization, and observational care provided.

(10) Ensure the EH is operated under an approved budget.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-6. Medical and professional staff

(a) **General.** The EH shall have an organized medical and professional staff responsible for the quality of care provided to all patients. The staff shall operate under bylaws approved by the governing body. The medical and professional staff may function as a part of an affiliated hospital's organized staff as long as individual physician and practitioner privileges are independently recommended and approved by the EH governing body. If staff functions are combined with an affiliated hospital, EH functions required by the medical and professional staff bylaws shall be independently identified and reviewed during combined staff meetings.

(b) **Composition.** The EH shall have a medical and professional staff composed of one (1) or more physicians or licensed independent practitioners. Privileges may also be extended to other health care professionals who are authorized by state law to provide treatment services.

(1) The staff shall periodically reexamine credentials and conduct appraisals of its members and make recommendations regarding reappointments and privilege delineations to the governing body. The staff shall also examine credentials of candidates for staff

membership and make recommendations regarding appointments and privileges extended.

(2) Temporary staff privileges may be extended to physicians and licensed independent practitioners and other professional staff as specified in the medical and professional staff bylaws.

(3) Patient admission quotas or revenue generation minimums shall not be a condition for appointment or reappointment.

(c) **Organization and accountability.** The medical and professional staff shall be well organized and accountable to the governing body for the quality of medical care provided to patients.

(1) The staff shall be organized and elect officers as required by approved medical staff bylaws.

(2) The staff shall meet at least quarterly as a committee of the whole to review the quality of medical care provided, fulfill committee functions specified in the staff bylaws, and to consider and recommend actions to the governing body. Meetings may include staff from the affiliated hospitals or other off-site physicians or practitioners who have privileges at the EH and may be conducted by teleconference. Minutes of meetings shall be maintained and available for review at the EH.

(d) **Medical and professional staff bylaws.** The medical and professional staff shall adopt and enforce bylaws to carry out their responsibilities. The medical staff bylaws shall:

(1) Be approved by the governing body.

(2) Include a statement of the duties and privileges of each category of the medical and professional staff. These categories shall include a category of licensed independent practitioner, and may include a category of supervised practitioner. All physicians and licensed independent practitioners with privileges may admit patients for stabilization or observational care.

(3) Describe the organization of the medical and professional staff.

(4) Describe the qualifications for each category of the medical and professional staff.

(5) Require each inpatient to have a history and physical examination performed no more than thirty (30) days before, or forty-eight (48) hours after, admission by a physician or licensed independent practitioner. The examination shall be approved and signed by the physician or licensed independent practitioner. The approval and signature may be performed electronically or by facsimile.

(6) When the medical history and physical examination are completed within thirty (30) days before admission, the hospital must ensure that an updated medical record entry documenting an examination for any changes in the patient's condition is completed. A review of the prior history and physical examination or an updated examination must be completed immediately upon admission and documented in the patient's medical record within forty-eight (48) hours.

(7) Specify the procedure for determining the privileges to be granted to individual physicians and practitioners initially and on

reappointment and the process for physicians and practitioners to request these privileges.

(8) Specify the mechanism to withdraw privileges of staff members and the circumstances when privileges shall be withdrawn.

(9) Specify the mechanism for appeal of decisions regarding staff membership and privilege delineations.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08]

310:667-40-7. Quality improvement

(a) **General.** There shall be an ongoing quality improvement program, approved by the governing body, which shall identify problems in the facility, suggest solutions, and monitor resolutions.

(b) **Quality improvement plan.** A written quality improvement plan shall be developed, approved, and implemented by the governing body with advice from the medical and professional staff. The plan shall include but not be limited to the following:

(1) Methods of evaluating all patient services to ensure quality of care, including those provided under contract.

(2) Methods of evaluating off-site health care services for appropriateness of use and the degree to which the services aid in the provision of quality patient care.

(3) The evaluation of nosocomial infections and accompanying medication therapy shall be linked to the hospital-wide quality improvement program through regular reporting to the medical and professional staff committee of the whole.

(4) Methods of evaluating physician and practitioner services to ensure these services are provided in conformance with facility policy and state law.

(5) Methods of evaluating on-call services to ensure staff are available as required.

(c) **Quality improvement committee.** The EH may establish a quality improvement committee or this function may be fulfilled by the medical and professional staff committee of the whole. Quality improvement activities shall be reported by facility staff to the committee at least every three (3) months or more frequently if findings require immediate action by the committee.

(d) **Quality improvement implementation.** There shall be documentation that the EH has taken appropriate action to address problems identified. The EH shall document the monitoring of the effectiveness of the proposed solutions.

(e) **Communication.** Quality improvement committee reports shall be communicated at least every three (3) months to the governing body. If the quality improvement committee meets separately from the medical and professional staff committee of the whole, these reports shall also be communicated at least every three (3) months to the medical and professional staff.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-8. Infection control program

(a) **General.** The EH shall establish an infection control program to provide a sanitary environment and avoid sources and transmission of infections. The program shall include written policies and procedures for identifying, reporting, evaluating and maintaining records of infections among patients and personnel. The program shall provide an ongoing review and evaluation of all aseptic, isolation and sanitation techniques employed in the hospital and coordinate training programs in infection control for all personnel.

(b) **Infection control committee.** The EH may establish an infection control committee (or equivalent) or this function may be fulfilled by the medical and professional committee of the whole. The committee shall meet at least quarterly.

(c) **Policies and procedures review.**

(1) The infection control committee shall evaluate, revise as necessary, and approve the type and scope of surveillance activities utilized at least annually.

(2) Infection control policies and procedures shall be reviewed periodically and revised as necessary, based on current scientific knowledge, accepted practice guidelines, and applicable laws and regulations.

(d) **Policies and procedures content.** The policies and procedures outlined for the infection control program shall be approved by the infection control committee and contain at least the following:

(1) A requirement that a record of all reported infections generated by surveillance activities include the identification and location of the patient, the date of admission, onset of the infection, the type of infection, the cultures taken, the results of cultures when known, any antibiotics administered and the physicians or practitioners responsible for care of the patient.

(2) Specific policies related to the handling and disposal of biomedical waste.

(3) Specific policies and procedures related to admixture and drug reconstitution, and the manufacture of intravenous and irrigating fluids.

(4) Specific policies regarding the indications for and types of isolation to be used for each infectious disease. These policies shall incorporate the concepts of standard precautions and the recommended transmission-based categories of contact, airborne, and droplet isolation procedures as deemed appropriate by the medical and professional staff.

(5) A definition of nosocomial infection.

(6) Designation of an infection control officer, who coordinates the infection control program.

(7) Policies for orienting new employees and an ongoing continuing education program for currently employed personnel concerning infection control. Written documentation shall be maintained indicating new employees have completed orientation and that all current personnel have attended continuing education.

310:667-40-9. Nursing service

(a) **General.** Each EH shall have an organized nursing service which provides twenty-four (24) hour nursing services for patients. The nursing service shall be supervised by a registered nurse.

(b) **Organization.** The nursing service shall be well-organized with written policies delineating administrative and patient care responsibilities. The director of nursing shall be a registered nurse who shall be responsible for the operation of the service, including determining the staff necessary to provide nursing care for the EH. Nursing care shall be provided as specified by written procedures approved by the director of nursing and the governing body. All nursing procedures shall be consistent with state and federal law and current standards of practice. Procedures shall be reviewed and revised as necessary.

(c) **Staffing.** The nursing service shall have adequate numbers of licensed nurses and other nursing personnel available to provide nursing care to all patients as needed based on patient census and acuity. At least one (1) registered nurse shall be on duty on-site to furnish or supervise all nursing services whenever patient care is provided. If the EH has no inpatients, the registered nurse may be available on an on-call basis provided he or she is available to return to the EH in a period of time not to exceed twenty (20) minutes.

(d) **Qualifications.**

(1) Individuals selected for the nursing staff shall be qualified by education and experience for the positions they are assigned. The EH shall verify current licensure of licensed nurses and maintain documentation of verification.

(2) The selection and promotion of nursing service personnel shall be based on their qualifications and capabilities. The director of nursing shall have input regarding the employment, promotion, evaluation and termination of all nursing service personnel.

(3) The qualifications required for each category of nursing staff shall be in written policy and job descriptions, and shall be available in the EH for reference. The functions of all nursing service personnel shall be clearly defined by written policy.

(e) **Delivery of care.**

(1) A registered nurse shall assess, plan, supervise, and evaluate the nursing care for each patient.

(2) Each inpatient shall have a nursing care plan that includes assessment, planning, intervention, and evaluation. Nursing care plans shall be revised as necessary.

(3) Nursing notes shall be informative and descriptive of the nursing care given and include assessment, interventions, and evaluation.

(4) All drugs and biologicals shall be administered in accordance with state and federal laws by authorized individuals. Orders for drugs and biologicals shall be in writing and signed by the

prescribing physician or practitioner who shall be authorized by law to write a prescription, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment for contraindications. When telephone or verbal orders for drugs, biologicals, treatments, and tests are used, they shall be given only to a practitioner authorized by administration to receive these orders and signed by the prescribing physician or practitioner or meet the requirements at OAC 310:667-19-2(c)(4). The person taking the telephone or verbal order shall read the order back to the physician or practitioner to ensure it was correctly understood and verify on the order the fact that the order was read back. Each facility, within its own procedures and protocols, shall establish a verification process to be placed on orders to demonstrate that the order was read back to the physician.

(5) Blood products and intravenous medications shall be administered as required by EH written policy in accordance with state and federal law. EH staff administering blood products or intravenous medications shall be trained regarding hospital policies before they are allowed to carry out these responsibilities.

(6) There shall be an effective procedure for reporting transfusion and adverse drug reactions to the attending physician or licensed independent practitioner and the prescribing physician or practitioner. Errors in drug administration and adverse reactions shall be compiled and reported through the quality assurance committee to the medical and professional staff.

(7) All nursing service personnel shall be trained and currently certified to perform cardio-pulmonary resuscitation (CPR) and shall be knowledgeable of all EH emergency protocols.

(f) **Patient restraint.** If patients are physically restrained, the EH shall comply with all requirements specified in OAC 310:667-15-8. If patients are chemically restrained, the EH shall comply with all requirements specified in OAC 310:667-15-9.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08 ; Amended at 30 Ok Reg 1966, eff 7-25-13]

310:667-40-10. Food and nutritional services

(a) **General.** The EH shall directly provide or contract for organized food and nutritional services that are directed and staffed by qualified personnel. If the EH has a contract with an outside food management company to provide services on-site or cater food to the EH, the company shall comply with all requirements specified in this section.

(b) **Organization.**

(1) Clinical nutritional services shall be under the supervision and direction of a licensed/registered dietitian on a full-time, part-time, or consultant basis. The dietitian shall be responsible for approval of menus and modified diets, review of clinical policies and procedures, evaluation of nutritional services and staff

continuing education. If dietitian services are provided on a part-time or consultant basis, the responsibilities of the dietitian shall be clearly defined in a written job description and summary reports of consultant visits shall be written and on file. The dietitian shall be responsible for, or shall designate a person in writing, to carry out clinical nutritional activities. The clinical nutritional activities shall include but not be limited to patient and family counseling on modified diets as needed, any required nutritional assessments, and development of clinical nutritional policies and procedures. If dietitian services are provided on a part-time or consultant basis, a dietitian shall be available for telephone consultation daily and shall be able to approve menus and modified diets electronically.

(2) The food and nutritional services manager may or may not be a licensed/registered dietitian. If the manager is not a licensed/registered dietitian or certified dietary manager, the manager shall be responsible only for administrative management and shall not direct clinical nutritional activities.

(3) Personnel shall be adequate in number and training to carry out the preparation and serving of foods and other related functions with the proper and necessary sanitary procedures. The food service personnel shall complete a basic orientation program before working in the food service area. This orientation shall include, but not be limited to: basic dietary guidelines, infection control including food safety, and fire and safety precautions.

(c) Services and facilities.

(1) Equipment used in the preparation and handling of food shall bear the seal of the National Sanitation Foundation (NSF) or comply with the requirements of the NSF (Rules and Regulations Pertaining to Food Establishments).

(2) A nourishment room accessible to the nursing staff shall be provided for the preparation and serving of light refreshments. This room shall be equipped with equipment for warming food, a refrigerator, and a lavatory. This room may serve as the location for an ice machine.

(d) Diets and menus.

(1) At least three (3) palatable meals or their equivalent shall be served daily, at regular times with not more than fifteen (15) hours between a substantial evening meal and breakfast. Menus shall be planned and followed to meet nutritional needs of patients, in accordance with the prescribing physician or practitioner diet orders and to the extent medically possible, in accordance with the Dietary Reference Intakes (DRIs) of the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences.

(2) All diets shall be prescribed by the physician or practitioner responsible for the care of the patient. Modified diets shall be prescribed according to the latest edition of the Oklahoma Diet Manual or other equivalent approved manual. The Oklahoma Diet Manual or other equivalent approved diet manual shall be approved by the licensed/registered dietitian, the medical and

professional staff and the governing body. The manual shall be available to all medical, nursing, and food service personnel.

(3) Nourishments shall be available and may be offered at anytime in accordance with approved diet orders.

(4) Menus covering all prescribed diets shall be approved, dated, and periodically reviewed by a licensed/registered dietitian. Modified diet orders not covered with an approved menu shall be planned in writing, reviewed, and approved by a licensed/registered dietitian. The licensed/registered dietitian approval of the modified diet may be performed electronically.

(5) The portioning of menu servings shall be accomplished with the use of portion-control serving utensils.

(6) All modified diets shall be prepared separately, as necessary, from regular diets.

(7) An identification system shall be established to ensure that each patient receives the prescribed diet as ordered.

(e) Food preparation and storage.

(1) Potentially hazardous food, as defined in chapter 256 of this Title, shall be maintained at one hundred-forty (140)°F (approximately 60°C) or above or at an internal temperature of forty-one (41)°F (approximately 5°) or below. A product thermometer shall be available, metal stem-type numerically scaled indicating temperature, accurate to plus or minus two (2) degrees F and used to check internal food temperatures.

(2) Milk and milk products shall be served, handled and stored in accordance with the requirements of Chapter 256 of this Title.

(3) All ice which is in contact with food or drink shall come from a source approved by the Department. Storage, transportation, handling, and dispensing shall be in a sanitary manner, approved by the Department in accordance with Chapter 256 of this Title.

(f) Sanitation.

(1) The food and nutritional services shall be inspected and approved by state or local health agencies and licensed as a Food Service Establishment. Written reports of the inspections; e.g., Food Establishment Inspection Report Forms, shall be maintained with notations made of the action taken to correct violations.

(2) Storage, preparation, and serving of food shall be in compliance with the requirements of Chapter 256 of this Title, including adequate and proper space for each activity.

(3) The system used for dishwashing shall be approved by the Department and operated in accordance with approved procedures and requirements of Chapter 256 of this Title.

(4) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Adequate carriers and containers shall be provided for the sanitary collection and transportation of garbage and refuse from food service areas to the place of disposal in accordance with the requirements of Chapter 256 of this Title.

310:667-40-11. Medical record services

(a) **General.** The EH shall have medical record services that ensure a medical record is maintained for every patient evaluated or treated in the facility. Medical record services shall be appropriate to the scope and complexity of the services performed and shall ensure prompt completion, filing, and retrieval of records. In general, services such as transcription, computer indexing and coding, and electronic storage may be performed off-site as a contracted service as long as the medical record remains under the control of the EH. The EH shall ensure that medical records maintained by a contracted service remain confidential and can be immediately accessed by EH staff.

(b) **Reports to agencies and the Department.** The EH shall comply with all requirements specified in OAC 310:667-19-2(a) regarding the reports made to agencies and the Department.

(c) **Content.** The medical record shall contain information to justify patient admission and treatment, support the diagnosis, and describe the patient's progress and response to treatment and services received. All entries shall be legible and complete, and shall be authenticated and dated promptly by the person, identified by name and discipline, who is responsible for ordering, providing or evaluating the service furnished.

(1) The author of each entry shall be identified and shall authenticate their entry. Authentication may include written signatures or computerized or electronic entries. If computerized or electronic authentications are used, the EH shall comply with all requirements specified at OAC 310:667-19-10(e). Telephone or verbal orders shall be authenticated by the physician or practitioner giving the order or meet the requirements at OAC 310:667-19-2(c)(4). The person taking the telephone or verbal order shall read the order back to the physician or practitioner to ensure it was correctly understood and verify on the order the fact that the order was read back. Each facility, within its own procedures and protocols, shall establish a verification process to be placed on orders to demonstrate that the order was read back to the physician. Reports of history and physical examinations and discharge summaries shall be authenticated by the authorized physician or practitioner who performed the examination or produced the summary or meet the requirements at OAC 310:667-19-10(e) if authenticated by another physician or practitioner. Signature stamps may be used to authenticate entries in the medical record provided the requirements at OAC 310:667-19-10(d) are met.

(2) All inpatient records shall document the following as appropriate:

(A) Patient identifying information including individuals to be contacted in case of an emergency.

(B) Evidence of a physical examination, including a health history, performed not more than thirty (30) days prior to admission or within forty-eight (48) hours after admission. The history and physical examination shall be completed, signed and placed in the record within 48 hours of

admission.

(C) Admitting diagnosis.

(D) Results of all consultative evaluations of the patient and appropriate findings by clinical and other staff involved in the care of the patient.

(E) Documentation of complications, hospital acquired infections, and unfavorable reactions to any drug or biological.

(F) Properly executed informed consent forms for procedures and treatments performed. The medical and professional staff shall establish which procedures or treatments require informed consent consistent with Federal and State law.

(G) All physicians' and practitioners' orders, nursing notes, reports of treatment, medication records, diagnostic reports, vital signs and other information necessary to monitor the patient's condition.

(H) Discharge summary with outcome of hospitalization, disposition of case, medications at the time of discharge, and provisions for follow-up care.

(I) Reports. All reports and records shall be completed and filed within a period consistent with good medical practice and not longer than thirty (30) days following discharge.

(J) Final diagnosis.

(d) **Maintenance of records.** The EH shall maintain a medical record for each emergency, stabilization, or observational patient. Medical records shall be accurately written, promptly completed, properly filed and retained, and accessible. The EH shall use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries.

(1) Medical records shall be retained at least five (5) years after the date the patient was last seen or at least of three (3) years after the date of the patient's death. Records of minors shall be retained three (3) years past the age of majority. Medical records may be maintained in their original form or may be preserved by other means as specified by OAC 310:667-19-14(b).

(2) The EH shall have, or provide, a system of coding and indexing medical records. The system shall allow for timely retrieval by diagnosis and procedure, in order to support medical care evaluation studies.

(3) Medical records shall be confidentially maintained.

Information from, or copies of, records shall be released only to authorized individuals in accordance with state law, and the EH shall ensure that unauthorized individuals cannot gain access to, or alter medical records. Original medical records shall be released only in accordance with federal or state laws or by court order.

(4) Facsimile copies shall be acceptable as any portion of the medical record. If the facsimile is transmitted on thermal paper, that paper shall be photocopied to preserve its integrity in the record. Facsimile copies shall be considered the same as original

copies.

(5) In the event of closure of the EH, the EH shall inform the Department of the disposition of the patient medical records. Disposition shall be in a manner to protect the integrity of the information contained in the medical record. These records shall be retained and disposed of as specified by OAC 310:667-19-14(b)(4).

[Source: Added at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 21 Ok Reg 2785, eff 7-12-04 ; Amended at 24 Ok Reg 1189, eff 4-2-07 (emergency); Amended at 25 Ok Reg 2472, eff 7-11-08 ; Amended at 30 Ok Reg 1966, eff 7-25-13]

310:667-40-12. Drug distribution

(a) **General.** The EH shall provide routine and emergency drugs and biologicals in a safe and accurate manner to meet the needs of the patients. The EH may provide all drug distribution services directly with a complete licensed hospital pharmacy or drug room, or services may be provided by contract with a licensed pharmacy. The medical and professional staff and the EH pharmacist shall be responsible for oversight of drug distribution services and shall approve policies and procedures that ensure compliance with state and federal laws and minimize drug errors. If required, the EH shall annually register with the Oklahoma State Board of Pharmacy.

(b) **Personnel.**

(1) The drug distribution service shall be directed by a pharmacist on a full-time, part-time, or consultant basis. The pharmacist shall be responsible for developing, supervising, and coordinating all activities of drug distribution in the EH. The responsibility and authority of the pharmacist shall be clearly defined in a written job description. All compounding, packaging, labeling and dispensing of drugs and biologicals shall be performed or directly supervised by the pharmacist.

(2) If the EH only maintains a drug room, drugs and biologicals shall be distributed and administered only to patients of the EH. The pharmacist director shall be available at least as a consultant and a registered or licensed practical nurse shall be designated in writing as the drug room supervisor to ensure drugs and biologicals are properly distributed and stored. The drug room supervisor may have other job responsibilities in the EH as long as drug distribution services are adequately maintained.

(c) **Delivery of services.**

(1) Drugs and biologicals shall be kept in a locked storage area and distributed in accordance with applicable standards of practice, consistent with state and federal laws. Outdated, mislabeled, or otherwise unusable drugs and biologicals shall not be maintained available for patient use. Storage of drugs and biologicals shall be in accordance with the manufacturer's instructions.

(2) Records shall be maintained of the transactions of the pharmacy or drug room to account for the receipt, distribution, disposition and destruction of all drugs and biologicals.

(3) A record of the stock of controlled dangerous drug substances on hand shall be maintained in a manner so that the disposition of any particular item may be readily traced. All Schedule II drugs shall be maintained as specified in OAC 310:667-21-8(c).

(4) All drugs and biologicals shall be provided to patients only upon written order of a physician or practitioner authorized by law to write a prescription, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment for contraindications. The prescriber's original order or a copy shall be available to the pharmacy or drug room prior to distributing or dispensing the drug or biological. The order may be electronically transmitted. Methods shall be provided to ensure the reconciliation of all drugs distributed for patient administration.

(5) Access to the pharmacy or drug room shall be restricted to authorized individuals when the pharmacist or drug room supervisor is unavailable. The EH shall establish written procedures which permit authorized individuals access, establish methods of maintaining drug inventory and control, and require record keeping of drugs removed.

(6) Floor stock medications shall be controlled and maintained to limit after hours access to the pharmacy or drug room. Distribution shall be in accordance with a floor stock drug list which shall be established for each floor stock area. A method shall be provided for reconciliation of floor stock drugs distributed for use in a procedure or for a particular patient. The pharmacist shall check all floor stock medication areas at least monthly to ensure records are accurate and stock continues to be suitable for use.

(7) Drugs and biologicals not specifically prescribed as to length of time or number of doses shall be automatically stopped after a reasonable time established by the medical and professional staff.

(8) Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the attending physician or licensed independent practitioner. As appropriate, reports of errors and adverse reactions shall be made to the EH quality assurance committee.

(9) Abuse and loss of controlled substances shall be immediately reported to the pharmacist director and to the administrator who shall make required reports to local, state and federal authorities. If the EH maintains a pharmacy or drug room, the administrator, or the administrator's authorized representative, shall inventory pharmacy controlled substances and alcohol at least annually.

(10) Information relating to drug interactions, drug therapy, side effects, toxicology, dosage, indications for use, routes of administration and poison control shall be made available by the pharmacist director to nursing service and the medical and professional staff.

(11) Drugs and biologicals maintained by the EH shall be based on a formulary established by the medical and professional staff.

(d) **Physical facilities.** The EH shall maintain, as appropriate, adequate facilities to ensure drugs and biologicals are safely compounded, packaged, dispensed and stored as required. Equipment and supplies shall be provided to adequately protect personnel from toxic substances and to ensure the integrity of any medication or parenteral solution.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-13. Diagnostic services

(a) **Radiological services.** The EH shall maintain or have available diagnostic radiological services according to the needs of the patients.

(1) Radiological services shall be free from hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards, and radiation hazards.

(2) Diagnostic x-ray equipment shall have a current permit issued by the Department and shall be inspected at least every two (2) years by a certified health physicist or by Department staff. Any identified hazards shall be promptly corrected.

(3) The hospital shall identify those employees who are subject to significant occupational exposure to radiation while performing their job duties. All such workers shall be checked periodically for amounts of radiation exposure by the use of exposure meters or badge tests.

(4) The EH shall have a qualified radiologist available on a full-time, part-time or consulting basis both to supervise services and interpret diagnostic images that require specialized knowledge for accurate reading. Diagnostic images may be electronically transmitted or delivered off-site for interpretation by the radiologist. The interpretation of radiological examinations shall be made by physicians or licensed independent practitioners competent in the field according to individually granted clinical privileges. Reports of interpretations shall be written or dictated and signed by the radiologist, physician, or licensed independent practitioner making the interpretation. All diagnostic image interpretations shall be incorporated into the patient's medical record with a duplicate copy kept with the image.

(5) The use of diagnostic x-ray equipment shall be limited to personnel designated as qualified by the radiologist and the medical and professional staff. Fluoroscopic procedures may be performed by radiology technologists only upon the written authorization of a qualified radiologist, and in the presence of a physician or licensed independent practitioner or by real time visualization through electronic means.

(6) The EH shall maintain copies of reports and diagnostic images for at least five (5) years.

(7) If the EH provides imaging services other than routine diagnostic x-ray, the EH shall comply with appropriate sections of OAC 310:667-23-2.

(b) **Laboratory services.**

(1) The EH shall have a well-organized, adequately supervised clinical laboratory with necessary staff, space, facilities, and equipment to perform those services commensurate with the needs of its patients. All or part of these services may be provided by arrangements with certified reference laboratories as long as services are available on an emergency basis twenty-four (24) hours a day.

(2) If a EH directly provides laboratory services, it shall meet all conditions as set forth in 42 CFR part 493 and be certified to perform testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88). The EH shall possess a current, unrevoked or unsuspended certificate appropriate for the extent of testing performed issued by the Department of Health and Human Services applicable to the category of examinations or procedures performed by the facility.

(3) If an EH provides laboratory services under arrangement, the referral laboratory shall also meet the requirements of this section. Referral laboratories used by the EH shall have the ability to electronically transmit emergency test results.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-14. Emergency services

(a) **General.** The EH shall provide emergency stabilization and treatment services commensurate with emergency medical needs of the community and EH service area. All services shall be provided in accordance with acceptable standards of practice, compliant with applicable state and federal laws.

(b) **Organization and direction.** The service shall be directed by personnel deemed qualified by the governing body and integrated with the nursing stabilization and observation unit of the EH.

(1) Services shall be organized under the direction of a qualified member of the medical and professional staff. Nursing functions shall be the responsibility of a registered nurse and shall be supervised by the director of nursing.

(2) There shall be written policies and procedures that establish protocols for emergency services provided. Policies shall also include written procedures for stabilization and transfer of patients whose treatment needs cannot be met at the EH. EH emergency service policies shall include protocols for emergency deliveries if the patient cannot be safely transferred.

(c) **Facilities, medications, equipment and supplies.** Facilities, medications, equipment and supplies shall be provided to ensure prompt initial diagnosis and emergency medical treatment.

(1) The emergency services area shall be in close proximity to an exterior entrance of the EH.

(2) Medications commonly used in life-saving procedures shall be provided. These shall include but not be limited to the following drugs and biologicals: analgesics, local anesthetics, antibiotics, serums and toxoids, antiarrhythmics, cardiac glycosides,

antihypertensives, diuretics, electrolytes, plasma expanders and replacement solutions.

(3) Equipment and supplies commonly used in life-saving procedures shall be provided. These shall include but not be limited to: airways, endotracheal tubes, laryngoscope, ambu bag/valve/mask, obstetrics pack, tracheostomy set, oxygen, tourniquets, immobilization devices, nasogastric tubes, splints, IV therapy supplies, suction machine, defibrillator, cardiac monitor, chest tubes, and indwelling urinary catheters.

(4) The emergency service shall be equipped with a base station radio using medical frequencies VHF 155.340 or UHF Medical Channels 1 through 10 and/or compatible frequencies with emergency medical services operating in the area. Direct communications between the emergency service and the on-call physician or licensed independent practitioner and the on-call or on-site registered nurse shall be established as specified at OAC 310:667-40-2(b).

(d) **Medical and nursing personnel.** There shall be adequate medical and nursing personnel qualified in emergency care available at all times to meet the emergency service needs of the EH.

(1) A physician or licensed independent practitioner shall be available at all times to directly communicate with EH staff providing emergency care. The physician or licensed independent practitioner shall be able to be physically present at the EH as specified by written facility policy.

(2) A physician or licensed independent practitioner shall be on duty or on call at all times. This physician or practitioner shall be able to present at the EH in a period of time not to exceed twenty (20) minutes.

(3) A registered nurse shall be available at all times to assess, evaluate, and supervise the nursing care provided. If the EH has no inpatients, the registered nurse may be available on an on-call basis if he or she can return to the EH in a period of time not to exceed twenty (20) minutes when a patient presents to the emergency service. All emergency medical patients shall be evaluated on-site by a registered nurse unless the patient is evaluated on-site by a physician or licensed independent practitioner.

(4) Adequate support staff shall be available on-site to meet the emergency service needs of the EH. If the EH has no inpatients and registered nursing services are provided on an on-call basis, the emergency service shall be staffed with at least an intermediate or paramedic level emergency medical technician. All EH staff providing emergency services shall have current CPR certification.

(e) **Emergency medical records.**

(1) Adequate medical records on every patient shall be kept. Each record shall contain the following as applicable:

(A) Patient identification.

(B) Time and means of injury.

(C) History of disease or injury.

- (D) Physical findings.
- (E) Laboratory and x-ray reports, if any.
- (F) Diagnosis and therapeutic orders.
- (G) Record of treatment including vital signs.
- (H) Disposition of the case.
- (I) Signature of the registered nurse.
- (J) Signature of the physician or licensed independent practitioner, if applicable.
- (K) Documentation if the patient left against medical advice.

(2) Medical records for patients treated by the emergency service shall be organized and where appropriate integrated with inpatient records. A method of filing (hard copy or electronic) shall be maintained which assures prompt retrieval.

(f) **Drug and biologicals distribution and control.** Drugs and biologicals in the emergency service shall be securely maintained and controlled by staff at all times. If the service does not have staff present at all times, all drugs and biologicals shall be secured in sealed or locked storage with devices placed to denote tampering. All Schedule II drugs shall be stored as specified by OAC 310:667-21-8(c). All drugs and biologicals shall be administered and dispensed as required by state law.

(g) **Patient examinations, treatments and transfers.** Patient examinations, treatments and transfers shall be conducted in accordance with 42 U.S.C. (1395dd) and 42 U.S.C. (1395cc) and with the regulations at 42 CFR part 489.20 and 489.24.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-15. Outpatient services

(a) **General.** The EH may provide limited outpatient services consistent with the diagnostic and treatment capabilities of the facility. These services may be provided in the emergency services area or in a separate examination or treatment room.

(b) **Personnel.** The EH may provide limited outpatient services consistent with the diagnostic and treatment capabilities of the facility. These services may be provided in the emergency services area or in a separate examination or treatment room.

(1) A physician or licensed independent practitioner shall be responsible for the services provided to each patient.

(2) The director of nursing shall be responsible for all nursing services provided.

(3) Additional EH staff shall be available as necessary to provide required diagnostic and treatment services.

(c) **Medical records.** Medical records shall be maintained and integrated with the EH medical record system. Information contained in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, diagnosis, diagnostic procedures, medication administration, and treatment to facilitate continuity of care.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

310:667-40-16. Therapy services

(a) **Respiratory therapy.** If the EH provides respiratory therapy either directly or by contract, the services shall meet the requirements specified at OAC 310:667-23-5.

(b) **Physical and occupational therapy.** If the EH provides physical and/or occupational therapy either directly or by contract, the services shall meet the requirements specified at OAC 310:667-23-6.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 41. GENERAL CONSTRUCTION PROVISIONS

310:667-41-1. General

(a) The following national standards are incorporated by reference:

- (1) Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Hospitals 2018 Edition; and
- (2) National Fire Protection Association (NFPA)101: Life Safety Code (LSC), 2012 Edition and 2012 LSC Tentative Interim Amendments (TIA) 12-1, 12-2, 12-3, and 12-4; and NFPA99 Health Care Facilities Code (HCFC), 2012 Edition, excluding Chapters 7,8, 12 and 13, and 2012 HCFC TIA 12-2, 12-3, 12-4, 12-5 and 12-6 adopted in 81 Federal Register 26871 by the Centers for Medicare& Medicaid Services on July 5, 2016.

(b) Oklahoma statutes prevail if there is conflict between the FGI Guidelines and Oklahoma statutes. For Medicare-certified hospitals, the Life Safety Code adopted by the Centers for Medicare & Medicaid Services prevails if there is a conflict between the Life Safety Code and this Chapter.

(c) A hospital may submit a request for exception or temporary waiver if the FGI Guidelines create an unreasonable hardship, or if the design and construction for the hospital property offers improved or compensating features with equivalent outcomes to the FGI Guidelines.

(d) The Department may permit exceptions and temporary waivers of the FGI Guidelines if the Department determines that such exceptions or temporary waivers comply with the requirements of 63 O.S. Section 1-701 et seq., this Chapter, and the following:

- (1) Any hospital requesting an exception or temporary waiver shall apply in writing on a form provided by the Department and pay the exception to, or temporary waiver of, FGI Guidelines fee set in OAC 310:667-47-1. The form shall include:
 - (A) The FGI Guidelines section(s) for which the exception or temporary waiver is requested;
 - (B) Reason(s) for requesting an exception or temporary waiver;
 - (C) The specific relief requested; and

- (D) Any documentation which supports the application for exception.
- (2) In consideration of a request for exception or temporary waiver, the Department shall consider the following:
 - (A) Compliance with 63 O.S. Section 1-701 et seq.;
 - (B) The level of care provided;
 - (C) The impact of an exception on care provided;
 - (D) Alternative policies or procedures proposed; and
 - (E) Compliance history with provisions of the FGI Guidelines, Life Safety Code and this Chapter.
- (3) The Department shall permit or disallow the exception or waiver in writing within forty-five (45) calendar days after receipt of the request.
- (4) If the Department finds that a request is incomplete, the Department shall advise the hospital in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) calendar days after receipt of notification to submit additional or clarifying information in writing to the Department of Health, or the request shall be considered withdrawn.
- (5) A hospital which disagrees with the Department's decision regarding the exception or temporary waiver may file a written petition requesting relief through an individual proceeding pursuant to OAC 310:2 (relating to Procedures of the State Department of Health).
- (6) The Department may revoke an exception or temporary waiver through an administrative proceeding in accordance with OAC 310:2 and the Oklahoma Administrative Procedures Act upon finding the hospital is operating in violation of the exception or temporary waiver, or the exception or temporary waiver jeopardizes patient care and safety or constitutes a distinct hazard to life.
- (7) The Department shall publish decisions on requests for exceptions and waivers, subject to the confidentiality provisions of 63 O.S. Section 1-709.
- (e) Documentation of the hospital governing body's approval of the functional program shall be sufficient to meet the requirements in this Chapter relating to Department approval of the functional program.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 34 Ok Reg 1301, eff 10-1-17 ; Amended at 36 Ok Reg 1730, eff 9-13-19]

310:667-41-2. Renovation

(a) Where renovation or replacement work is done within an existing facility, all new work or additions, or both, shall comply, insofar as practical, with applicable sections of these standards and with appropriate parts of NFPA 101, 2000 edition, covering New Health Care Occupancies. Where major structural elements make total compliance impractical or impossible, exceptions may be considered by the Department. This does not guarantee that an exception shall be granted,

but does attempt to minimize restrictions on those improvements where total compliance would not substantially improve safety, but would create an unreasonable hardship. These standards shall not be construed as prohibiting a single phase of improvement. For example, a facility may plan to replace a flammable ceiling with noncombustible material but lacks funds to do other corrective work. However, they are not intended as an encouragement to ignore deficiencies when resources are available to correct life-threatening problems.

(b) When construction is complete, the facility shall satisfy functional requirements for the appropriate classification (general medical surgical hospital, psychiatric hospital, etc.) in an environment that shall provide acceptable care and safety to all occupants.

(c) In renovation projects and those making additions to existing facilities, only that portion of the total facility affected by the project shall comply with applicable sections of these standards and with appropriate parts of NFPA 101, 2000 edition, covering New Health Care Occupancies.

(d) Those existing portions of the facility which are not included in the renovation but which are essential to the functioning of the complete facility, as well as existing building areas that receive less than substantial amounts of new work shall, at a minimum, comply with that section of NFPA 101, 2000 edition, for Existing Health Care Occupancies.

(e) Conversion to other appropriate use or replacement shall be considered when cost prohibits compliance with acceptable standards.

(f) When a building is converted from one occupancy to another, it shall comply with the new occupancy requirements. For purpose of life safety, a conversion from a hospital to a nursing home or vice versa is not considered a change in occupancy.

(g) When parts of an existing facility essential to continued overall facility operation cannot comply with particular standards, those standards may be waived by the Commissioner of Health if patient care and safety are not jeopardized.

(h) Renovations, including new additions, shall not diminish the safety level that existed prior to the start of the work; however, safety in excess of that required for new facilities is not required.

(i) Nothing in this Chapter shall be construed as restrictive to a facility that chooses to do work or alterations as part of a phased long-range safety improvement plan. It is emphasized that all hazards to life and safety and all areas of noncompliance with applicable codes and regulations, shall be corrected as soon as possible in accordance with a plan of correction.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-41-3. Design standards for the disabled

(a) The Americans with Disabilities Act (ADA) extends comprehensive civil rights protection to individuals with disabilities. Under Titles II and III of the ADA, public, private, public service hospitals and other health care facilities shall comply with the "Accessibility Guidelines for Buildings and Facilities" (ADAAG) for alterations and new construction.

The "Uniform Federal Accessibility Standards" (UFAS) also provides criteria for the disabled. United States government facilities shall comply with a combination of UFAS and ADAAG using the most stringent criteria. Also available for use in providing quality design for the disabled is the American National Standards Institute (ANSI) A117.1 "American National Standard for Accessible and Usable Buildings and Facilities." (b) State and local standards for accessibility and usability may be more stringent than ADA, UFAS, or ANSI A 117.1. Designers and owners, therefore, shall assume responsibility for verification of all applicable requirements and comply with the most stringent standards.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-41-4. Provisions for disasters

(a) **General.** In locations where there is a history of tornadoes, flooding, earthquakes, or other regional disasters, planning and design shall consider the need to protect the life safety of all health care facility occupants and the potential need for continuing services following such a disaster. When consistent with their functional program and disaster planning, acute care facilities with emergency services can serve as receiving, triage and initial treatment centers in the event of nuclear, biological, or chemical (NBC) exposure. These facilities shall designate specific area(s) for these functions.

(b) **Wind and earthquake resistant design for new buildings.**

Facilities shall be designed to meet the requirements of the building codes specified in OAC 310:667-41-1, provided these requirements are substantially equivalent to American Society of Civil Engineers ASCE 7-93. Design shall meet the requirements of ASCE 7-93.

(1) For those facilities that must remain operational in the aftermath of a disaster, special design shall be required to protect systems and essential building services such as power, water, medical gas systems, and, in certain areas, air conditioning. In addition, consideration shall be given to the likelihood of temporary loss of externally supplied power, gas, water, and communications.

(2) The owner shall provide special inspection during construction of seismic systems described in Section A.9.1.6.2 and testing in Section A.9.1.6.3 of ASCE 7-93.

(3) Roof coverings and mechanical equipment shall be securely fastened or ballasted to the supporting roof construction and shall provide weather protection for the building at the roof. Roof covering shall be applied on clean and dry decks in accordance with the manufacturer's instructions, these standards, and related references. In addition to the wind force design and construction requirements specified, particular attention shall be given to roofing, entryways, glazing, and flashing design to minimize uplift, impact damage, and other damage that could seriously impair functioning of the building. If ballast is used it shall be designed so as not to become a projectile.

(c) **Flood protection.** Possible flood effects shall be considered when selecting and developing the site. Insofar as possible, new facilities shall not be located on designated flood plains. Where this is unavoidable, the United States Corps of Engineers regional office shall be consulted for the latest applicable regulations pertaining to flood insurance and protection measures that may be required.

(d) **Supplies.** Should normal operations be disrupted, the facility shall provide adequate storage capacity for, or a functional program contingency plan to obtain, the following supplies: food, sterile supplies, pharmacy supplies, linen, and water for sanitation. Such storage capacity or plans shall be sufficient for at least four (4) continuous days of operation.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-41-5. Codes and standards

(a) **Environment.** Every hospital shall provide and maintain a safe environment for patients, personnel, and the public.

(b) **References.** References made in these standards to appropriate model codes and standards do not, generally, duplicate wording of the referenced codes.

(1) NFPA's standards, especially the NFPA 101, are the basic codes of reference; but other codes and/or standards may be included as part of these standards. In the absence of state or local requirements, the project shall also comply with approved nationally recognized building codes except as modified in the 2000 edition of the NFPA 101, and/or herein.

(2) Referenced code material is contained in the issue current at the time of this publication. The latest revision of code material is usually a clarification of intent and/or general improvement in safety concepts and may be used as an explanatory document for earlier code editions. Questions of applicability shall be addressed as the need occurs. The actual version of a code adopted by a jurisdiction may be different. Confirm the version in a specific area with the authority having jurisdiction.

(c) **Equivalency.** Insofar as practical, these model standards have been established to obtain a desired performance result. Prescriptive limitations, when given, such as exact minimum dimensions or quantities, describe a condition that is commonly recognized as a practical standard for normal operation. For example, reference to a room area is for patient, equipment, and staff activities; this avoids the need for complex descriptions of procedures for appropriate functional planning.

(1) In all cases where specific limits are described, equivalent solutions shall be acceptable if the authority having jurisdiction approves them as meeting the intent of these standards. Nothing in this document shall be construed as restricting innovations that provide an equivalent level of performance with these standards in a manner other than that which is prescribed by this document, provided that no other safety element or system is compromised in order to establish equivalency.

(2) National Fire Protection Association (NFPA) document 101A is a technical standard for evaluating equivalency to certain Life Safety Code 101 requirements. The Fire Safety Evaluation System (FSES) has become widely recognized as a method for establishing a safety level equivalent to the Life Safety Code. It may be useful for evaluating existing facilities that will be affected by renovation. However, for purposes of these standards, the FSES shall not be used as a design code for new construction or major renovation in existing facilities.

(d) **English/Metric measurements.** Where measurements are a part of this document, English units are given as the basic standards with metric units in parenthesis. Either method shall be consistently used throughout a given design.

(e) **List of referenced codes and standards.** Codes and standards which have been referenced in whole or in part in the various sections of this document are listed below. Names and Internet addresses of originators are also included for information. The issues available at the time of publication are used. Later issues shall normally be acceptable where requirements for function and safety are not reduced; however, editions of different dates may have portions renumbered or retitled. Care shall be taken to ensure that appropriate sections are used.

(1) Access Board (an independent federal agency). "Uniform Federal Accessibility Standard" (UFAS). (<http://www.access-board.gov/ufas-html/ufas.htm>)

(2) American Society of Civil Engineers. ASCE 7-98, formerly ANSI A58.1, "Minimum Design Loads for Buildings and Other Structures." ASCE 7-98 (<http://www.pubs.asce.org/BOOKdisplay.cgi?9990609>)

(3) American Society of Heating, Refrigerating, and AirConditioning Engineers (ASHRAE). Standard 52.1-1992, "Gravimetric and Dust-Spot Procedures for Testing Air-Cleaning Devices Used in General Ventilation for Removing Particulate Matter" (<http://www.ashrae.org>).

(4) American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). Standard 62-1999, "Ventilation for Acceptable Indoor Air Quality" (<http://www.ashae.org>).

(5) American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) 1999 ASHRAE Handbook-HVAC Applications (<http://www.ashae.org>).

(6) American Society of Mechanical Engineers (ASME). ANSI/ASME A17.1, "Safety Code for Elevators and Escalators", 1999 (<http://www.asme.org/cns/departments/Safety/Public/A17/> or www.ansi.org).

(7) American Society of Mechanical Engineers (ASME). ANSI/ASME A17.3, "Safety Code for Existing Elevators and Escalators" (<http://www.asme.org/cns/departments/Safety/Public/A17/> or www.ansi.org).

(8) Americans with Disabilities Act. US Department of Justice ADA Information Line, 1-800-514-0301 or 1-800-514-0383 (TDD). (<http://www.usdoj.gov/disabilities.htm>)

- (9) Association for the Advancement of Medical Instrumentation. ANSI/AAMI RD5:1992, "Hemodialysis Systems". (<http://www.aami.org>)
- (10) Building Officials and Code Administrators International "The BOCA National Building Code" 1999 ed. (<http://www.bocai.org>)
- (11) Building Seismic Safety Council (National Institute of Building Services). "NEHRP (National Earthquake Hazards Reduction Program) Recommended Provisions for Seismic Regulations for New Buildings", 1997 ed., and "Proposals for Change to the 1997 NEHRP Recommended Provisions for Issuance as the 2000 Provisions". (<http://www.bssconline.org>)
- (12) Center for Disease Control and Prevention (CDC) "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Facilities", 1994 ed., "Mortality Weekly Report (MMWR) 1994:43 (No. RR-13) and "Guidelines for Prevention of Nosocomial Pneumonia," 1994 ed., "American Journal of Infection Control" (22:247-292). (<http://www.cdc.gov/>)
- (13) College of American Pathologists "Medical Laboratory Planning and Design," 1985 ed., (1-800-323-4040 or <http://www.cap.org>)
- (14) Compressed Gas Association (CGA) Publication #E-10, "Maintenance of Medical Gas and Vacuum Systems in Health-Care Facilities," 1997 ed. (<http://www.cganet.com/Pubs/>)
- (15) Department of Defense, MIL STD 282, "Filter Units, Protective Clothing, Gas-Mask Components and Related Products: performance- Test Methods." (<http://www.astimage.daps.dla.mil/>)
- (16) Food and Drug Administration "FDA Food Code," 1999 ed. (<http://vm.cfsan.fda.gov/~dms/foodcode.html>)
- (17) Hydronics Institute Division of the Gas Appliance Manufacturers Association, "I-B-R Ratings for Boilers, Baseboard Radiation and Finned Tube (Commercial)," January 1, 2000 ed. (<http://www.gamanet.org/publist/hydroordr.htm>)
- (18) Illuminating Engineering Society of North America (IESNA), IESNA Publication HB-99 "IESNA Lighting Handbook" 9th ed., IESNA Publication RP-29-95 "Lighting for Hospitals and Health Care Facilities ANSI Approved", and IESNA Publication RP-28-98 "Lighting and the Visual Environment for Senior Living" (<http://www.iesna.org>)
- (19) International Code Council (ICC) "International Fuel Gas Code 2000 ed. (<http://www.bocai.org/>) or (<http://www.intlcode.org/>)
- (20) International Code Council (ICC) "International Mechanical Code" 2000 ed. (<http://www.bocai.org> or (<http://www.intlcode.org>)
- (21) International Code Council (ICC) "International Plumbing Code" 2000 ed. International Code Council (ICC) "International Plumbing Code" 2000 ed. (<http://www.bocai.org> or (<http://www.intlcode.org>)
- (22) National Council on Radiation Protection and Measurements (NCRP) Report #49 "Structural Shielding Design and Evaluation for Medical Use of X-Rays and Gamma Rays of Energies up to

- 10MeV" 1976, Report #51 "Radiation Protection Design Guidelines for 0.1-100 MeV Particle Accelerator Facilities" 1977, and Report #102 "Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies Up to 50 MeV (Equipment Design, Performance and Use) 1989. (<http://www.ncrp.com/ncrprpts.html>)
- (23) National Fire Protection Association. NFPA 20. "Standard for the Installation of Stationary Fire Pumps for Fire Protection" 1999 ed.
- (24) NFPA 70. "National Electrical Code." 2002 ed.
- (25) NFPA 80, "Standard for Fire Door, Fire Windows" 1999 ed.
- (26) NFPA 82, "Standard on Incinerators and Waste and Linen Handling Systems and Equipment" 1999 Ed.
- (27) NFPA 90A, "Standard for the Installation of Air Conditioning and Ventilating Systems" 1999 ed.
- (28) NFPA 96, "Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations" 1998 ed.
- (29) NFPA 99, "Standard for Health Care Facilities" 1999 ed.
- (30) NFPA 101, "Life Safety Code" 2000 ed.
- (31) NFPA 110, "Standard for Emergency and Standby Power Systems" 1999 ed.
- (32) NFPA 253, "Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source" 2000 ed.
- (33) NFPA 255, "Standard Method of Test of Surface Burning Characteristics of Building Materials" 2000 ed.
- (34) NFPA 258, "Standard Research Test Method for Determining the Smoke Generation of Solid Materials" 1997 ed.
- (35) NFPA 418, "Standard for Heliports" 1995 ed.
- (36) NFPA 701, "Standard Method of Fire Tests for Flame Resistant Textiles and Films" 1999 ed.
- (37) NFPA 801, "Recommended Fire Protection Practice for Facilities Handling Radioactive Materials" 1998 ed.
- (38) Nuclear Regulatory Commission (NRC) Code of Federal Regulation (CFR) Title 10- Energy, Chapter 1- Nuclear Regulatory Commission. Part 20 (10 CFR 35), Standards for Protection Against Radiation and Part 35 (10 CFR 35), Medical Use of Byproduct Material. (<http://www.nrc.gov>)
- (39) Occupational Safety and Health Administration, US Department of Labor, Code of Federal Regulations (CFR) Title 29- OSHA Regulations. Part 1910 (10 CFR 1910), Occupational Safety and Health Standards. (<http://www.osha.org>)
- (40) Plumbing-Heating-Cooling Contractors- National Association (PhCC- National Association) "National Standard Plumbing Code". (<http://www.naphcc.org/>)

(f) Availability of codes and standards. The codes and standards that are government publications can be ordered from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402. Copies of nongovernment publications can be obtained at the addresses listed below.

- (1) Air Conditioning and Refrigeration Institute, 4301 North Fairfax Drive, Suite 425 Arlington, VA 22203 Tel. 703-524-8800

(<http://www.ari.org>)

(2) Architectural and Transportation Barriers Compliance Board, Office of Technical and Information Services, 1331 F St., NW, Suite 1000, Washington, DC 20530-0001 Tel. 202-272-5434, 1-800-872-2253 (<http://www.access-board.gov>)

(3) Americans with Disabilities Act, US Department of Justice, 950 Pennsylvania Av., NW, Washington, DC 20530-0001 Tel. 1-800-514-0301 (<http://www.usdoj.gov/crt/ada>)

(4) American National Standards Institute (ANSI), 11 West 42nd St., New York, NY. 10036 Tel. 212-642-4900 (<http://www.ansi.org>)

(5) American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Ci., NE, Atlanta, Ga. 30329 Tel. 1-800-527-4723, 404-636-8400 (<http://www.ashrae.org>)

(6) American Society of Civil Engineers, 1801 Alexander Bell Drive, Reston, Va. 20191-4400 Tel. 1-800-548-2723, 703-295-6300 (<http://www.asce.org>)

(7) American Society of Mechanical Engineers (ASME), Three Park Av., New York, NY. 10016-5990 Tel. 1-800-THE-ASME (<http://www.asme.org>)

(8) American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshocken, Pa. 19428-2959 Tel. 610-832-9585 (<http://www.astm.org>)

(9) Association for the Advancement of Medical Instrumentation, 1110 N. Glebe Rd., Suite 220, Arlington, Va. 22201-5762 Tel. 1-800-332-2264, 703-525-4890 (<http://www.aami.org>)

(10) Building Officials and Code Administrators International, Inc. (BOCA), 4051 Flossmoor Rd., Country Club Hill, IL. 60478-5795 Tel. 708-799-2300 (<http://www.bocai.org>)

(11) Building Seismic Safety Council, National Institute of Building Services, 1090 Vermont Av. NW, Washington, DC 20005-4905 Tel. 202-289-7800 (<http://www.bssconline.org>)

(12) Centers for Disease Control and Prevention, Hospital Infection Control Practices (HIPAC), Center for Infection Control, 1600 Clifton Rd., Atlanta, Ga. 30333 Tel. 1-404-639-3311, 1-800-311-3435 (<http://www.cdc.gov>)

(13) College of American Pathologists, 325 Waukegan Rd., Northfield, IL. 60093 Tel. 1-800-323-4040, 874-832-7000 (<http://www.cap.org>)

(14) Compressed Gas Association, 1725 Jefferson Davis Highway, Suite 1004, Arlington, Va. 22202 Tel. 703-412-0900 (<http://www.cganet.com>)

(15) Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition, 200 C Street, SW, Washington, DC 20204 Tel. 1-888-463-6332 (<http://vn.cfsan.fda.gov>)

(16) General Services Administration, National Capital Region, 7th and D Streets, SW, Washington, DC 20407 (<http://www.gsa.gov>)

(17) Hydronics Institute (Division of Gas Appliance Manufacturer Association (GAMA)), 35 Russo Place, PO Box 218, Berkley Heights, NJ 07922 Tel. 908-464-8200 (<http://www.gamanet.org>)

- (18) Illuminating Engineering Society of North America (IESNA), 120 Wall Street, Floor 17, New York, NY 10005 Tel. 212-248-5000 (<http://www.iesna.org>)
- (19) International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041-3401 Tel. 703-931-4533 (<http://www.intlcode.org>)
- (20) International Conference of Building Officials (ICBO), 5360 Workman Mill Rd., Whittier, CA 90601-2298 Tel. 1-800-423-6587 ext. 3278 (<http://www.Icbo.org>)
- (21) National Council on Radiation Protection and Measurement, 7910 Woodmont Av., Suite 800, Bethesda, MD 20814-3095 Tel. 301-657-2652 (<http://www.ncrp.com>)
- (22) National Fire Protection Association (NFPA), 1 Batterymarch Park, PO Box 9101, Quincy, MA 02269-9101 Tel. 617-770-3000 (<http://www.nfpa.org>)
- (23) National Institute of Standards and Technology, 100 Bureau Dr., Stop 3460, Gaithersburg, MD 20899-3460 Tel. 301-975-6478 (<http://www.nist.gov>)
- (24) National Technical Information Service (NTIS), US Department of Commerce Technology Administration, 5285 Port Royal Rd., Springfield, VA 22161 Tel. 703-605-6000, 703-487-4600 (<http://www.ntis.gov>)
- (25) Naval Publications and Form Center, 5801 Tabor Dr., Philadelphia, PA 19120 (<http://astimage.daps.dla.mil/>)
- (26) Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738 Tel. 301-415-7000 (<http://www.nrc.gov>)
- (27) Occupational Safety and Health Administration, US Department of Labor, 200 Constitution Av., NW, Room N3647, Washington, DC 20210 Tel. 202-693-1999 (<http://www.osha.org>)
- (28) Plumbing-Heating-Cooling Contractors- National Association, 180 South Washington Street, PO Box 6808, Falls Church, VA 22046 Tel. 1-800-533-7694 (<http://www.naphcc.org>)
- (29) Southern Building Code Congress International, Inc., 900 Montclair Rd., Birmingham, AL 22046 Tel. 205-591-1853 (<http://www.sbcci.org>)
- (30) Underwriters Laboratories, Inc., 333 Pfingsten Rd., Northbrook, IL. 60062-2096 Tel. 847-272-8800 (<http://www.ul.com>)

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03]

SUBCHAPTER 43. SITE [REVOKED]

310:667-43-1. Location [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-43-2. Facility site design [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-43-3. Environmental pollution control [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-43-4. Energy conservation [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

SUBCHAPTER 45. EQUIPMENT [REVOKED]

310:667-45-1. General [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-45-2. Classification of equipment [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-45-3. Major technical equipment [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-45-4. Equipment shown on drawings [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-45-5. Electronic equipment [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

SUBCHAPTER 47. SUBMITTAL REQUIREMENTS

310:667-47-1. Submission of plans and specifications and related requests for services

(a) **Submission of plans.** Before construction is begun, plans and specifications covering the construction of new buildings or major

alterations to existing buildings shall be submitted to the Department as provided in OAC 310:667-47-2 or OAC 310:667-47-10.

(1) Plans and specifications are required for the following alterations:

- (A) Changes that affect path of egress;
- (B) Change of use or occupancy;
- (C) Repurposing of spaces;
- (D) Structural modifications;
- (E) Heating, ventilation and air conditioning (HVAC) modifications;
- (F) Electrical modifications that affect the essential electrical system;
- (G) Changes that require modification or relocation of fire alarm initiation or notification devices;
- (H) Changes that require modification or relocation of any portion of the automatic fire sprinkler system;
- (I) Replacement of fixed medical equipment if the alteration requires any work noted in (A) through (H) of this paragraph;
- (J) Replacement of or modifications to any required magnetic or radiation shielding;
- (K) Changes to or addition of any egress control devices or systems.

(2) Plans and specifications are not required for the following alterations:

- (A) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work provided that the new finishes shall meet the requirements of this Chapter;
- (B) Ordinary repairs and maintenance;
- (C) Modifications to nurse call or other hospital signaling/communication/information technology systems provided the modifications meet the requirements of this Chapter; or
- (D) Replacement of fixed or moveable medical equipment that does not affect electrical, HVAC, or shielding requirements noted above.

(b) **Fees.** Each construction project submitted for approval under OAC 310:667-47-2 shall be accompanied by the appropriate review fee based on the cost of design and construction of the project. Review fees are as follows:

- (1) Project cost less than \$10,000.00: \$250.00 Fee
- (2) Project cost \$10,000.00 to \$50,000.00: \$500.00 Fee
- (3) Project cost \$50,000.00 to \$250,000.00: \$1000.00 Fee
- (4) Project cost \$250,000.00 to \$1,000,000.00: \$1500.00 Fee
- (5) Project cost greater than \$1,000,000.00: \$2000.00 Fee

(c) **Fees when greater than two (2) submittals required.** The review fee shall cover the cost of review for up to two (2) stage one and two (2) stage two submittals and one final inspection. If a stage one or stage two submittal is not approved after two (2) submissions, another review fee based on the cost of the project shall be required with the third submittal. Fast-track projects shall be allowed two reviews for each

package submitted. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project shall be required with the third submittal of the package.

(d) **Review process.** Design and construction plans and specifications shall be reviewed in accordance with the following process.

(1) Unless otherwise provided in this Subchapter, the Department shall have ten (10) calendar days in which to determine if the filed application is administratively complete

(A) Upon determining that the application is not administratively complete, the Department shall immediately notify the applicant in writing and shall indicate with reasonable specificity the inadequacies and measures necessary to complete the application. Such notification shall not require nor preclude further review of the application and further requests for specific information. If the Department fails to notify the applicant as specified in this Paragraph, the period for technical review shall begin at the close of the administrative completeness review period. Upon submission of correction of inadequacies, the Department shall have an additional ten (10) calendar days to review the application for completeness.

(B) Upon determination that the application is administratively complete, the Department shall immediately notify the applicant in writing. The period for technical review begins.

(2) The Department shall have forty-five (45) calendar days from the date a completed application is filed to review each application for technical compliance with the relevant regulations and reach a final determination.

(A) The time period for technical review is tolled (the clock stops) when the Department has asked for supplemental information and advised the applicant that the time period is tolled pending receipt.

(B) To make up for time lost in reviewing inadequate materials, a request for supplemental information may specify that up to 30 additional calendar days may be added to the deadline for technical review, unless the request for supplemental information is a second or later request that identifies new deficiencies not previously identified

(C) An application shall be deemed withdrawn if the applicant fails to supplement an application within 90 calendar days after the Department's request, unless the time is extended by agreement for good cause.

(D) Extensions may be made as provided by law.

(e) **Fees for other services.** Fees for other services related to construction projects are as follows:

(1) Request for exception to or temporary waiver of FGI Guidelines fee: Five Hundred Dollars (\$500.00);

- (2) Application for self-certification fee: One Thousand Dollars (\$1,000.00);
- (3) Courtesy inspection, prior to final inspection for approval of occupancy, fee: Five Hundred Dollars (\$500.00);
- (4) Professional consultation or technical assistance fee: Five Hundred Dollars (\$500.00) for each eight staff hours or major fraction thereof. For technical assistance requiring travel, the fee may be increased to include the Department's costs for travel.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 34 Ok Reg 1301, eff 10-1-17 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-47-2. Preparation of plans and specifications

(a) **Stage one.** Preliminary plans and outline specifications shall be submitted and include sufficient information for approval by the Department of the following: scope of project; project location; required fire-safety and exiting criteria; building-construction type, compartmentation showing fire and smoke barriers, bed count and services; the assignment of all spaces, areas, and rooms for each floor level, including the basement. A hospital has the option, at its own risk, to bypass the stage one submittal and proceed directly to submittal of stage two documents. The option to bypass the stage one submittal does not apply if the project is being submitted for the stage two fast-track project review.

(b) **Stage two.** A proposed construction document shall be submitted that includes final drawings and specifications adequate for approval by the Department. All final plans and specifications shall be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and shall be submitted timely.

(c) **Special submittals.**

(1) **Stage two fast-track projects.** The fast track process is a method for phased approval of a project as specified in this paragraph.

(A) Equipment and built-in furnishings are to be identified in the stage one submittal.

(B) The hospital has the option to submit two packages: civil, landscaping and structural in stage one, and the balance of the components in stage two.

(C) Fast-track projects shall have prior approval and be submitted in no more than four (4) separate packages.

(i) Site work, foundation, structural, underslab mechanical, electrical, plumbing work, and related specifications.

(ii) Complete architectural plans and specifications.

(iii) All mechanical, electrical, and plumbing plans and specifications.

(iv) Equipment and furnishings.

(D) The hospital may begin site work on packages after approval by the Department.

(2) **Radiation protection.** Any project that includes radiology or special imaging equipment used in medical diagnosis, treatment, and therapy of patients, shall include plans, specifications, and shielding criteria, prepared by a qualified medical physicist.

These plans shall be submitted and approved by the Department prior to installation of the equipment.

(d) **Floor plan scale.** Floor plans are to be submitted at a scale of one-eighth (1/8) inch equals one (1) foot, with additional clarifying documents as required.

(e) **Application form.** The submittal shall be made using a Department application form which requests information required by this Chapter and specifies the number of copies and format for document submittal.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 34 Ok Reg 1301, eff 10-1-17]

310:667-47-3. Construction and inspection

(a) Construction other than minor alterations, shall not be commenced until Stage Two planreview deficiencies have been satisfactorily resolved.

(b) Prior to commencing construction, the contractor shall submit a construction schedule which includes, as a minimum, the start date, dates that the heating-ventilation air-conditioning (HVAC), plumbing, and medical gas installation shall commence, and projected date of completion.

(c) The completed construction shall comply with the approved drawings and specifications, including all addenda or modifications approved for the project.

(d) A final construction inspection of the facility shall be conducted by the Department for the purpose of verifying compliance with these requirements and the approved plans and specifications. The facility shall not allow patient occupancy until a final approval is granted by the Department.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-47-4. Construction phasing

Projects involving alterations and/or additions to existing buildings shall be programmed and phased to minimize disruptions of retained, existing functions and shall not disrupt or interfere with patient care. Access, exits, and fire protection shall be maintained so that the occupants' safety shall not be jeopardized during construction.

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95]

310:667-47-5. Nonconforming conditions [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-47-6. Drawings. [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-47-7. Equipment manuals [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-47-8. Design data [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-47-9. Space occupied by other entities

(a) Areas within a licensed hospital facility that are leased to, or occupied by, a separate entity and comply with Health Care Occupancy requirements as specified by NFPA 101, 2000 edition, shall be separated from the licensed hospital by demising partitions that are rated not less than one (1) hour fire resistance. Lease areas that do not comply with Health care Occupancy requirements as specified by NFPA 101, 2000 edition, shall be separated from the licensed hospital by demising partitions that are rated not less than two (2) hour fire resistance.

(b) Lease areas shall have signage that clearly identifies tenant areas from hospital areas.

(c) The lease between the hospital and the tenant entity shall require that the tenant area shall be:

(1) Maintained to comply with NFPA 101 for Health care Occupancies;

(2) Included in the hospital's sprinkler systems, fire alarm systems, and fire drills; and

(3) Accessible to representatives of the Department to determine compliance with these standards.

(d) A copy of the executed lease agreement shall be submitted to the Department for review as part of the plan approval application process and a current copy shall be available for review by Department staff upon request.

[Source: Amended at 20 Ok Reg 1664, eff 6-12-03]

310:667-47-10. Self-certification of plans

(a) The Department shall make available professional consultation and technical assistance services covering the requirements of this section to a hospital considering self-certification of plans. The consultation and technical assistance is subject to the fee for professional consultation and technical assistance services set in OAC 310:667-47-1. The consultation is optional and not a prerequisite for filing a request through the self-certification review process.

(b) The hospital and the project architect or engineer may elect to request approval of design and construction plans through a self-certification review process. The hospital and the project architect or engineer shall submit a self-certification request on a form provided by the Department, along with a self-certification application fee set in OAC 310:667-47-1. The form shall be signed by the hospital and the project architect or engineer attesting that the plans and specifications are based upon and comply with the requirements of this Chapter. The form shall require information necessary to demonstrate compliance with OAC 310:667-47-10(c).

(c) To be eligible for self-certification, projects must comply with the following requirements:

(1) The project involves any portion of the hospital where patients are intended to be examined or treated and the total cost of design and construction is fifteen million dollars (\$15,000,000.00) or less; or

(2) The project involves only portions of the hospital where patients are not intended to be examined or treated; and

(3) The project architect or engineer attesting the application has held a license to practice architecture or engineering for at least five (5) years prior to the submittal of the application, is licensed to practice in Oklahoma; and

(4) The hospital owner/operator acknowledges that the Department retains the authority to:

(A) Perform audits of the self-certification review program and select projects at random for review;

(B) Review final construction documents;

(C) Conduct on-site inspections of the project;

(D) Withdraw approval based on the failure of the hospital or project architect or engineer to comply with the requirements of this Chapter; and

(5) The hospital agrees to make changes required by the Department to bring the construction project into compliance with this Chapter.

(d) Within twenty-one (21) calendar days after receipt of a complete application, the Department shall approve or deny the application for self-certification and send notification to the hospital. If the application is denied, the hospital shall have thirty (30) calendar days to submit additional or supplemental information demonstrating that the application complies with the requirements for self-certification of plans and specifications. The Department shall have fourteen (14) calendar days after receipt of supplemental information to reconsider the initial denial and issue a final approval or denial of the self-certification request.

(e) After denial of the application for self-certification and prior to the start of construction, the hospital shall pay the applicable fee for plan review specified in OAC 310:667-47-1(b)(1) through (5). Upon receipt of the plan review fee, the Department shall review the hospital's plans in accordance with the process in OAC 310:667-47-1(d).

SUBCHAPTER 49. GENERAL MEDICAL SURGICAL HOSPITAL CONSTRUCTION REQUIREMENTS [REVOKED]

310:667-49-1. General considerations [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-2. Nursing unit - medical and surgical [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-3. Critical care unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-4. Nurseries [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-5. Pediatric and adolescent unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-6. Psychiatric nursing unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-7. Surgical suite [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-8. Obstetrical services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-9. Emergency service [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-10. Imaging suite [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-11. Nuclear medicine [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-12. Laboratory suite [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-13. Rehabilitation therapy department [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-14. Respiratory therapy service [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-15. Morgue [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-16. Pharmacy or drug room [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-17. Dietary service facilities [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-18. Administration and public areas [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-19. Medical records [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-20. Central services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-21. General stores [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-22. Linen services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-23. Facilities for cleaning and sanitizing carts [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-24. Employee facilities [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-25. Housekeeping rooms [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-26. Engineering service and equipment areas [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-27. Waste processing services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-28. General standards for details and finishes [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-29. Design and construction, including fire-resistive standards [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-30. Special systems [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-31. Mechanical systems [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-32. Electrical systems [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-33. Skilled nursing unit - distinct part [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-34. Outpatient services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-35. Endoscopy suite [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-49-36. Renal dialysis unit (acute and chronic) [REVOKED]

[Source: Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

SUBCHAPTER 51. REHABILITATION HOSPITAL AND REHABILITATION UNIT CONSTRUCTION REQUIREMENTS [REVOKED]

310:667-51-1. General considerations [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-2. Evaluation unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-3. Psychological services unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-4. Social services unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-5. Vocational services unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-6. Dining, recreation, and day spaces [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-7. Dietary facility services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-8. Personal care unit for inpatients [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-9. Activities for daily living unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-10. Administration and public areas [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-11. Engineering service and equipment areas [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-12. Linen services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-13. Housekeeping room(s) [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-14. Employee facilities [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-15. Nursing unit (for inpatients) [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 21 Ok Reg 2785, eff 7-12-04 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-16. Sterilizing facilities [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-17. Physical therapy unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-18. Occupational therapy unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-19. Prosthetics and orthotics unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-20. Speech and hearing unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-21. Dental unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-22. Imaging suite [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-23. Pharmacy or drug room [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-24. Details and finishes [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-25. Design and construction, including fire-resistive standards [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-26. Special systems [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-27. Mechanical systems [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-28. Electrical systems [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-51-29. Outpatient services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

SUBCHAPTER 53. PSYCHIATRIC HOSPITAL CONSTRUCTION REQUIREMENTS [REVOKED]

310:667-53-1. General conditions [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-2. General psychiatric nursing unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-3. Child psychiatric unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-4. Geriatric, alzheimer's and other dementia unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-5. Forensic psychiatric unit [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-6. Imaging suite [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-7. Nuclear medicine [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-8. Laboratory suite [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-9. Rehabilitation therapy services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-10. Pharmacy or drug room [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-11. Dietary service facilities [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-12. Administration and public areas [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-13. Medical records [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-14. Central services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-15. General storage [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-16. Linen services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-17. Facilities for cleaning and sanitizing carts [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-18. Employee facilities [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-19. Housekeeping room(s) [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-20. Engineering service and equipment area [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-21. Waste processing services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-22. General standards for details and finishes [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-23. Design and construction, including fire-resistive standards [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-24. Special systems [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-25. Mechanical systems [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-26. Electrical systems [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-53-27. Outpatient services [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

SUBCHAPTER 55. CONSTRUCTION REQUIREMENTS FOR CRITICAL ACCESS HOSPITALS [REVOKED]

310:667-55-1. General requirements [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 2992, eff 7-13-00 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

310:667-55-2. Existing facilities [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ; Amended at 17 Ok Reg 2992, eff 7-13-00 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

SUBCHAPTER 56. CONSTRUCTION REQUIREMENTS FOR EMERGENCY HOSPITALS

310:667-56-1. General requirements

An emergency hospital shall generally comply with construction requirements specified for general medical surgical hospitals as specified at OAC 310:667-41. The emergency hospital shall not be required to meet construction standards for services not required, allowed, or provided.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 36 Ok Reg 1730, eff 9-13-19]

310:667-56-2. Existing facilities

A general medical surgical hospital or critical access hospital that converts to an emergency hospital shall be considered an existing facility and shall comply with the construction standards and codes that existed at the time of their construction. If the emergency hospital renovates, all new work shall comply, insofar as practical, as specified at OAC 310:667-41.

[Source: Added at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 36 Ok Reg 1730, eff 9-13-19]

SUBCHAPTER 57. DAY TREATMENT PROGRAM STANDARDS

310:667-57-1. Definitions

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

"Day treatment program" means *nonresidential, partial hospitalization programs, day treatment programs, and day hospital programs in which children and adolescents are placed for psychiatric or psychological treatment* {10 O.S. Supp. 1998, Section 175.20.A}.

[Source: Added at 16 Ok Reg 684, eff 1-5-99 (emergency); Added at 16 Ok Reg 1411, eff 5-27-99]

310:667-57-2. General

(a) In addition to meeting requirements listed for general medical surgical hospitals in OAC 310:667-1 through OAC 310:667-31, any general hospital or psychiatric hospital offering a day treatment program shall comply with the requirements of OAC 310:667-57.

(b) The day treatment program may be operated as a distinct unit within the hospital or as part of the hospital campus. Whether located within or apart from the hospital, the site for the day treatment program shall comply with the construction requirements in OAC 310:667-41 through OAC 310:667-47 as applicable based on the facility's functional program.

[Source: Added at 16 Ok Reg 684, eff 1-5-99 (emergency); Added at 16 Ok Reg 1411, eff 5-27-99 ; Amended at 36 Ok Reg 1730, eff 9-13-19]

310:667-57-3. Services

- (a) Each day treatment program shall have the capability to provide or arrange services as required under 10 O.S. Supp. 1998, Section 175.20.
- (b) Each day treatment program serving school-age patients shall have policies to ensure appropriate educational exposure for such patients.
- (c) Each day treatment program providing outpatient hospital day treatment services under OAC 317:30-5-42 shall demonstrate compliance with the requirements of OAC 317:30-5-42.

[Source: Added at 16 Ok Reg 684, eff 1-5-99 (emergency); Added at 16 Ok Reg 1411, eff 5-27-99]

SUBCHAPTER 59. CLASSIFICATION OF HOSPITAL EMERGENCY SERVICES

310:667-59-1. General

- (a) All hospitals that treat emergency patients must identify the extent of the stabilizing and definitive emergency services they provide. A hospital must also identify the classification level of the service it provides for the clinical areas listed in OAC 310:667-59-7.
- (b) All hospitals must participate in the state-wide trauma, stroke, and ST-Elevated Myocardial Infarction (STEMI) registries and submit the related data as required by the Department. Hospitals must submit data on the other emergency medical services they provide as required by the Department as the data collection tools to capture this information become available.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 25 Ok Reg 2785, eff 7-17-08 (emergency); Amended at 26 Ok Reg 2054, eff 6-25-09 ; Amended at 37 Ok Reg 1445, eff 9-11-20 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-2. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-3. Inspections and deemed status

- (a) **Inspections by Department.** All hospitals required to have a license are subject to inspection by Department staff in accordance with OAC 310:667-1-4.
- (b) **Verifying Classification Level.** The Commissioner will designate survey teams to verify a hospital's emergency services are accurately classified for trauma and emergency operative services Levels II, III and IV, and all other classified emergency services. A survey team will include a physician, if the team inspects a hospital that provides trauma and emergency operative services at Level II or III. A hospital must report its level of emergency services through the Emergency Medical Services Classification Report (ODH Form 911). If it is determined a hospital does not comply with all the requirements for the Level stated on ODH Form 911, the Department will classify that service at the next lowest Level where all requirements are met.

(c) Verifying Level I and II Trauma and Emergency Operative Services Through ACS COT. A hospital verified as a Level I or Level II trauma center through an on-site review of their trauma services by a verification team from the American College of Surgeons Committee on Trauma (ACS COT) will be considered to have met the classification requirements for Trauma and Emergency Operative Services listed in OAC 310:667-59-9(c) or OAC 310:667-59-9(d). Such hospitals will be classified by the Department as providing definitive trauma and emergency operative services at either classification Level I or Level II as reported by the ACS based on the provisions of this Subchapter.

(d) Verifying Level II Trauma and Emergency Operative Services. The services provided by hospitals classified at Level II for Trauma and Emergency Operative Services may be verified by either ACS COT surveyors or other representatives considered qualified by the Commissioner.

(e) Verifying Level I Trauma and Emergency Operative Services. A hospital is classified at Level I for trauma and emergency operative services, if it is verified through an ACS COT on-site review that is based on the standards at OAC 310:667-59-9(d).

(f) Verifying Level I and II Stroke Services. The Department must grant Level I or Level II Stroke Center classification to hospitals holding current verification as a Primary Stroke Center issued through an on-site review of their emergency stroke services by a verification team from The Joint Commission. Such classification will be granted to hospitals that meet the requirements of a Level I or Level II Stroke Center as specified at OAC 310:667-59-20 (relating to the classification of emergency stroke services) and verified by the accrediting organization.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 21 Ok Reg 573, eff 1-12-04 (emergency); Amended at 21 Ok Reg 2785, eff 7-12-04 ; Amended at 25 Ok Reg 2785, eff 7-17-08 (emergency); Amended at 26 Ok Reg 2054, eff 6-25-09 ; Amended at 36 Ok Reg 1730, eff 9-13-19 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-4. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-5. Notification

(a) Each hospital must notify the regional emergency medical services system control when treatment services are at maximum capacity and emergency patients should be diverted to another hospital (divert status).

(1) If the hospital is located in an area where no regional emergency medical services system control is active, the hospital must notify each entity providing emergency medical services, such as ambulance services, in their catchment area.

(2) Each hospital must maintain written records that include the date and time of the start and end of each divert status interval.

(b) Each hospital must maintain written criteria that describe the conditions under which any one or all of the hospital's emergency services are at maximum capacity.

(c) A hospital classified at Level I or Level II for Trauma and Emergency Operative Services or as a Primary Stroke Center must notify the Department in writing or by facsimile or other electronic means 24 hours of the complete loss of verified status as a Level I or Level II trauma center by ACS COT, or as a Primary Stroke Center by the Joint Commission.

(d) A hospital must notify the Department in writing or by facsimile or other electronic means within 24 hours if it is unable to provide any classified emergency medical service at the current classified level. If the interruption of service is expected to be brief and the hospital notifies the Department promptly, at the discretion of the Commissioner, it may not be necessary to permanently reclassify the service to a lower Level.

(e) To request a permanent change in classification for any classified emergency medical service a hospital must notify the Department in writing and submit a new Emergency Medical Services Classification Report (ODH Form 911) at least 30 days before the effective date of the change.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 25 Ok Reg 2785, eff 7-17-08 (emergency); Amended at 26 Ok Reg 2054, eff 6-25-09 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-6. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-7. Clinical categories of emergency medical services

The level of stabilizing and definitive emergency medical services provided by each hospital will be identified for each of the following clinical categories according to the classification criteria in OAC 310:667-59-9 through OAC 310:667-59-25.

- (1) Trauma and emergency operative services;
- (2) Cardiology;
- (3) Pediatric medicine and trauma;
- (4) Dental;
- (5) Obstetrics/Gynecology;
- (6) Ophthalmology;
- (7) Stroke services;
- (8) Neurology;
- (9) Psychiatry; and
- (10) General Medicine.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-8. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-9. Classification of trauma and emergency operative services

(a) **Level IV.** A Level IV hospital will provide emergency medical services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or intermediate or paramedic level emergency medical technician on site 24 hours a day. A hospital must be classified at Level IV for trauma and emergency operative services if it complies with all of this subsection (a):

(1) **Clinical services and resources.** No diagnostic, surgical, or medical specialty services are required.

(2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or an Intermediate, Advanced Emergency Medical Technician (AEMT), or paramedic, as defined in OAC 310:641-7, is required on site 24 hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic, at least one of the practitioners on duty must have received training in advanced life support techniques and must be competent to initiate treatment of the emergency patient.

(3) **Supplies and equipment.** The hospital must have equipment for use in the resuscitation of patients of all ages on site, functional, and immediately available, including the following:

(A) Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of all sizes, bag-mask resuscitator, pocket masks, and oxygen;

(B) Suction devices;

(C) Electrocardiograph-oscilloscope-defibrillator-pacer;

(D) Standard intravenous fluids and administration devices, including large-bore intravenous catheters;

(E) Sterile surgical sets for:

(i) Airway control/cricothyrotomy;

(ii) Vascular access; and

(iii) Chest decompression.

(F) Equipment for gastric decompression;

(G) Drugs necessary for emergency care;

(H) Two-way communication with vehicles of emergency transport system as required at OAC 310:667-29-1(c)(4); and

(I) Thermal control equipment for patients.

(4) **Agreements and policies on transfers.**

(A) The hospital must have written policies defining the medical conditions and circumstances for those emergency patients that may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another hospital.

(B) The hospital must have a transfer agreement with a hospital capable of providing trauma care for severely injured patients. This agreement must include reciprocal provisions requiring the hospital to accept return transfers of patients at such time as the hospital has the capability and capacity to provide needed care and cannot incorporate financial provisions for transfers.

- (C) The hospital must have transfer agreements with a hospital capable of providing burn care in a physician-directed, organized burn care center with a staff of nursing personnel trained in burn care and equipped properly for care of the extensively burned patient.
- (D) The hospital must have transfer agreements with a hospital capable of providing acute spinal cord and head injury management and rehabilitation.
- (E) The hospital must have transfer agreements with a hospital capable of providing rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically injured patient.

(5) **Quality Improvement.** In addition to any other quality improvement requirements governing the hospital to, the quality improvement program must also include the following subjects:

- (A) Trauma registry;
- (B) Audit for all trauma deaths to include prehospital care and care received at a transferring hospital;
- (C) Morbidity and mortality review;
- (D) Medical nursing audit, utilization review, tissue review; and
- (E) The availability and response times of on call staff specialists is defined in writing, documented, and continuously monitored.

(b) **Level III.** A Level III hospital will provide emergency medical services with an organized trauma service and emergency department. A physician and nursing staff with special capability in trauma care are required on site 24 hours a day. General surgery and anesthesiology services will be available either on duty or on call. A hospital must be classified at Level III for trauma and emergency operative services if it complies with all of this subsection (b):

(1) **Clinical services and resources.**

(A) **Trauma service.** A trauma service will be established by the medical staff and will be responsible for coordinating the care of injured patients, the training of personnel, and trauma quality improvement.

- (i) Privileges for physicians participating in the trauma service will be determined by the medical staff credentialing process.
- (ii) All patients with multiple-system or major injury will be evaluated by the trauma service.
- (iii) The surgeon responsible for the overall care of the admitted patient must be identified.

(B) **Emergency services.** A physician competent in the care of the critically injured and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in trauma care must be on site 24 hours a day. The emergency service may also serve as the trauma service.

(C) **General surgery.** A board certified, board eligible, or residency trained general surgeon must be on call 24 hours a day and promptly available in the emergency department.

(D) **Anesthesia.** Anesthesia services must be on call 24 hours a day, promptly available, and administered in accordance with OAC 310:667-25-2.

(E) **Internal medicine.** A physician board certified, board eligible, or residency trained in internal medicine must be on call 24 hours a day and promptly available in the emergency department.

(F) **Orthopedic Surgery.** A physician board certified, board eligible, or residency trained in orthopedics and competent in the care of orthopedic emergencies must be on site or on call 24 hours a day and promptly available in the emergency department. In the absence of the orthopedic surgeon, a physician designated by the trauma director and credentialed to provide stabilizing emergency orthopedic treatment may provide care prior to transfer.

(G) **Operating suite.** An operating suite with thermal control equipment for patients and infusion of blood and fluids must be available 24 hours a day.

(H) **Post-anesthesia recovery unit.** The hospital is required to have a post-anesthesia recovery room or intensive care unit that is in compliance with OAC 310:667-15-7 with the nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(I) **Intensive care unit.** The hospital's intensive care unit must include:

- (i) Compliance with OAC 310:667-15-7;
- (ii) A registered nurse on duty in the intensive care unit, when it has a patient;
- (iii) A registered nurse on call and immediately available when it does not have a patient; and
- (iv) Written policies defining the minimum staffing requirements for the intensive care unit that are monitored for compliance through the quality improvement program.

(J) **Diagnostic imaging.** The hospital must have diagnostic x-ray services available 24 hours a day. A radiology technologist must be on duty or on call and immediately available 24 hours a day.

(K) **Clinical laboratory service.** The hospital must have clinical laboratory services available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories provided these services are available on an emergency basis 24 hours a day. These services include:

- (i) Comprehensive immunohematology services including blood typing and compatibility testing;

- (ii) A supply of blood and blood products on hand that is properly stored and adequate to meet expected patient needs;
- (iii) Access to services provided by a community central blood bank;
- (iv) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (v) Coagulation studies;
- (vi) Blood gas/pH analysis;
- (vii) Comprehensive microbiology services or appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures; and
- (viii) Drug and alcohol screening.

(L) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(M) **Burn Care.**

- (i) The hospital must provide burn care in a physician-directed, organized burn care center with nursing staff personnel trained in burn care and equipped properly for care of the extensively burned patient; or
- (ii) If the hospital is unable to satisfy (i) of this subparagraph (M), it must have a written transfer agreement with a hospital that meets the requirement of (i) of this subparagraph (M).

(N) **Spinal cord and head injury management.**

- (i) The hospital must provide acute spinal cord and head injury management; or
- (ii) If the hospital is unable to satisfy (i) of this subparagraph (N), it must have a written transfer agreement with a hospital that provides acute spinal cord and head injury management and comprehensive rehabilitation services.

(O) **Rehabilitation services.**

- (i) The hospital must provide rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically injured patient; or
- (ii) If the hospital is unable to satisfy (i) of this subparagraph (O), it must have a written transfer agreement with a hospital that satisfies (i) of this subparagraph (O) and the requirements of Subchapter 35 of this Chapter.

(2) **Personnel.**

(A) **Trauma service director.** The medical staff will designate surgeon as trauma service director. The trauma

service director's responsibilities include:

- (i) all trauma patients and administrative authority for the hospital's trauma program, through the quality improvement process; and
- (ii) recommending appointments and removals from the trauma service.

(B) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director. The emergency services director may serve as the trauma service director.

(C) **Surgical director.** The medical staff will designate a surgeon credentialed by the hospital to be the director of care for surgical and critical care for trauma patients.

(3) **Supplies and equipment.**

(A) **Emergency department.** The emergency department must have equipment for use in the resuscitation of patients of all ages on site, functional, and available in the emergency department, including the following:

- (i) Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of all sizes, bag-mask resuscitator, pocket masks, and oxygen;
- (ii) Pulse oximetry;
- (iii) Suction devices;
- (iv) Electrocardiograph-oscilloscope-defibrillator-pacer;
- (v) Apparatus to establish central venous pressure monitoring;
- (vi) Standard intravenous fluids and administration devices, including large-bore intravenous catheters;
- (vii) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.
- (viii) Equipment for gastric decompression;
- (ix) Drugs necessary for emergency care;
- (x) Two-way communication with vehicles of emergency transport system as required at OAC 310:667-29-1(c)(4);
- (xi) Skeletal traction devices including cervical immobilization device; and
- (xii) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.

(B) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit must have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;

- (ii) Pulse oximetry;
- (iii) End-tidal CO₂ determination; and
- (iv) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.

(C) **Intensive care unit.** The intensive care unit must have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
- (ii) Cardiopulmonary resuscitation cart;
- (iii) Electrocardiograph-oscilloscope-defibrillator-pacer;
- (iv) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.

(4) **Policies on transfers.** The applicable policies on transfers for a Level III hospital are as set forth in (a)(4)(A) and (a)(4)(B) of this Section (relating to agreement and policies on transfers).

(5) **Quality Improvement.** In addition to any other quality improvement requirements governing the hospital, the quality improvement program must also include the following subjects:

- (A) all the quality improvement subjects listed for Level IV classification set forth in (a)(5) of this Section;
- (B) Published on call schedules for surgeons, neurosurgeons, and orthopedic surgeons; and
- (C) Review of the times and reasons for trauma-related bypass.

(6) **Continuing education.** The hospital will provide and document formal continuing education programs for physicians, nurses, and allied health personnel.

(7) **Organ Procurement.** The hospital, in association with an organ procurement organization certified by the CMS, will create and maintain policies and procedures to identify and refer potential organ donors.

(c) **Level II.** A Level II hospital will provide emergency medical services with an organized trauma service and emergency department. A physician and nursing staff with special capability in trauma care will be on site 24 hours a day. General surgery, anesthesiology, and neurosurgery services will be available on site or on call 24 hours a day. Services from an extensive group of clinical specialties including cardiology, internal medicine, orthopedics, and obstetrics/gynecology must be promptly available on call. A hospital must be classified at Level II for trauma and emergency operative services if it complies with all of this subsection (c):

(1) **Clinical services and resources.**

(A) **Trauma service.** A Level II hospital is subject to the same trauma service requirements as a Level III hospital as set forth in (b)(1)(A) of this Section.

(B) **Emergency services.** A physician competent in the care of the critically injured and credentialed by the

hospital to provide emergency medical services; and nursing personnel with special capability in trauma care must be on site 24 hours a day.

(C) **General surgery.** A general surgeon or senior surgical resident competent and appropriately credentialed by the hospital must be on site or on call 24 hours a day and promptly available in the emergency department.

(D) **Anesthesia.** A board certified, board eligible, or residency trained anesthesiologist must be on site or on call 24 hours a day and promptly available in the emergency department. If the anesthesiologist is not present in the hospital, before the physician's arrival, anesthesia services may be provided by a certified registered nurse anesthetist (CRNA). The CRNA must be competent in the assessment of emergent situations in trauma patients and of initiating and providing any indicated treatment. All anesthesia must be administered in accordance with OAC 310:667-25-2.

(E) **Neurologic surgery.** A board certified, board eligible, or residency trained neurosurgeon or other physician competent in the care of patients with neurotrauma and appropriately credentialed must be on site or on call 24 hours a day and promptly available in the emergency department. If care is initiated by a physician other than a neurosurgeon, the neurosurgeon on call will respond as required by the hospital's policy.

(F) **Other specialties.** The hospital must also have services from the following specialties on call and promptly available:

- (i) Cardiac surgery;
- (ii) Cardiology;
- (iii) Internal medicine;
- (iv) Obstetric/gynecologic surgery;
- (v) Ophthalmic surgery;
- (vi) Oral/maxillofacial surgery;
- (vii) Orthopedic surgery;
- (viii) Otolaryngology;
- (ix) Pediatrics;
- (x) Plastic surgery;
- (xi) Clinical licensed psychologist or psychiatrist;
- (xii) Pulmonary medicine;
- (xiii) Radiology;
- (xiv) Thoracic surgery; and
- (xv) Urology and urologic surgery.

(G) **Operating suite.** An operating suite with adequate staff and equipment must be immediately available 24 hours a day. The hospital must have written policies defining the minimum staffing requirements for the operating suite. An on call schedule for emergency replacement staff will be maintained.

(H) **Post-anesthesia recovery unit.** A level II hospital is subject to the same post-anesthesia recovery unit requirements as a Level III hospital as set forth in (b)(1)(H) of this Section.

(I) **Intensive care unit.** The hospital's intensive care unit must include:

- (i) Compliance with OAC 310:667-15-7;
- (ii) A registered nurse on duty in the intensive care unit when it has a patient;
- (iii) A registered nurse on call and immediately available when the unit does not have a patient;
- (iv) A physician with privileges in critical care on duty in the unit or immediately available 24 hours a day; and
- (v) Written policies defining the minimum staffing requirements for the intensive care unit that are continuously monitored for compliance through the quality improvement program.

(J) **Diagnostic Imaging.** The hospital's diagnostic x-ray services must be available 24 hours a day. A radiologic technologist and computerized tomography technologist will be on duty or on call and immediately available 24 hours a day. A single technologist designated as qualified by the radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging service provides the following services:

- (i) Angiography;
- (ii) Ultrasonography;
- (iii) Computed tomography;
- (iv) Magnetic resonance imaging;
- (v) Neuroradiology; and
- (vi) Nuclear medicine imaging.

(K) **Clinical laboratory service.** A Level II hospital is subject to the same clinical laboratory service requirements as a Level III hospital as set forth in (b)(1)(K) in this Section.

(L) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators will be available 24 hours a day. Respiratory therapy services will comply with OAC 310:667-23-6.

(M) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(N) **Burn Care.** A Level II hospital is subject to the same burn care requirements as a Level III hospital as set forth in (b)(1)(M) of this Section.

(O) **Spinal cord and head injury management.** The hospital must provide acute spinal cord and head injury management including at least the ability to initiate

rehabilitative care prior to transfer and must have a written transfer agreement with a hospital that provides comprehensive rehabilitation services.

(P) **Rehabilitation services.** A Level II hospital is subject to the same rehabilitation services requirements as a Level III hospital as set forth in (b)(1)(O) of this Section.

(2) **Personnel.**

(A) **Trauma service director.** A Level II hospital is subject to the same trauma service director requirements as a Level III hospital as set forth in (b)(2)(A) of this Section.

(B) **Trauma coordinator.** The hospital must have a designated trauma coordinator who may also serve as the prevention coordinator. Under the supervision of the trauma service director, the trauma coordinator is responsible for organizing the services and systems of the trauma service to ensure there is a multidisciplinary approach throughout the continuum of trauma care. The trauma coordinator's responsibilities include:

- (i) Clinical activities such as design of clinical protocols, monitoring care, and assisting the staff in problem solving;
- (ii) Educational activities such as professional staff development, case reviews, continuing education, and community trauma education and prevention programs;
- (iii) Quality improvement activities such as development of quality monitors, audits, and case reviews in all phases of trauma care;
- (iv) Administrative tasks for the trauma service such as those related to services' organization, personnel, budget preparation, and accountability;
- (v) Trauma registry data collection, coding, scoring, and validation; and
- (vi) Consultation and liaison to the medical staff, prehospital emergency medical service agencies, patient families, and the community at large.

(C) **Prevention coordinator.** The hospital must have a designated prevention coordinator who may also serve as the trauma coordinator. Under the supervision of the trauma director, the prevention coordinator is responsible for the organization and management of the hospital's outreach, prevention, and public education activities.

(D) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(E) **Surgical director.** A Level II hospital is subject to the same surgical director requirements as a Level III hospital as set forth in (b)(2)(C) of this Section.

(3) **Supplies and equipment.**

(A) **Emergency department.** The emergency department must have equipment for use in the resuscitation of patients of all ages on site, functional, and available in the emergency department, including at least the following:

- (i) All the emergency department equipment listed for Level III classification as set forth in (b)(3)(A) of this Section;
- (ii) End-tidal CO₂ determination; and
- (iii) Arterial catheters.

(B) **Operating suite.** The operating suite must have the following supplies and equipment on site, functional and available for use:

- (i) Thermal control equipment for patients and infusion of blood, blood products, and other fluids;
- (ii) X-ray capability including c-arm intensifier;
- (iii) Endoscopes;
- (iv) Craniotomy instruments; and
- (v) Equipment appropriate for fixation of long-bone and pelvic fractures.

(C) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit must have the following supplies and equipment on site, functional, and available for use:

- (i) All the post-anesthesia recovery unit supplies and equipment listed for a Level III classification as set forth in (b)(3)(B) of this Section; and
- (ii) Equipment for the continuous monitoring of intracranial pressure.

(D) **Intensive care unit.** A Level II hospital is subject to the same intensive care unit requirements as a Level III hospital as set forth in (b)(3)(C) of this Section.

(4) **Policies on transfers.** The hospital must have written policies defining the medical conditions and circumstances for those emergency patients which may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another hospital.

(5) **Quality Improvement.** The hospital will establish a multidisciplinary trauma committee composed of the trauma service director, emergency services director, trauma coordinator, and other members of the medical and nursing staff that treat trauma and emergency operative patients. The trauma committee will meet regularly to review and evaluate patient outcomes and the quality of care provided by the trauma service. In addition to any other requirements of this Chapter, the hospital quality improvement program must include:

- (A) Trauma registry;
- (B) Audit for all trauma deaths to include prehospital care and care received at a transferring hospital;
- (C) Morbidity and mortality review;
- (D) Medical nursing audit, utilization review, tissue review;
- (E) Regularly scheduled multidisciplinary trauma and emergency operative services review conferences;

- (F) Published on call schedules for surgeons, neurosurgeons, and orthopedic surgeons;
- (G) Review of the times and reasons for trauma-related bypass;
- (H) The availability and response times of on call staff specialists will be defined in writing, documented, and continuously monitored; and
- (I) Quality improvement staff with time dedicated to and specific for trauma and emergency operative services.

(6) **Continuing education.** The hospital will provide and document formal continuing education programs for physicians, nurses, and allied health personnel. Continuing education programs will be available to all state physicians, nurses, allied health personnel, and emergency medical service providers.

(7) **Organ Procurement.** The hospital, in association with an organ procurement organization certified by CMS, will create and maintain policies and procedures to identify and refer potential organ donors.

(8) **Outreach programs.** The hospital will have organized outreach programs under the direction of a designated prevention coordinator.

(A) **Consultation.** The hospital will provide on-site and/or electronic consultations with community health care providers and those in outlying areas as requested and appropriate.

(B) **Prevention and public education programs.** The hospital will serve as a public information resource and collaborate with other institutions and national, regional, and state programs in research and data collection projects in epidemiology, surveillance, and injury prevention, and other areas.

(d) **Level I.** A Level I hospital will provide emergency medical services with an organized trauma service and emergency department. A physician and nursing staff with special capability in trauma care will be on site 24 hours a day. General surgery, anesthesiology, and neurosurgery services will be available on site or on call 24 hours a day. Additional clinical services and specialties such as nuclear diagnostic imaging, cardiac surgery, hand surgery, and infectious disease specialists must be promptly available. A Level I hospital must have an organized trauma research program with a designated director. A hospital must be classified as Level I for trauma and emergency operative services if it complies with all of this subsection (d):

(1) **Clinical services and resources.**

(A) **Trauma service.** A level I hospital is subject to the same trauma service requirements as a Level III hospital as set forth in (b)(1)(A) of this Section.

(B) **Emergency services.** A Level I hospital is subject to the same emergency services requirement as a Level II hospital as set forth in (c)(1)(B) of this Section.

(C) **General surgery.** A Level I hospital is subject to the same general surgery requirements as a Level II hospital

set forth in (c)(1)(C) of this Section.

(D) **Anesthesia.** A board certified, board eligible, or residency trained anesthesiologist will be on site or on call 24 hours a day and promptly available. All anesthesia will be administered as required in accordance with OAC 310:667-25-2.

(E) **Neurologic surgery.** A Level I hospital is subject to the same neurologic surgery requirement as a Level II hospital as set forth in (c)(1)(E) of this Section.

(F) **Other specialties.** The hospital must also have the following specialty services on call and promptly available:

- (i) All the specialty services listed for a Level II classification as set forth in (c)(1)(F) of this Section;
- (ii) Hand surgery;
- (iii) Infectious disease;
- (iv) Microvascular surgery; and
- (v) Pediatric surgery.

(G) **Operating suite.** A Level I hospital is subject to the same operating suite requirements as a Level II hospital as set forth in (c)(1)(G) of this Section.

(H) **Post-anesthesia recovery unit.** A Level I hospital is subject to the same post-anesthesia recovery unit requirements as a Level III hospital as set forth in (b)(1)(H) of this Section.

(I) **Intensive care unit.** A Level I hospital is subject to the same intensive care unit requirements as a Level II hospital as set forth in (c)(1)(I) of this Section.

(J) **Diagnostic Imaging.** A Level I hospital is subject to the same diagnostic imaging requirements as a Level II hospital as set forth in (c)(1)(J) of this Section.

(K) **Clinical laboratory service.** A Level I hospital is subject to the same clinical laboratory service requirements as a Level III hospital as set forth in (b)(1)(K) of this Section.

(L) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators will be available 24 hours a day. Respiratory therapy services will comply with OAC 310:667-23-6.

(M) **Acute hemodialysis.** The hospital must have the capability to provide acute hemodialysis services 24 hours a day. All staff providing hemodialysis patient care will have documented hemodialysis training and experience.

(N) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(O) **Burn Care.** A Level I hospital is subject to the same burn care requirements as a Level III hospital as set forth in (b)(1)(M) of this Section.

(P) **Spinal cord and head injury management.** A Level I hospital is subject to the same spinal cord and head

injury management requirements as a Level II hospital as set forth (c)(1)(O) of this Section.

(Q) **Rehabilitation services.** A Level I hospital is subject to the same rehabilitation services requirements as a Level III hospital as set forth in (b)(1)(O) of this Section.

(2) **Personnel.**

(A) **Trauma service director.** A Level I hospital is subject to the same trauma service director requirements as a Level III hospital as set forth in (b)(2)(A) of this Section.

(B) **Trauma coordinator.** A Level I hospital is subject to the same trauma coordinator requirements as a Level II hospital as set forth in (c)(2)(B) of this Section.

(C) **Prevention coordinator.** A Level I hospital is subject to the same prevention coordinator requirements as a Level II hospital as set forth in (c)(2)(C) of this Section.

(D) **Emergency services director.** A Level I hospital is subject to the same prevention emergency services director requirements as a Level II hospital as set forth in (c)(2)(D) of this Section.

(E) **Surgical director.** A Level I hospital is subject to the same surgical director requirements as a Level III hospital as set forth in (b)(2)(C) of this Section].

(F) **Research director.** The medical staff will designate a physician as research director who may also serve as the trauma service director. The research director is responsible for the organization and management of the hospital's trauma and emergency operative research activities.

(3) **Supplies and equipment.**

(A) **Emergency department.** The emergency department must have equipment for use in the resuscitation of patients of all ages on site, functional, and available in the emergency department, including the following:

- (i) Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of all sizes, bag-mask resuscitator, pocket masks, and oxygen and all the emergency department equipment listed for Level III classification set forth in (b)(3)(A) of this Section;
- (ii) End-tidal CO₂ determination; and
- (iii) Arterial catheters.

(B) **Operating suite.** The operating suite must have the following supplies and equipment on site, functional and available for use:

- (i) All the operating suite supplies and equipment listed for Level II classification as set forth in (c)(3)(B) of this Section;
- (ii) Cardiopulmonary bypass capability; and
- (iii) Operating microscope.

(C) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit must have the following supplies and

equipment on site, functional, and available for use:

- (i) All post-anesthesia recovery unit supplies and equipment listed for a Level III classification as set forth in (b)(3)(B) of this Section; and
- (ii) Equipment for the continuous monitoring of intracranial pressure.

(D) **Intensive care unit.** A Level I hospital is subject to the same intensive care unit requirement as a Level III hospital as set forth in (b)(3)(C) of this Section.

(4) **Policies on transfers.** A Level I hospital is subject to the same policies on transfers requirement as a Level II hospital as set forth in (c)(4) of this Section.

(5) **Quality Improvement.** A Level I hospital is subject to the same quality improvement requirements as a Level II hospital as set forth in (c)(5) of this Section.

(6) **Continuing education.** A Level I hospital is subject to the same continuing education requirement as a Level II hospital as set forth in (c)(6) of this Section.

(7) **Organ Procurement.** A Level I hospital is subject to the same organ procurement requirements as a Level II hospital as set forth (c)(7) of this Section.

(8) **Outreach programs.** A Level I hospital is subject to the same outreach programs requirements as a Level II hospital as set forth in (c)(8) of this Section.

(9) **Research programs.** The hospital will have an organized trauma and emergency operative services research program under the direction of a designated research director. Research groups will meet regularly and all research proposals will be approved by an Institutional Review Board (IRB) before the program is launched. The research director will maintain evidence of the productivity of the research program through documentation of presentations and copies of published articles.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 17 Ok Reg 3450, eff 8-29-00 (emergency); Amended at 18 Ok Reg 2032, eff 6-11-01 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 21 Ok Reg 573, eff 1-12-04 (emergency); Amended at 21 Ok Reg 2785, eff 7-12-04 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-10. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-11. Classification of emergency cardiology services

(a) **Level III.** A Level III hospital will provide Advanced Cardiac Life Support (ACLS) services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or intermediate or paramedic level emergency medical technician on site 24 hours a day. A hospital must be classified at Level III for emergency cardiology services if it provides ACLS and complies with all of this subsection:

- (1) **Clinical services and resources.**

(A) **Electrocardiogram.** The hospital will have the immediate availability of a 12-lead electrocardiogram.

(B) **Thrombolytic therapy.** Thrombolytic medications will be immediately available in the emergency room to provide reperfusion therapy when appropriate. No other diagnostic, surgical, or medical specialty services are required.

(2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or Intermediate, Advanced Medical Technician (AEMT), or paramedic, as defined in OAC 310:641-1-7, will be on site 24 hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic, at least one of the practitioners on duty will have received training in advanced life support techniques and must be competent to initiate treatment of the emergency patient.

(3) **Supplies and equipment.** In addition to OAC 310:667-59-9(a)(3), the hospital must have the following equipment and supplies on site, functional, and immediately available:

(A) Oxygen and oxygen delivery equipment;

(B) Equipment to perform a 12-lead electrocardiogram (ECG) with ECG monitor and printout;

(C) Equipment for the electronic or facsimile transmission of ECG readings to an expert for interpretation;

(D) Transcutaneous pacing capability; and

(E) ACLS medications including at least:

(i) Aspirin;

(ii) Antianginal agents such as sublingual nitroglycerin;

(iii) Medications to provide adequate analgesia such as morphine and meperidine;

(iv) Sympathomimetics such as epinephrine, norepinephrine, dopamine, etc;

(v) Sympatholytics such as β -adrenoceptor blocking agents;

(vi) Angiotensin converting enzyme (ACE) inhibitors;

(vii) Antidysrhythmics including:

(I) Rhythm control agents such as lidocaine, procainamide, bretylium tosylate and magnesium sulfate; and

(II) Rate control agents such as atropine, adenosine, verapamil, and digitalis.

(viii) Diuretics such as furosemide; and

(ix) Antihypertensives such as sodium nitroprusside.

(4) **Agreements and policies on transfers.**

(A) The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another hospital.

(B) The hospital must have a written agreement with a hospital, or board certified, board eligible, or residency trained cardiologist, or group of cardiologists to provide immediate consultative services for cardiac patients 24 hours a day. These services will include the immediate interpretation of ECG results and providing instructions for the initiation of appropriate therapy and/or patient transfer.

(b) **Level II.** A Level II hospital will provide emergency medical services with an organized emergency department. A physician and nursing staff with special capability in cardiac care must be on site 24 hours a day. A hospital must be classified at Level II for emergency cardiology services if it complies with all of this subsection (b):

(1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the emergent cardiac patient and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in cardiac care must be on site 24 hours a day. Nursing personnel must also have completed the Advanced Cardiac Life Support Program offered through the American Heart Association or have equivalent training.

(B) **Thrombolytic therapy.** Thrombolytic medications will be immediately available in the emergency room to provide reperfusion therapy when appropriate.

(C) **Intensive care unit.** The hospital will have an intensive care unit and/or cardiac care unit that includes:

- (i) Compliance with OAC 310:667-15-7 ;
- (ii) A registered nurse on duty in the unit when it has a patient;
- (iii) A registered nurse on call and immediately available when it does not have any patients; and
- (iv) Nursing personnel who have completed the Advanced Cardiac Life Support Program offered through the American Heart Association or have equivalent training.

(D) **Continuous electrocardiographic monitoring.** The emergency room and intensive/cardiac care unit will have the capability to continuously monitor patients electrocardiographically when necessary. While a patient is continuously monitored, there will be adequate human surveillance of the monitors 24 hours a day by medical, nursing, or paramedical personnel trained and qualified in the ECG recognition of clinically significant cardiac rhythm disturbances.

(E) **Diagnostic imaging.** The hospital must have diagnostic x-ray services available 24 hours a day. A radiology technologist will be on duty or on call and immediately available 24 hours a day.

(F) **Clinical laboratory service.** The hospital's clinical laboratory services will be available 24 hours a day. All or

part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (ii) Coagulation studies;
- (iii) Blood gas/pH analysis; and
- (iv) Rapid determination of cardiac serum markers such as creatine kinase (CK), CK-MB isoform(s), and/or cardiac specific troponins T and I.

(G) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Cardiologist.** A physician board certified, board eligible, or residency trained in cardiovascular diseases will be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(C) **Training.** Emergency room and intensive care/cardiac care unit nursing personnel must have completed the Advanced Cardiac Life Support Program offered through the American Heart Association or have equivalent training.

(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital must have the following equipment and supplies on site, functional, and immediately available:

(A) Oxygen and oxygen delivery equipment including:

- (i) Continuous positive-pressure breathing; and
- (ii) Mechanical ventilation.

(B) Equipment to perform a 12-lead electrocardiogram (ECG) with ECG monitor and printout;

(C) Equipment for the electronic or facsimile transmission of ECG readings to an expert for interpretation;

(D) Pacing equipment including at least:

- (i) Transcutaneous pacing capability; and
- (ii) Transvenous pacing electrodes.

(E) the identical ACLS medications that are listed for Level III classification in (a)(3)(E) of this Section.

(4) **Agreements and policies on transfers.** A Level II hospital is subject to the same agreement and policies on transfers requirements as a Level III hospital as set forth in (a)(4) of this Section.

(c) **Level I.** A Level I hospital will provide emergency medical services with organized emergency and cardiology departments. A physician and

nursing staff with special capability in cardiac care must be on site 24 hours a day. The hospital must have the capability to provide immediate diagnostic angiography and emergency reperfusion therapy by thrombolysis, primary percutaneous transluminal coronary angioplasty (PTCA), and coronary artery bypass graft (CABG) 24 hours a day. A hospital must be classified at Level I for emergency cardiology services if it complies with all of this subsection:

(1) **Clinical services and resources.**

(A) **Emergency services.** A Level I hospital is subject to the same emergency services requirements as a Level II hospital as set forth in (b)(1)(A) of this Section.

(B) **Thrombolytic therapy.** Thrombolytic medications will be immediately available in the emergency room to provide reperfusion therapy when appropriate.

(C) **Cardiology and cardiovascular surgery.** The hospital must have an organized cardiology and cardiovascular surgery service with appropriately credentialed physicians experienced in percutaneous and surgical revascularization immediately available 24 hours a day. Physician members of the cardiology service must be board certified, board eligible, or residency trained in cardiovascular diseases or in cardiovascular and/or vascular surgery. On call physicians will respond as required by the hospital's policy.

(D) **Cardiac catheterization laboratory.** The hospital must include a full-service cardiac catheterization laboratory or laboratories capable of providing both diagnostic and therapeutic procedures on the heart and great vessels for a wide variety of cardiovascular diseases. Diagnostic, therapeutic, and electrophysiology laboratories are supervised by physicians with appropriate training and expertise in the procedures performed and who are properly credentialed by the medical staff. When primary percutaneous transluminal coronary angioplasty (PTCA) is performed, prompt access to emergency coronary artery bypass graft (CABG) surgery must be available.

(E) **Anesthesia.** A board certified, board eligible, or residency trained anesthesiologist must be on site or on call 24 hours a day and promptly available. All anesthesia must be administered in accordance with OAC 310:667-25-2.

(F) **Operating suite.** An operating suite with adequate staff, equipment, and cardiopulmonary bypass capability must be immediately available 24 hours a day. The hospital will define and document in writing the minimum staffing requirements for the operating suite. An on call schedule for emergency replacement staff must be maintained.

(G) **Post-anesthesia recovery unit.** The hospital will have a post-anesthesia recovery room or intensive care unit in compliance with OAC 310:667-15-7 with nursing

personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(H) **Cardiac care unit.** The hospital's cardiac care unit must include:

- (i) Compliance with OAC 310:667-15-7;
- (ii) A registered nurse on duty in the unit when it has a patient;
- (iii) A registered nurse on call and immediately available when the unit does not have a patient;
- (iv) The hospital will define and document in writing the minimum staffing requirements for the cardiac care unit; and
- (v) A physician with privileges in cardiac care or cardiovascular surgery will be on duty in the unit or immediately available in the hospital 24 hours a day.

(I) **Continuous electrocardiographic monitoring.** The emergency room, cardiac catheterization laboratory(s), and cardiac care unit will have the capability to continuously monitor patients electrocardiographically. While a patient is continuously monitored, there will be adequate human surveillance of the monitors 24 hours a day by medical, nursing, or paramedical personnel trained and qualified in the ECG recognition of clinically significant cardiac rhythm disturbances.

(J) **Diagnostic Imaging.** The hospital will have diagnostic x-ray, computed tomography, and ultrasonography services available 24 hours a day. A radiologic technologist, computerized tomography technologist, and staff designated as qualified to perform ultrasonography will be on duty or on call and immediately available 24 hours a day. A single technologist considered qualified by the radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging service will provide the following services:

- (i) Angiography;
- (ii) Ultrasonography including echocardiography;
- (iii) Computed tomography;
- (iv) Magnetic resonance imaging; and
- (v) Nuclear medicine imaging.

(K) **Clinical laboratory service.** The hospital's clinical laboratory services will be available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) All the clinical laboratory services listed for Level II classification as set forth in (b)(1)(F) of this Section;

- (ii) Comprehensive immunohematology services including blood typing and compatibility testing;
- (iii) A supply of blood and blood products on hand that is properly stored and adequate to meet expected patient needs;
- (iv) Access to services provided by a community central blood bank; and
- (v) Comprehensive microbiology services or at least appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures.

(L) **Respiratory therapy service.** Routine respiratory therapy procedures and mechanical ventilators will be available 24 hours a day. Respiratory therapy services must be provided in compliance with OAC 310:667-23-6.

(M) **Social services.** Social services must be available and provided in compliance with Subchapter 31 of this Chapter.

(N) **Cardiac rehabilitation service.**

- (i) The hospital must have available a formal program for rehabilitation of the cardiac patient.
- (ii) An individualized rehabilitation program will be designed for each patient, and when appropriate, the program will combine prescriptive exercise training with education about coronary risk factor modification techniques.
- (iii) Rehabilitation services must be provided in compliance with Subchapter 35 of this Chapter.

(O) **Post-cardiac event evaluation.**

- (i) The hospital must have the capability of evaluating patients after a cardiac event to:
 - (I) Assess functional capacity and the patient's ability to perform tasks at home and at work;
 - (II) Evaluate the efficacy of the patient's current medical regimen; and
 - (III) Risk-stratify the post-MI patient according to the likelihood of a subsequent cardiac event.
- (ii) Evaluation techniques include:
 - (I) Exercise or pharmacologic ECG stress testing;
 - (II) Exercise stress echocardiography;
 - (III) Exercise or stress nuclear perfusion scintigraphy; and
 - (IV) Other procedures as appropriate.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Cardiology services director.** The medical staff will designate a physician credentialed to provide medical and/or surgical cardiac care as cardiology services director.

(C) **Physician qualifications.** Physician members of the cardiology service will be board certified, board eligible, or residency trained in cardiovascular diseases or be board certified, board eligible, or residency trained in cardiothoracic and/or vascular surgery.

(D) **Training.** Emergency room, intensive care/cardiac care unit, and cardiac catheterization laboratory nursing personnel must have completed the Advanced Cardiac Life Support Program (ACLS) offered through the American Heart Association or have equivalent training.

(3) **Supplies and equipment.** In addition to subsection (b)(3) in this Section, the hospital must have the following equipment, personnel, and supplies on site, functional, and immediately available to:

(A) monitor the hemodynamic stability of cardiac patients with balloon flotation catheters when appropriate;

(B) monitor intra-arterial pressure when appropriate; and

(C) provide intra-aortic balloon counterpulsation therapy when appropriate.

(4) **Policies on transfers.** The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those requiring stabilizing treatment and transfer to another hospital.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-12. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-13. Classification of emergency pediatric medicine and trauma services

(a) **Level IV.** A Level IV hospital will provide emergency pediatric medicine and trauma services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or an Intermediate, Advanced Emergency Medical Technician (AEMT) or paramedic, as defined in OAC 310:641-1-7, on site 24 hours a day. The hospital will be capable of identifying critically ill or injured pediatric patients and providing stabilizing treatment to manage airway, breathing, and circulation prior to patient transfer. A hospital must be classified at Level IV for emergency pediatric medicine and trauma services if it complies with all of this subsection (a):

(1) **Clinical services and resources.** Diagnostic, surgical, or medical specialty services are not required. The hospital must

have access by telephone or other electronic means to a regional poison control center.

(2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or an AEMT or paramedic, as defined in OAC 310:641-1-7, is required on site 24 hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic at least one of the practitioners on duty must have received training in advanced life support techniques and must be competent to initiate treatment of the emergency patient.

(3) **Supplies and equipment.** The hospital must have equipment for use in the resuscitation of pediatric patients on site, functional, and immediately available, including the following:

- (A) Spine board (child/adult) for cardiopulmonary resuscitation and papoose board for immobilization of infants and toddlers;
- (B) Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of all sizes, bag-mask resuscitator, pocket masks, oxygen, and oxygen delivery equipment. Masks and cannula shall be available in infant, child, and adult sizes;
- (C) Pulse oximeter with adult and pediatric probes;
- (D) Infant, child, adult, and thigh blood pressure cuffs;
- (E) Rectal thermometer probe;
- (F) Suction devices suitable for infants, children, and adults;
- (G) Electrocardiograph-oscilloscope-defibrillator-pacer with pediatric capability;
- (H) Equipment for gastric decompression;
- (I) Magill forceps (pediatric and adult);
- (J) Equipment for gastric decompression;
- (K) Fracture management devices including:
 - (i) Skeletal traction devices including cervical immobilization device suitable for pediatric patients;
 - (ii) Extremity splints; and
 - (iii) Child and adult femur splints.
- (L) Drugs necessary for pediatric emergency care with printed pediatric doses and pediatric reference materials such as precalculated drug sheets or length-based tape;
- (M) Infant scale;
- (N) Thermal control equipment for patients including a heat source or procedure for infant warming;
- (O) Two-way communication with vehicles of emergency transport system as required at OAC 310:667-29-1(c)(4);
- (P) Standard intravenous fluids and administration devices suitable for infants, children, and adults including large-bore intravenous catheters; and
- (Q) Specialized pediatric procedure trays for:
 - (i) Lumbar puncture;

- (ii) Urinary catheterization;
- (iii) Umbilical vessel cannulation; and
- (iv) Airway control/cricothyrotomy;
- (v) Vascular access; and
- (vi) Chest decompression.

(4) Agreements and policies on transfers.

(A) The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those requiring stabilizing treatment and transfer to another hospital.

(B) The hospital must have transfer agreements with a hospital capable of providing burn care in a physician-directed, organized burn care center with a staff of nursing personnel trained in burn care and equipped properly for care of the extensively burned patient.

(C) The hospital must have transfer agreements with a hospital capable of providing acute spinal cord and head injury management and rehabilitation.

(D) The hospital must have transfer agreements with a hospital capable of providing rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically injured patient.

(5) Quality Improvement. In addition to any other quality improvement requirements governing the hospital, the quality improvement program must also include the following subjects:

- (A) Trauma registry;
- (B) Audit for all pediatric deaths to include prehospital care and care received at a transferring facility;
- (C) Incident reports related to pediatric patients;
- (D) Pediatric transfers;
- (E) Child abuse cases;
- (F) Pediatric cardiopulmonary or respiratory arrests;
- (G) Pediatric admissions within 48 hours of an emergency department visit;
- (H) Pediatric surgery within 48 hours of discharge from an emergency department;
- (I) Morbidity and mortality review;
- (J) Medical nursing audit, utilization review, tissue review; and
- (K) The availability and response times of on call staff specialists must be defined in writing, documented, and continuously monitored.

(b) Level III. A Level III hospital will provide emergency pediatric medicine and trauma services with an organized trauma service and emergency department. A physician and nursing staff with special capability in trauma care are required on site 24 hours a day. General surgery and anesthesiology services will be available either on duty or on call. The hospital will have basic facilities for the management of minor pediatric inpatient problems. A hospital must be classified at Level III for

emergency pediatric medicine and trauma services if it complies with all of this subsection (b):

(1) **Clinical services and resources.**

(A) **Trauma service.** A trauma service will be established by the medical staff and it will be responsible for coordinating the care of injured patients, the training of personnel, and trauma quality improvement.

(i) Privileges for physicians participating in the trauma service will be determined by the medical staff credentialing process.

(ii) All patients with multiple-system or major injury will be evaluated by the trauma service.

(iii) The surgeon responsible for the overall care of the admitted patient will be identified.

(B) **Emergency services.** A physician competent in the care of the seriously ill or injured patient and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in trauma care must be on site 24 hours a day. The emergency service may also serve as the trauma service.

(C) **Poison control center.** The hospital must have access by telephone or other electronic means to a regional poison control center.

(D) **General surgery.** A board certified, board eligible, or residency trained general surgeon must be on call 24 hours a day and promptly available in the emergency department.

(E) **Anesthesia.** Anesthesia services must be on call 24 hours a day, promptly available, and administered in accordance with OAC 310:667-25-2.

(F) **Internal medicine.** A physician board certified, board eligible, or residency trained in internal medicine must be on call 24 hours a day and promptly available in the emergency department.

(G) **Operating suite.** An operating suite with thermal control equipment for patients and infusion of blood and fluids must be available 24 hours a day.

(H) **Post-anesthesia recovery unit.** The hospital must have a post-anesthesia recovery room or intensive care unit that is in compliance with OAC 310:667-15-7 with nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(I) **Intensive care unit.** The hospital's intensive care unit must include:

(i) Compliance with OAC 310:667-15-7;

(ii) A registered nurse on duty in the intensive care unit when it has a patient;

(iii) A registered nurse on call and immediately available when the unit does not have a patient; and

(iv) Written policies defining the minimum staffing requirements for the intensive care unit that must be monitored through the quality improvement program.

(J) **Diagnostic imaging.** The hospital will have diagnostic x-ray services available 24 hours a day. A radiology technologist will be on duty or on call and immediately available 24 hours a day.

(K) **Clinical laboratory service.** The hospital must have clinical laboratory services available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) Comprehensive immunohematology services including blood typing and compatibility testing;
- (ii) A supply of blood and blood products on hand that is properly stored and adequate to meet expected patient needs;
- (iii) Access to services provided by a community central blood bank;
- (iv) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (v) Therapeutic drug monitoring;
- (vi) Coagulation studies;
- (vii) Blood gas/pH analysis;
- (viii) Comprehensive microbiology services or at least appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures; and
- (ix) Drug and alcohol screening.

(L) **Social services.** Social services must be available and provided as required in Subchapter 31 of this Chapter.

(M) **Burn Care.**

- (i) The hospital must provide burn care in a physician-directed, organized burn care center with a staff of nursing personnel trained in burn care and equipped properly for care of the extensively burned patient; or
- (ii) If it is unable to satisfy (i) of this subparagraph, then it must have a written transfer agreement with a hospital that satisfies (i) of this subparagraph.

(N) **Spinal cord and head injury management.** The hospital must provide acute spinal cord and head injury management and must have a written transfer agreement with a hospital that provides comprehensive rehabilitation services. If it is unable to satisfy this requirement it must have a transfer agreement with a hospital capable of

providing acute spinal cord and head injury management and rehabilitation.

(O) **Rehabilitation services.**

(i) The hospital must provide rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically injured patient; or

(ii) If it is unable to satisfy (i) of this subparagraph, then it must have a written transfer agreement with a hospital that satisfies (i) of this subparagraph and the requirements of Subchapter 35 of this Chapter.

(P) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators must be available 24 hours a day, and the respiratory therapy services must be in compliance with OAC 310:667-23-6.

(2) **Personnel.**

(A) **Trauma service director.** The medical staff will designate a surgeon as trauma service director. The trauma service director's responsibilities include:

(i) All trauma patients and administrative authority for the hospital's trauma program, through the quality improvement process; and

(ii) Appointments and removals from the trauma service.

(B) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(C) **Surgical director.** The medical staff will designate a surgeon credentialed by the hospital to be the director of care for surgical and critical care for trauma patients.

(D) **Pediatrics.** A physician board certified, board eligible, or residency trained in pediatrics and competent in the care of pediatric emergencies must be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(E) **Orthopedics.** A physician board certified, board eligible, or residency trained in orthopedics and competent in the care of pediatric orthopedic emergencies must be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(3) **Supplies and equipment.**

(A) **Emergency department.** The hospital must have equipment for use in the resuscitation of pediatric patients on site, functional, and immediately available, including:

(i) The supplies and equipment listed in (a)(3)(A) through (O) of this Section for Level IV classification;

(ii) Standard intravenous fluids and administration devices suitable for infants, children, and adults including infusion pumps with microinfusion capability and large-bore intravenous catheters;

(iii) Specialized pediatric procedure trays:

(I) Lumbar puncture;

(II) Urinary catheterization;

(III) Umbilical vessel cannulation;

(IV) Airway control/cricothyrotomy;

(V) Thoracotomy;

(VI) Chest decompression.

(VII) Intraosseous infusion;

(VIII) Vascular access; and

(IX) Needle cricothyroidotomy set; and

(iv) Slit lamp.

(4) **Policies on transfers.** The hospital must have written policies for transfer to another hospital. [See (a)(4)(A) in this Section (relating to agreement and policies on transfers)].

(5) **Quality Improvement.** In addition to any other quality improvement requirements governing the hospital, quality improvement programs must include the following subjects:

(A) All of the quality improvement subjects listed for Level III classification as set forth in (a)(5) of this Section;

(B)

Published on call schedules for surgeons, neurosurgeons, and orthopedic surgeons; and

(C) Review of the times and reasons for trauma-related bypass.

(c) **Level II.** A Level II hospital will provide emergency pediatric medicine and trauma services with organized emergency and pediatrics departments and an organized pediatric trauma service with a designated general or pediatric surgeon as director. A physician and nursing staff with special capability in pediatric emergency and trauma care will be on site 24 hours a day. General surgery and anesthesiology services will be available on site or on call 24 hours a day. Services from additional clinical specialties including pediatrics, neurosurgery, orthopedics, and critical care must be promptly available on call. A hospital must be classified at Level II for emergency pediatric medicine and trauma services if it complies with all of this subsection:

(1) **Clinical services and resources.**

(A) **Pediatric trauma service.** A pediatric trauma service will be established by the medical staff and will be responsible for coordinating the care of injured pediatric patients, the training of personnel, and trauma quality improvement.

(i) Privileges for physicians participating in the pediatric trauma service will be determined by the medical staff credentialing process.

(ii) All pediatric patients with multiple-system or major injury shall be evaluated by the trauma service.

(iii) The surgeon responsible for the overall care of the admitted patient must be identified.

(B) **Emergency services.** A physician competent in the care of the seriously ill or injured pediatric patient and credentialed by the hospital to provide pediatric emergency medical services and nursing personnel with special capability in pediatric emergency and trauma care must be on site 24 hours a day.

(C) **Poison control center.** The hospital must have access by telephone or other electronic means to a regional poison control center.

(D) **Pediatric services.** The hospital must have an organized pediatric service with appropriately credentialed physicians experienced in the care of seriously ill or injured pediatric patients immediately available 24 hours a day. Physicians must be board certified, board eligible, or residency trained in pediatrics. On call physicians will respond as required by the hospital's policy.

(E) **General surgery.** A general surgeon or senior surgical resident competent and appropriately credentialed by the hospital must be on site or on call 24 hours a day and promptly available in the emergency department.

(F) **Anesthesia.** A board certified, board eligible, or residency trained anesthesiologist must be on site or on call 24 hours a day and promptly available in the emergency department. If the anesthesiologist is not present in the hospital before the physician's arrival, anesthesia services may be provided by a certified registered nurse anesthetist (CRNA). The CRNA will be considered competent in the assessment of emergent situations in trauma patients and of initiating and providing any indicated treatment. All anesthesia must be administered in accordance with OAC 310:667-25-2.

(G) **Neurologic surgery.** A board certified, board eligible, or residency trained neurosurgeon or other physician competent in the care of pediatric patients with neurotrauma and appropriately credentialed must be on site or on call 24 hours a day and promptly available in the emergency department. If care is initiated by a physician other than a neurosurgeon, the neurosurgeon on call will respond as required by the hospital's policy.

(H) **Orthopedics.** A physician board certified, board eligible, or residency trained in orthopedics and competent in the care of pediatric orthopedic emergencies will be on site or on call twenty-four (24) hours a day and promptly available in the emergency department.

(I) **Other specialties.** The hospital must also have the following specialty services on call and promptly available:

- (i) Cardiac surgery;
- (ii) Cardiology;

- (iii) Neurology;
- (iv) Obstetric/gynecologic surgery;
- (v) Ophthalmic surgery;
- (vi) Oral/maxillofacial surgery;
- (vii) Orthopedic surgery;
- (viii) Otolaryngology;
- (ix) Plastic surgery;
- (x) Pulmonary medicine;
- (xi) Radiology;
- (xii) Thoracic surgery; and
- (xiii) Urology and urologic surgery.

(J) **Operating suite.** An operating suite with adequate staff and equipment must be immediately available 24 hours a day. The hospital will define and document in writing the minimum staffing requirements for the operating suite. An on call schedule for emergency replacement staff will be maintained.

(K) **Post-anesthesia recovery unit.** The hospital will have a post-anesthesia recovery room or intensive care unit that is in compliance with OAC 310:667-15-7 and nursing personnel and anesthesia services will remain in the unit until the patient is discharged from post-anesthesia care.

(L) **Intensive care unit.** The hospital must have an intensive care unit and/or pediatric intensive care unit that includes:

- (i) Compliance with OAC 310:667-15-7;
- (ii) A registered nurse on duty in the unit when it has a patient;
- (iii) A registered nurse on call when the unit does not have a patient;
- (iv) Written policies defining the minimum staffing requirements for the intensive care unit that are monitored through the quality improvement program;
- (v) Nursing personnel have completed the Pediatric Advanced Life Support Program (PALS) offered through the American Heart Association or have equivalent training; and
- (vi) A physician with privileges in critical care must be on duty in the unit or immediately available in the hospital 24 hours a day.

(M) **Diagnostic imaging.** The hospital must have diagnostic x-ray services available 24 hours a day. A radiology technologist and computerized tomography technologist will be on duty or on call and immediately available 24 hours a day. A single technologist designated as qualified by the radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The

diagnostic imaging services include:

- (i) Angiography;
- (ii) Ultrasonography;
- (iii) Computed tomography;
- (iv) Magnetic resonance imaging;
- (v) Neuroradiology; and
- (vi) Nuclear medicine imaging.

(N) **Clinical laboratory service.** The hospital's clinical laboratory services must be available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) all the clinical laboratory services listed for Level III classification as set forth in (b)(1)(K) of this Section; and
- (ii) Cerebrospinal fluid and other body fluid cell counts.

(O) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators will be available 24 hours a day. Respiratory therapy services will comply with OAC 310:667-23-6.

(P) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(Q) **Burn Care.** A Level II hospital is subject to the same burn care requirements as a Level III hospital as set forth in (b)(1)(M) of this Section.

(R) **Spinal cord and head injury management.** The hospital must provide acute spinal cord and head injury management including at least the ability to initiate rehabilitative care prior to transfer and must have a written transfer agreement with a hospital that provides comprehensive rehabilitation services if comprehensive rehabilitation services are not available within the hospital.

(S) **Rehabilitation services.** A Level II hospital is subject to the same rehabilitation services requirements as a Level III hospital as set forth in (b)(1)(O) of this Section.

(T) **Acute hemodialysis.** The hospital will have the capability to provide acute hemodialysis services 24 hours a day. All nursing staff providing hemodialysis patient care must have documented hemodialysis training and experience.

(2) **Personnel.**

(A) **Pediatric trauma service director.** The medical staff will designate a general or pediatric surgeon as trauma service director. The trauma service director's responsibilities include:

- (i) all trauma patients and administrative authority for the hospital's trauma program, through the

quality improvement process; and

(ii) appointments and removals from the trauma service.

(B) **Pediatric trauma coordinator.** The hospital must have a designated trauma coordinator who may also serve as the prevention coordinator. Under the supervision of the trauma service director, the trauma coordinator is responsible for organizing the services and systems of the trauma service to ensure there is a multidisciplinary approach throughout the continuum of trauma care. The trauma coordinator will have an active role in the following:

(i) Clinical activities such as design of clinical protocols, monitoring care, and assisting the staff in problem solving;

(ii) Educational activities such as professional staff development, case reviews, continuing education, and community trauma education and prevention programs;

(iii) Quality improvement activities such as development of quality monitors, audits, and case reviews in all phases of trauma care;

(iv) Administrative tasks for the trauma service such as those related to services' organization, personnel, budget preparation, and accountability;

(v) Trauma registry data collection, coding, scoring, and validation; and

(vi) Consultation and liaison to the medical staff, prehospital emergency medical service agencies, patient families, and the community at large.

(C) **Prevention coordinator.** The hospital will have a designated prevention coordinator who may also serve as the trauma coordinator. Under the supervision of the trauma director, the prevention coordinator is responsible for the organization and management of the hospital's outreach, prevention, and public education activities.

(D) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(E) **Surgical director.** The medical staff will designate a surgeon credentialed by the hospital to be the director of care for surgical and critical care for trauma patients.

(F) **Pediatric services director.** The medical staff will designate a physician credentialed to provide pediatric care as pediatric services director.

(G) **Physician qualifications.** A physician board certified, board eligible, or residency trained in pediatric critical care medicine will be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(H) **Training.** Emergency room and intensive care personnel must have completed the Pediatric Advanced Life Support (PALS) program through the American Heart Association or have equivalent training.

(3) **Supplies and equipment.**

(A) **Emergency department.** The hospital must have equipment for use in the resuscitation of pediatric patients on site, functional, and immediately available, including at least the following:

- (i) the supplies and equipment listed for Level III classification in (a)(3)(A) through (O) in this Section;
- (ii) End-tidal CO₂ determination;
- (iii) Apparatus to establish central venous pressure monitoring;
- (iv) Standard intravenous fluids and administration devices suitable for infants, children, and adults including infusion pumps with microinfusion capability and large-bore intravenous catheters;
- (v) Specialized pediatric procedure trays:
 - (I) Lumbar puncture;
 - (II) Urinary catheterization;
 - (III) Umbilical vessel cannulation;
 - (IV) Airway control/cricothyrotomy;
 - (V) Thoracotomy;
 - (VI) Chest decompression.
 - (VII) Intraosseous infusion;
 - (VIII) Vascular access;
 - (IX) Needle cricothyroidotomy set; and
 - (X) Peritoneal lavage.
- (vi) Slit lamp.

(B) **Operating suite.** The operating suite must have the following supplies and equipment on site, functional and available for use:

- (i) Thermal control equipment for patients and infusion of blood, blood products, and other fluids;
- (ii) X-ray capability including c-arm intensifier;
- (iii) Equipment appropriate for fixation of long-bone and pelvic fractures;
- (iv) Craniotomy instruments; and
- (v) Endoscopes.

(C) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit will have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
- (ii) Equipment for the continuous monitoring of intracranial pressure;
- (iii) Thermal control equipment for patients and infusion of blood, blood products, and other fluids;
- (iv) End-tidal CO₂ determination; and

(v) Pulse oximetry.

(D) **Intensive care unit.** The intensive care unit must have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
- (ii) Cardiopulmonary resuscitation cart;
- (iii) Electrocardiograph-oscilloscope-defibrillator-pacer;
- (iv) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.

(4) **Policies on transfers.** The policies on transfers are as set forth in (a)(4)(A) of this Section (relating to agreements and policies on transfers).

(5) **Quality Improvement.** A Level II hospital is subject to the same quality improvement requirements as a Level III hospital as set forth in (b)(5) of this Section.

(6) **Continuing education.** The hospital will provide and document formal continuing education programs for physicians, nurses, allied health personnel, and community physicians. Continuing education programs will be available to all state physicians, nurses, allied health personnel, and emergency medical service providers.

(7) **Organ Procurement.** The hospital, in association with an organ procurement organization certified by CMS, must create and maintain policies and procedures to identify and refer potential organ donors.

(8) **Outreach programs.** The hospital will have organized outreach programs under the direction of a designated prevention coordinator.

(A) **Consultation.** The hospital will provide on-site and/or electronic consultations with community health care providers and those in outlying areas as requested and appropriate.

(B) **Prevention and public education programs.** The hospital will serve as a public information resource and collaborate with other institutions and national, regional, and state programs in research and data collection projects in epidemiology, surveillance, and injury prevention, and other areas.

(d) **Level I.** A Level I hospital will provide emergency pediatric medicine and trauma services with organized emergency and pediatrics departments and an organized pediatric trauma service with a designated pediatric surgeon as director. Pediatric surgery, pediatric anesthesiology, pediatric neurosurgery, and pediatric critical care services including a dedicated pediatric intensive care unit (PICU) must be available on site 24 hours a day. The hospital must have the prompt availability of additional clinical services and specialties such as pediatric

cardiology, pediatric nephrology, and pediatric infectious disease specialists. A level I hospital also must have an organized trauma research program with a designated director. A hospital must be classified at Level I for emergency pediatric medicine and trauma services if it complies with all of this subsection:

(1) **Clinical services and resources.**

(A) **Pediatric trauma service.** A Level I hospital is subject to the same pediatric trauma service requirements as a Level II hospital as set forth in (c)(1)(A) of this Section.

(B) **Emergency services.** A physician competent in the care of the critically injured pediatric patient and credentialed by the hospital to provide pediatric emergency medical services and nursing personnel with special capability in pediatric emergency and trauma care must be on site 24 hours a day. The emergency department has geographically separate and distinct pediatric medical/trauma areas that have all the staff, equipment, and skills necessary for comprehensive pediatric emergency care. Separate fully equipped pediatric resuscitation rooms must be available and capable of supporting at least two simultaneous resuscitations.

(C) **Poison control center.** The hospital must have access by telephone or other electronic means to a regional poison control center.

(D) **Pediatric services.** A Level I hospital is subject to the same pediatric services requirements as a Level II hospital as set forth in (c)(1)(D) of this Section.

(E) **Cardiac catheterization laboratory.** The hospital must have a full-service cardiac catheterization laboratory or laboratories capable of providing both diagnostic and therapeutic procedures on the heart and great vessels for a wide variety of cardiovascular diseases. Diagnostic, therapeutic, and electrophysiology laboratories will be supervised by physicians with appropriate training and expertise in the procedures performed and who are properly credentialed by the medical staff. When primary percutaneous transluminal coronary angioplasty (PTCA) is performed, prompt access to emergency coronary arterial bypass graft (CABG) surgery must be available.

(F) **Pediatric surgery.** A board certified, board eligible, or residency trained pediatric surgeon or senior surgical resident competent and appropriately credentialed by the hospital must be on site 24 hours a day and promptly available in the emergency department.

(G) **Pediatric anesthesia.** A board certified, board eligible, or residency trained pediatric anesthesiologist must be on site 24 hours a day and promptly available in the emergency department. If the anesthesiologist is not present in the hospital before the physician's arrival,

anesthesia services may be provided by a certified registered nurse anesthetist (CRNA). The CRNA must be considered competent in the assessment of emergent situations in pediatric patients and of initiating and providing any indicated treatment.

(H) **Neurologic surgery.** A board certified, board eligible, or residency trained neurosurgeon or other physician competent in the care of pediatric patients with neurotrauma and appropriately credentialed must be on site 24 hours a day and promptly available in the emergency department. If care is initiated by a physician other than a neurosurgeon, the neurosurgeon on call will respond as required by the hospital's policy.

(I) **Orthopedics.** A Level I hospital is subject to the same orthopedics requirements as a Level II hospital as set forth in (c)(1)(H) of this Section.

(J) **Other specialties.** The hospital must also have the following specialty services on call and promptly available:

- (i) Cardiovascular surgery;
- (ii) Hand surgery;
- (iii) Microvascular surgery;
- (iv) Ophthalmology;
- (v) Oral/maxillofacial surgery;
- (vi) Otolaryngology;
- (vii) Pediatric allergy/immunology;
- (viii) Pediatric cardiology;
- (ix) Pediatric endocrinology;
- (x) Pediatric gastroenterology;
- (xi) Pediatric hematology/oncology;
- (xii) Pediatric infectious disease;
- (xiii) Pediatric intensivist;
- (xiv) Pediatric nephrology;
- (xv) Pediatric neurology;
- (xvi) Pediatric pulmonology;
- (xvii) Plastic surgery;
- (xviii) Psychiatry/psychology;
- (xix) Radiology; and
- (xx) Urology and urologic surgery.

(K) **Operating suite.** A Level I hospital is subject to the same operating suite requirements as a Level II hospital as set forth in (c)(1)(J) of this Section.

(L) **Post-anesthesia recovery unit.** A Level I hospital is subject to the same post-anesthesia recovery unit requirements as a Level II hospital as set forth in (c)(1)(K) of this Section.

(M) **Pediatric intensive care unit (PICU).**

- (i) The hospital must have a pediatric intensive care unit that includes:

- (I) Compliance with OAC 310:667-15-7;
- (II) A registered nurse on duty in the intensive care unit when it has a patient;

- (III) A registered nurse on call and immediately available when the unit does not have a patient;
- (IV) Written policies defining the minimum staffing requirements for the pediatric intensive care unit;
- (V) A physician with privileges in pediatric critical care must be on duty in the unit or immediately available in the hospital 24 hours a day.

(ii) The pediatric intensive care unit will be a distinct, separate unit within the hospital, with privileges of physicians and allied health personnel delineated in writing.

(iii) The medical director and medical staff will establish and approve written policies for at least the following:

- (I) Admission/discharge;
- (II) Minimum staffing;
- (III) Patient monitoring;
- (IV) Safety;
- (V) Nosocomial infection;
- (VI) Patient isolation;
- (VII) Visitation;
- (VIII) Traffic control;
- (IX) Equipment operation and maintenance;
- (X) Coping with and recovering from the breakdown of essential equipment; and
- (XI) Patient record-keeping.

(N) **Diagnostic Imaging.** A Level I hospital is subject to the same diagnostic imaging requirements as a Level II hospital as set forth in (c)(1)(M) of this Section.

(O) **Clinical laboratory service.** The hospital's clinical laboratory services must be available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. The clinical laboratory must have the capability to analyze microspecimen volumes when appropriate. These services include:

- (i) Comprehensive immunohematology services including blood typing and compatibility testing;
- (ii) A supply of blood and blood products on hand that is properly stored and adequate to meet expected patient needs;
- (iii) Access to services provided by a community central blood bank;
- (iv) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (v) Therapeutic drug monitoring;

- (vi) Cerebrospinal fluid and other body fluid cell counts;
- (vii) Coagulation studies;
- (viii) Blood gas/pH analysis;
- (ix) Comprehensive microbiology services with immediate availability of Gram stain preparations and at least appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures; and
- (x) Drug and alcohol screening.

(P) **Respiratory therapy.** A Level I hospital is subject to the same respiratory therapy requirements as a Level II hospital as set forth in (c)(1)(O) of this Section.

(Q) **Acute hemodialysis.** The hospital must have the capability to provide acute hemodialysis services 24 hours a day. All nursing staff providing hemodialysis patient care must have documented hemodialysis training and experience with pediatric patients.

(R) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(S) **Physical and occupational therapy services.**

Physical and occupational therapy will be available and provided in accordance with Subchapter 23 of this Chapter.

(T) **Dietetic and nutrition services.** Dietetic and nutrition services will be available and in accordance with Subchapter 17 of this Chapter.

(U) **Burn Care.** A Level I hospital is subject to the same burn care requirements as a Level III hospital as set forth in (b)(1)(M) of this Section.

(V) **Spinal cord and head injury management.** A Level I hospital is subject to the same spinal cord and head injury management requirements as a Level II hospital as set forth in (c)(1)(R) of this Section.

(W) **Rehabilitation services.** A Level I hospital is subject to the same rehabilitation services requirements as a Level III hospital as set forth in (b)(1)(O) of this Section. A Level I hospital is subject to the same rehabilitation services requirements as a Level III hospital as set forth in (b)(1)(O) of this Section.

(2) **Personnel.**

(A) **Pediatric trauma service director.** The medical staff will designate a board certified, board eligible, or residency trained pediatric surgeon as pediatric trauma service director. Through the quality improvement process, the director's responsibilities include all pediatric trauma patients and administrative authority for the hospital's pediatric trauma program. The pediatric trauma service director will be responsible for recommending

appointment to and removal from the pediatric trauma service.

(B) **Pediatric trauma coordinator.** The hospital will have a designated pediatric trauma coordinator who may also serve as the prevention coordinator. Under the supervision of the pediatric trauma service director, the pediatric trauma coordinator is responsible for organizing the services and systems of the pediatric trauma service to ensure there is a multidisciplinary approach throughout the continuum of pediatric trauma care. The pediatric trauma coordinator will have an active role in the following:

- (i) Clinical activities such as design of clinical protocols, monitoring care, and assisting the staff in problem solving;
- (ii) Educational activities such as professional staff development, case reviews, continuing education, and community trauma education and prevention programs;
- (iii) Quality improvement activities such as development of quality monitors, audits, and case reviews in all phases of pediatric trauma care;
- (iv) Administrative tasks for the pediatric trauma service such as those related to services' organization, personnel, budget preparation, and accountability;
- (v) Trauma registry data collection, coding, scoring, and validation; and
- (vi) Consultation and liaison to the medical staff, prehospital emergency medical service agencies, patient families, and the community at large.

(C) **Prevention coordinator.** The hospital will have a designated prevention coordinator who may also serve as the pediatric trauma coordinator. Under the supervision of the pediatric trauma director, the prevention coordinator is responsible for the organization and management of the hospital's outreach, prevention, and public education activities.

(D) **Emergency services director.** The medical staff will designate a physician credentialed to provide pediatric emergency medical care as emergency services director.

(E) **Surgical director.** The medical staff will designate a board certified, board eligible, or residency trained pediatric surgeon credentialed by the hospital to provide pediatric critical care as the surgical director for trauma patients.

(F) **Research director.** The medical staff will designate a physician as research director who may also serve as the pediatric trauma service director. The research director is responsible for the organization and management of the hospital's trauma and emergency operative research

activities.

(G) **PICU medical director.** The medical staff will designate a physician board certified, board eligible, or residency trained in critical care medicine as PICU medical director. The PICU medical director will participate in developing and reviewing PICU policies, promote policy implementation, participate in budget preparation, help coordinate staff education, supervise resuscitation techniques, lead quality improvement activities, and coordinate research.

(H) **PICU nurse manager.** The hospital will have a PICU nurse manager with training and experience in pediatric critical care dedicated to the PICU. The PICU nurse manager will participate in the development of written policies and procedures for the PICU, coordinate staff education, budget preparation, and coordination of research.

(3) **Supplies and equipment.**

(A) **Emergency department.** The hospital must have equipment for use in the resuscitation of pediatric patients on site, functional, and immediately available, including at least the following:

- (i) All the equipment listed for Level II classification as set forth in (c)(3)(A) of this Section;
- (ii) Portable electroencephalographic equipment; and
- (iii) Subdural access that is included as part of the specialized pediatric procedure tray.

(B) **Operating suite.** The operating suite must have the following supplies and equipment on site, functional and available for use:

- (i) The operating suite equipment listed for Level II classification in (c)(3)(B)(i) through (iv) of this Section;
- (ii) Operating microscope;
- (iii) Cardiopulmonary bypass capability; and
- (iv) Pediatric endoscopes and bronchoscopes.

(C) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit will have the following supplies and equipment on site, functional, and available for use:

- (i) The post-anesthesia recovery unit equipment listed for Level II classification in (c)(3)(C)(i) through (iv); and
- (ii)
- (iii) Pulse oximeter with adult and pediatric probes.

(D) **Pediatric intensive care unit.** The pediatric intensive care unit must have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange.

Bedside monitors in the pediatric intensive care unit will have audible and visible high and low alarms for each statistic, provide a hard copy of the heart rhythm strip, and have the capability of simultaneously monitoring:

- (I) Systemic arterial pressure;
 - (II) Central venous pressure;
 - (III) Pulmonary arterial pressure;
 - (IV) Intracranial pressures;
 - (V) Heart rate and rhythm;
 - (VI) Respiratory rate; and
 - (VII) Temperature.
- (ii) Cardiopulmonary resuscitation cart;
 - (iii) Electrocardiograph-oscilloscope-defibrillator-pacer;
 - (iv) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.

(4) **Policies on transfers.** The policies on transfers are as set forth in (a)(4)(A) of this Section (relating to agreements and policies on transfers).

(5) **Quality Improvement.** In addition to any other quality improvement requirements governing the hospital, the quality improvement program must include:

(A) **Trauma committee.** The hospital will establish a multidisciplinary committee composed of the trauma service director, emergency services director, trauma coordinator, and other members of the medical and nursing staff that treat trauma and emergency operative patients. The trauma committee will meet regularly to review and evaluate patient outcomes and the quality of care provided by the trauma service. The quality improvement program includes:

- (i) Trauma registry;
- (ii) Audit for all pediatric deaths to include prehospital care and care received at a transferring hospital;
- (iii) Incident reports related to pediatric patients;
- (iv) Pediatric transfers;
- (v) Child abuse cases;
- (vi) Pediatric cardiopulmonary or respiratory arrests;
- (vii) Pediatric admissions within 48 hours of an emergency department visit;
- (viii) Pediatric surgery within 48 hours of discharge from an emergency department;
- (ix) Morbidity and mortality review;
- (x) Regularly scheduled multidisciplinary trauma and emergency operative services review

conference;

(xi) Medical nursing audit, utilization review, tissue review;

(xii) Published on call schedules for surgeons, neurosurgeons, and orthopedic surgeons;

(xiii) Review of the times and reasons for trauma-related bypass;

(xiv) The availability and response times of on call staff specialists will be defined in writing, documented, and continuously monitored; and

(xv) Quality improvement staff with the time dedicated to and specific for trauma and emergency operative services.

(B) **PICU committee.** The hospital will establish a PICU committee composed of physicians, nurses, and other allied health personnel directly involved with activities in the PICU. The PICU committee will meet regularly to review and evaluate patient outcomes and the quality of care provided by the PICU. The PICU quality improvement program may be conducted in conjunction with the trauma and emergency operative services program and includes:

(i) Special audit for all PICU deaths;

(ii) Morbidity and mortality review;

(iii) Medical nursing audit, utilization review, tissue review;

(iv) Regularly scheduled multidisciplinary PICU review conference;

(v) Review of prehospital care;

(vi) Published on call schedules for surgeons, neurosurgeons, and orthopedic surgeons; and

(vii) The availability and response times of on call staff specialists must be defined in writing, documented, and continuously monitored.

(6) **Continuing education.** A Level I hospital is subject to the same continuing education requirements as a Level II hospital as set forth in (c)(6) of this Section.

(7) **Organ Procurement.** A Level I hospital is subject to the same organ procurement requirements as a Level II hospital as set forth in (c)(7) of this Section.

(8) **Outreach programs.** A Level I hospital is subject to the same outreach program requirements as a Level II hospital as set forth in (c)(8) in this Section.

(9) **Research programs.** The hospital will have an organized pediatric services research program under the direction of a designated research director. Research groups will meet regularly and all research proposals will be approved by an Institutional Review Board (IRB) prior to launch. The research director will maintain evidence of the productivity of the research program through documentation of presentations and copies of published articles.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-14. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-15. Classification of emergency dental services

(a) **Level III.** A Level III hospital will provide basic emergency dental services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or intermediate or paramedic level emergency medical technician on site 24 hours a day. A hospital must be classified at Level III for emergency dental services if it complies with all of this subsection:

- (1) **Clinical services and resources.** Diagnostic, surgical, or medical specialty services are not required.
- (2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or Intermediate, Advanced Emergency Medical Technician (AEMT) or paramedic, as defined in OAC 310:641-1-7, will be on site 24 hours a day.
- (3) **Supplies and equipment.** Drugs necessary for the treatment of dental emergencies such as analgesics and antibiotics will be on site and immediately available:
- (4) **Agreements and policies on transfers.**

(A) The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those requiring stabilizing treatment and transfer to another hospital.

(B) The hospital must have a written agreement with a dentist or oral and maxillofacial surgeon to provide immediate consultative services for dental patients 24 hours a day. These consultative services must include providing instructions for the initiation of appropriate therapy and/or patient referral to an alternate facility or immediate transfer to a facility capable of providing definitive dental care when appropriate.

(b) **Level II.** A Level II hospital will provide emergency dental services with an organized emergency department. A physician and nursing staff must be on site 24 hours a day. The hospital will have basic facilities for the management of minor dental emergencies. A hospital must be classified at Level II for emergency dental services if it complies with all of this subsection:

- (1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the seriously ill or injured patient and credentialed by the hospital to provide emergency medical services and nursing personnel must be on site 24 hours a day.

(B) **Dental services.** An appropriately credentialed dental practitioner must be on call 24 hours a day and promptly available in the emergency department.

(C) **Oral and maxillofacial surgery.** An appropriately credentialed oral and maxillofacial surgeon will be on call 24 hours a day and promptly available in the emergency department.

(D) **Operatory.** An operatory or operating room equipped to provide treatment for dental emergencies such as odontalgia, oral hemorrhage, dental abscesses, and subluxated, avulsed, and fractured teeth must be available 24 hours a day.

(E) **Diagnostic imaging.** The hospital's diagnostic x-ray services, including intraoral radiography capability, must be available 24 hours a day. A radiology technologist will be on duty or on call and immediately available 24 hours a day.

(F) **Clinical laboratory service.** The hospital's clinical laboratory services must be available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (ii) Coagulation studies; and
- (iii) Comprehensive microbiology services or at least appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures.

(2) **Personnel.**

(A) **Dental practitioner.** An appropriately credentialed dental practitioner will be available for consultation on site or on call and promptly available in the emergency room 24 hours a day.

(B) **Dental assistant.** A dental assistant or other appropriately trained staff will be on site or on call and promptly available to assist the dental practitioner in the operatory or operating room.

(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3), the the hospital's operatory or operating room will have the following stationary or portable equipment for use in the management of minor dental emergencies on site, functional, and available:

- (A) Contour treatment chair or operating table appropriate for use in dental procedures;
- (B) Dental operative light;
- (C) Dental delivery unit with:
 - (i) High and low-speed handpieces;

- (ii) Three way air/water syringe;
- (iii) High volume suction; and
- (iv) Saliva ejector.

(D) Amalgamator;

(E) Spot welder;

(F) Rubber dams, punch, and clamps;

(G) Sterile procedure sets for:

- (i) Tooth avulsions;
- (ii) Minor alveolar fractures;
- (iii) Endodontic kit; and
- (iv) Soft tissue tray for lacerations.

(H) Appropriate dental tools such as mirrors, explorers, probes, curettes, excavators, burs and stones, rongeurs, elevators, files, reamers, mallet and chisels, mouth props, and amalgam tools as appropriate;

(I) Rotary drill; and

(J) Drugs and consumable supplies necessary for the treatment of dental emergencies such as analgesics, antibiotics, adhesives and cements.

(4) **Policies on transfers.** The policies on transfers are as set forth in (a)(4)(A) of this Section (relating to agreements and policies on transfers).

(c) **Level I.** A Level I hospital will provide comprehensive emergency dental services with an organized dental service and emergency department. A physician and nursing staff must be on site 24 hours a day. An oral and maxillofacial surgeon and anesthesiology services will be available either on duty or on call. The hospital must be able to provide definitive care for complex dental emergencies. A hospital must be classified at Level I for emergency dental services if it complies with all of this subsection:

(1) **Clinical services and resources.**

(A) **Emergency services.** A Level I hospital is subject to the same emergency services requirements as a Level II hospital as set forth in (b)(1)(A) of this Section.

(B) **Dental services.** Dental services will be established by the medical staff. Privileges for physicians and dental practitioners participating in the dental service will be determined by the medical staff credentialing process. The dental service will be consulted on all patients with oral-facial pain, infection, swelling, and/or trauma.

(C) **Oral and maxillofacial surgery.** A board certified or board prepared oral and maxillofacial surgeon will be on call 24 hours a day and promptly available in the emergency department.

(D) **Anesthesia.** Anesthesia services must be on call 24 hours a day, promptly available, and administered in accordance with OAC 310:667-25-2.

(E) **Other specialties.** The hospital will also have the following specialty services available as needed either on site or as part of a dental referral network:

- (i) Endodontics;

- (ii) Orthodontics;
- (iii) Pedodontics;
- (iv) Periodontics; and
- (v) Prosthodontics.

(F) **Operatory.** An operatory equipped to provide treatment for dental emergencies such as odontalgia, oral hemorrhage, dental abscesses, and subluxated, avulsed, and fractured teeth must be available 24 hours a day.

(G) **Operating suite.** An operating suite with thermal control equipment for patients and infusion of blood and fluids will be available 24 hours a day.

(H) **Post-anesthesia recovery unit.** The hospital will have a post-anesthesia recovery room or surgical intensive care unit that is in compliance with OAC 310:667-15-7 and nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(I) **Intensive care unit.** The hospital's intensive care unit must include:

- (i) Compliance with OAC 310:667-15-7;
- (ii) A registered nurse on duty in the intensive care unit when it has a patient; and
- (iii) A registered nurse on call and immediately available when the unit does not have a patient.

(J) **Diagnostic imaging.** The hospital's diagnostic x-ray services must be available 24 hours a day. A radiology technologist will be on duty or on call and immediately available 24 hours a day. The diagnostic imaging services provided by the hospital will include:

- (i) Panoramic radiography;
- (ii) Cephalometric radiography; and
- (iii) intraoral radiography.

(K) **Clinical laboratory service.** The hospital's clinical laboratory services must be available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) Comprehensive immunohematology services including blood typing and compatibility testing.
- (ii) A supply of blood and blood products on hand that is properly stored and adequate to meet expected patient needs.
- (iii) The hospital will have access to services provided by a community central blood bank;
- (iv) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (v) Coagulation studies;
- (vi) Blood gas/pH analysis; and

(vii) Comprehensive microbiology services or at least appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures.

(2) **Personnel.**

(A) **Dental practitioner.** Practitioners board certified or board prepared in endodontics, orthodontics, periodontics, and prosthodontics will be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(B) **Dental assistant.** A dental assistant or other appropriately trained staff will be available to assist the dental practitioner in the operator 24 hours a day.

(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital's operator will have the following stationary or portable equipment for use in the management of minor dental emergencies on site, functional, and available:

(A) The supplies and equipment listed for Level II classification in (b)(3)(B) through (J) in this Section; and

(B) Contour treatment chair;

(4) **Policies on transfers.** The policies on transfers are as set forth in (a)(4)(A) of this Section (relating to agreements and policies on transfers).

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-16. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-17. Classification of emergency obstetric and gynecologic services

(a) **Level IV.** A Level IV hospital will provide basic obstetric and gynecologic services, including emergency delivery, with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or Intermediate, Advanced Emergency Medical Technician (AEMT), or paramedic, as defined in OAC 310:641-1-7, on site 24 hours a day. A hospital must be classified at Level IV for emergency obstetric and gynecologic services if it complies with all of this subsection:

(1) **Clinical services and resources.** Diagnostic, surgical, or medical specialty services are not required.

(2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or an AEMT, or paramedic, as defined in OAC 641-1-7, is required on site 24 hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic, at least one of the practitioners on duty must have received training in evaluating

obstetric risk factors and protocols for immediate transfer of high risk obstetric cases.

(3) **Supplies and equipment.** In addition to OAC 310:667-59-9(a)(3), the hospital must have the following equipment and supplies on site, functional, and immediately available:

- (A) Obstetrics pack;
- (B) Nitrazine (pH) paper for detecting amniotic fluid when membranes are ruptured;
- (C) Equipment to monitor fetal heart rate and pattern electronically or by auscultation;
- (D) Heat source or procedure for infant warming; and
- (E) Ophthalmic antiseptics for neonates.

(4) **Agreements and policies on transfers.**

(A) The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another hospital. Written policies and procedures shall include where and how neonates shall be cared for until transfer to an appropriate facility can be completed.

(B) The hospital must have a written agreement with a hospital, or obstetrician-gynecologist, or group of obstetrician-gynecologists to provide immediate consultative services for obstetric and gynecologic patients 24 hours a day. Such services shall include the immediate interpretation of obstetric and neonatal risk factors and providing instructions for the initiation of appropriate therapy and/or patient transfer.

(b) **Level III.** A Level III hospital will provide emergency medical services with an organized emergency department. A physician and nursing staff with special capability in obstetric and gynecologic care are required on site 24 hours a day. A hospital must be classified at Level III for emergency obstetric and gynecologic services if it complies with all of this subsection:

(1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the emergent obstetric or gynecologic patient and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in obstetric and gynecologic care must be on site 24 hours a day.

(B) **General surgery.** A board certified, board eligible, or residency trained general surgeon must be on call 24 hours a day and promptly available in the emergency department.

(C) **Anesthesia.** Anesthesia services must be on call 24 hours a day, promptly available, and administered in accordance with OAC 310:667-25-2.

(D) **Operating suite.** An operating suite with thermal control equipment for patients and infusion of blood and fluids must be available 24 hours a day.

(E) **Post-anesthesia recovery unit.** The hospital must have a post-anesthesia recovery room or intensive care unit that is in compliance with OAC 310:667-15-7 with nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(F) **Intensive care unit.** The hospital's intensive care unit must include:

- (i) Compliance with OAC 310:667-15-7;
- (ii) A registered nurse on duty in the intensive care unit when it has a patient;
- (iii) A registered nurse on call and immediately available when the unit does not have a patient;
- (iv) Written policies defining the minimum staffing requirements for the intensive care unit that must be monitored through the quality improvement program.

(G) **Diagnostic imaging.** The hospital will have diagnostic x-ray and ultrasonography services, including ultrasonography, available 24 hours a day. A radiology technologist and staff designated as qualified to perform ultrasonography will be on duty or on call and immediately available 24 hours a day.

(H) **Clinical laboratory service.** The hospital must have clinical laboratory services available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) Comprehensive immunohematology services including blood typing and compatibility testing;
- (ii) A supply of blood and blood products, including Rho (D) immune globulin on hand that is properly stored and adequate to meet expected patient needs;
- (iii) Access to services provided by a community central blood bank;
- (iv) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing including urine and serum assays for the beta subunit of human chorionic gonadotropin (β -hCG) and quantitative or semiquantitative urine protein;
- (v) Blood gas/pH;
- (vi) Comprehensive microbiology services or appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures;
- (vii) Drug and alcohol screening; and
- (viii) Coagulation studies, including:

- (I) Prothrombin time (PT) and activated partial thromboplastin time (aPTT);
- (II) Fibrinogen; and
- (III) Assay for fibrin degradation products or an equivalent test;

(I) **Social services.** Social services must be available and provided as required in Subchapter 31 of this Chapter.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Obstetrician-gynecologist.** A physician board certified, board eligible, or residency trained in obstetrics and gynecology must be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(3) **Supplies and equipment.**

(A) **Emergency department.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital must have the following equipment and supplies for use in the management of emergent obstetric, gynecologic, and neonatal patients on site, functional, and available in the emergency department, including at least the following:

- (i) The emergency department supplies and equipment listed in (a)(3)(A) through (E) of this Section for Level IV classification;
- (ii) Pulse oximetry with adult and pediatric probes;
- (iii) Drugs necessary for care of the emergent obstetric or gynecologic patient including:

- (I) Oxytocic agents;
- (II) Tocolytic agents;
- (III) Prostaglandins;
- (IV) Ergotic agents;
- (V) Antihypertensives; and
- (VI) Magnesium sulfate.

(iv) Drugs necessary for care of the depressed neonatal patient including:

- (I) Epinephrine;
- (II) Volume expanders
- (III) Sodium bicarbonate;
- (IV) Dextrose solutions; and
- (V) Naloxone hydrochloride.

(v) Sterile procedure trays for episiotomy; and

(vi) Supplies, equipment, and written protocols for the examination of sexual assault victims and for the collection of specimens and the preservation of the chain of evidence including:

- (I) Preassembled sexual assault examination kits;
- (II) Consent, chain of evidence, and sexual assault examination forms; and

(III) Long-wave ultraviolet lamp;

(B) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit will have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
- (ii) Pulse oximetry;
- (iii) End-tidal CO₂ determination; and
- (iv) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.

(C) **Intensive care unit.** The intensive care unit must have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
- (ii) Cardiopulmonary resuscitation cart;
- (iii) Electrocardiograph-oscilloscope-defibrillator-pacer;
- (iv) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.

(4) **Agreements and policies on transfers.** A Level III hospital is subject to the same agreements and policies on transfers requirement as a Level IV hospital as set forth in (a)(4) of this Section.

(c) **Level II.** A Level II hospital will provide emergency medical services with organized emergency and obstetrics-gynecology and departments. A physician and nursing staff with special capability in obstetric and gynecologic care are required on site 24 hours a day. The hospital will have a dedicated obstetrics unit as well as a newborn nursery and will have the capability to provide immediate delivery by emergency cesarean section. Laparoscopy and laparotomy procedures will be immediately available when required for obstetric and gynecologic emergencies. A hospital must be classified at Level II for emergency obstetric and gynecologic services if it complies with all of this subsection:

(1) **Clinical services and resources.**

(A) **Emergency services.** A Level II hospital is subject to the same emergency services requirements as a Level III hospital as set forth in (b)(1)(A) of this Section.

(B) **Obstetrics and gynecology.** The hospital will have an organized obstetrics-gynecology service with appropriately credentialed physicians experienced in obstetric and gynecologic procedures must be on call and immediately available 24 hours a day. Physician members of the obstetric-gynecology service must be board certified, board eligible, or residency trained in obstetrics and gynecology. On call physicians will respond as required by the hospital's policy.

(C) **Obstetrics unit.** The hospital will have a dedicated obstetrics unit available 24 hours a day. Labor, delivery, and recovery areas will be:

- (i) appropriately equipped to manage high-risk pregnancies and deliveries including equipment and medications necessary for maternal and neonatal resuscitation procedures; and
- (ii) staffed with nursing personnel with special capability in obstetric and neonatal care.

(D) **Newborn nursery.** The hospital will have a dedicated newborn nursery appropriately equipped and staffed with nursing personnel with special capability in neonatal care.

(E) **Pediatrics.** A physician board certified, board eligible, or residency trained in pediatrics and competent in the care of pediatric emergencies must be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(F) **General surgery.** A board certified, board eligible, or residency trained general surgeon must be on call 24 hours a day and promptly available.

(G) **Anesthesia.** Anesthesia services must be on call 24 hours a day, promptly available, and administered in accordance with OAC 310:667-25-2.

(H) **Operating suite.** An operating suite with adequate staff and equipment must be immediately available 24 hours a day. The hospital will define and document in writing the minimum staffing requirements for the operating suite. An on call schedule for emergency replacement staff must be maintained.

(I) **Post-anesthesia recovery unit.** A Level II hospital is subject to the same post-anesthesia recovery unit requirements as a Level III hospital as set forth in (b)(1)(E) of this Section.

(J) **Intensive care unit.** A Level II hospital is subject to the same intensive care unit requirements as a Level III hospital as set forth in (b)(1)(F) of this Section.

(K) **Diagnostic imaging.** The hospital will have diagnostic x-ray, computerized tomography, and ultrasonography services available 24 hours a day. A radiologic technologist, computerized tomography technologist, and staff designated as qualified to perform ultrasonography will be on duty or on call and immediately available 24 hours a day. A single technologist designated as qualified by the radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging services include:

- (i) Ultrasonography;
 - (I) Transabdominal; and
 - (II) Endovaginal.

- (ii) Computed tomography; and
- (iii) Magnetic resonance imaging.

(L) **Clinical laboratory service.** The hospital must have clinical laboratory services available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) The services listed in (b)(1)(H)(i) through (vii) in this Section for Level III classification;
- (ii) Tests for fetal lung maturity;
- (iii) Serum hormone tests including:
 - (I) Progesterone;
 - (II) Follicle stimulating hormone;
 - (III) Leutinizing hormone; and
 - (IV) Prolactin.
- (iv) Coagulation studies including:
 - (I) Prothrombin time (PT) and activated partial thromboplastin time (aPTT);
 - (II) Plasminogen;
 - (III) Factor assays;
 - (IV) Fibrinogen; and
 - (V) Assay for fibrin degradation products or an equivalent test.

(M) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators will be available 24 hours a day. Respiratory therapy services will comply with OAC 310:667-23-6.

(N) **Social services.** Social services will be available and provided in accordance with Subchapter 31 of this Chapter.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Obstetrics-gynecology services director.** The medical staff will designate a physician board certified, board eligible, or residency trained in obstetrics and gynecology and credentialed to provide obstetric and gynecologic care as obstetric-gynecology services director.

(C) **Pediatric services director.** The medical staff will designate a physician board certified, board eligible, or residency trained in pediatrics and credentialed to provide care as pediatric services director.

(D) **Newborn nursery services director.** The medical staff will designate a physician board certified, board eligible, or residency trained in pediatrics and credentialed to provide pediatric care as the newborn nursery services director. The pediatric services director may also serve as the newborn nursery services director.

(E) **Physician qualifications.** Physician members of the obstetrics-gynecology service must be board certified, board eligible, or residency trained in obstetrics and gynecology.

(F) **Training.** Emergency room, obstetrics unit, and newborn nursery nursing personnel must have completed the Pediatric Advanced Life Support Program (PALS) offered through the American Heart Association or have equivalent training.

(3) **Supplies and equipment.**

(A) **Emergency department.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital must have the following equipment and supplies for use in the management of emergent obstetric, gynecologic, and neonatal patients on site, functional, and available in the emergency department:

- (i) Obstetrics pack;
- (ii) Nitrazine (pH) paper for detecting amniotic fluid when membranes are ruptured;
- (iii) Equipment to monitor fetal heart rate and pattern electronically;
- (iv) Ophthalmic antiseptics for neonates;
- (v) Pulse oximetry with adult and pediatric probes;
 - (I) Oxytocic agents;
 - (II) Tocolytic agents;
 - (III) Prostaglandins;
 - (IV) Ergotic agents;
 - (V) Antihypertensives; and
 - (VI) Magnesium sulfate.
- (vii) Drugs necessary for care of the depressed neonatal patient including:
 - (I) Epinephrine;
 - (II) Volume expanders
 - (III) Sodium bicarbonate;
 - (IV) Dextrose solutions; and
 - (V) Naloxone hydrochloride.
- (viii) Radiant warmer;
- (ix) Sterile procedure trays for episiotomy; and
- (x) Supplies, equipment, and written protocols for the examination of sexual assault victims and for the collection of specimens and the preservation of the chain of evidence including:
 - (I) Preassembled sexual assault examination kits;
 - (II) Consent, chain of evidence, and sexual assault examination forms; and
 - (II) Long-wave ultraviolet lamp;

(B) **Obstetrics unit.** The obstetrics unit will have the following supplies and equipment on site, functional, and available for use:

- (i) Cardiopulmonary resuscitation cart;

- (ii) Electrocardiograph-oscilloscope-defibrillator-pacer;
- (iii) Equipment for continuous electronic fetal monitoring;
- (iv) Equipment for external tocography
- (v) An open, stable area under a radiant warmer with available oxygen and suction and the following equipment for use in neonatal resuscitation:

- (I) Bulb syringe;
- (II) Assorted suction catheters;
- (III) Neonatal oral airways of various sizes;
- (IV) Neonatal endotracheal tubes of various sizes and stylets;
- (V) Neonatal ventilation masks and bag-mask resuscitator;
- (VI) Neonatal laryngoscope with #0 and #1 blades; and
- (VII) Neonatal orogastric tube.

- (vi) Drugs necessary for care of the depressed neonatal patient including:

- (I) Epinephrine;
- (II) Volume expanders
- (III) Sodium bicarbonate;
- (IV) Dextrose solutions; and
- (V) Naloxone hydrochloride.

(C) **Operating suite.** The operating suite must have the following supplies and equipment on site, functional and available for use:

- (i) Thermal control equipment for patients and infusion of blood, blood products, and other fluids;
- (ii) X-ray capability including c-arm intensifier; and
- (iii) Endoscopes.

(D) **Post-anesthesia recovery unit.** A Level II hospital is subject to the same post-anesthesia recovery unit requirements as a Level III hospital as set forth in (b)(3)(B) of this Section.

(E) **Intensive care unit.** A Level II hospital is subject to the same post-anesthesia recovery unit requirements as a Level III hospital as set forth in (b)(3)(B) of this Section.

(4) **Policies on transfers.** The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those requiring stabilizing treatment and transfer to another hospital.

(d) **Level I.** A Level I hospital will provide emergency medical services with organized emergency, obstetrics-gynecology and neonatology departments. A physician and nursing staff with special capability in obstetric and gynecologic care are required on site 24 hours a day. The hospital must have a dedicated obstetrics unit as well as a newborn nursery and neonatal intensive care unit. The hospital will have the

capability to provide immediate delivery by emergency cesarean section. Laparoscopy and laparotomy procedures will be immediately available when required for obstetric and gynecologic emergencies. A hospital must be classified at Level I for emergency obstetric and gynecologic services if it complies with all of this subsection:

(1) **Clinical services and resources.**

(A) **Emergency services.** A Level I hospital is subject to the same emergency services requirements as a Level II hospital as set forth in (c)(1)(A) of this Section.

(B) **Obstetrics and gynecology.** A Level I hospital is subject to the same obstetrics and gynecology requirements as a Level II hospital as set forth in (c)(1)(B) of this Section.

(C) **Neonatology.** The hospital will have organized neonatology service with appropriately credentialed physicians experienced in the care of the seriously ill neonatal patient on call and immediately available 24 hours a day. Physician members of the neonatology service must be board certified, board eligible, or residency trained in neonatology. On call physicians will respond as required by the hospital's policy.

(D) **Obstetrics unit.** A Level I hospital is subject to the same obstetrics unit requirements as a Level II hospital as set forth in (c)(1)(C) of this Section.

(E) **Pediatrics.** A Level I hospital is subject to the same pediatrics requirements as a Level II hospital as set forth in (c)(1)(E) of this Section.

(F) **Newborn nursery.** A Level I hospital is subject to the same newborn nursery requirements as a Level II hospital as set forth in (c)(1)(D) of this Section.

(G) **Neonatal intensive care unit.** The hospital will have a dedicated neonatal intensive care unit appropriately equipped and staffed with nursing personnel with special capability in neonatal care.

(i) A board certified, board eligible, or residency trained neonatologist or senior resident competent and appropriately credentialed by the hospital must be on site 24 hours a day at all times when patients are in the unit.

(ii) If a senior neonatology resident is staffing the unit, then an attending neonatologist must be on call and promptly available 24 hours a day.

(H) **General surgery.** A Level I hospital is subject to the same general surgery requirements as a Level II hospital as set forth in (c)(1)(F) of this Section.

(I) **Anesthesia.** A Level I hospital is subject to the same anesthesia requirements as a Level III hospital as set forth in (b)(1)(C) of this Section.

(J) **Operating suite.** A Level I hospital is subject to the same operating suite requirements as a Level II hospital as set forth in (c)(1)(H) of this Section.

(K) **Post-anesthesia recovery unit.** A Level I hospital is subject to the same post-anesthesia recovery unit requirements as a Level III hospital as set forth in (b)(1)(E) of this Section.

(L) **Intensive care unit.** A Level I hospital is subject to the same intensive care unit requirements as a Level III hospital as set forth in (b)(1)(F) of this Section.

(M) **Diagnostic imaging.** The hospital will have diagnostic x-ray, computerized tomography, and ultrasonography services available 24 hours a day. A radiologic technologist, computerized tomography technologist, and staff designated as qualified to perform ultrasonography will be on duty or on call and immediately available 24 hours a day. A single technologist considered qualified by the radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging services include:

- (i) All diagnostic imaging services listed for Level II classification as set forth in (c)(1)(K) of this Section;
- (ii) Angiography;
- (iii) Neuroradiology; and
- (iv) Nuclear medicine imaging.

(N) **Clinical laboratory service.** A Level I hospital is subject to the same clinical laboratory service requirements as a Level II hospital as set forth in (c)(1)(L) of this Section.

(O) **Respiratory therapy.** A Level I hospital is subject to the same respiratory therapy requirements as a Level II hospital as set forth in (c)(1)(M) of this Section.

(P) **Acute hemodialysis.** The hospital will provide acute hemodialysis services 24 hours a day. All staff providing hemodialysis patient care will have documented hemodialysis training and experience.

(Q) **Social services.** Social services will be available and provided in accordance with Subchapter 31 of this Chapter.

(2) Personnel.

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Obstetrics-gynecology services director.** A Level I hospital is subject to the same obstetrics-gynecology services director requirements as a Level II hospital as set forth in (c)(2)(B) of this Section.

(C) **Pediatric services director.** A Level I hospital is subject to the same pediatric services director requirements as a Level II hospital as set forth in (c)(2)(C) of this Section.

(D) **Newborn nursery services director.** A Level I hospital is subject to the same newborn nursery services director requirements as a Level II hospital as set forth in (c)(2)(D) of this Section.

(E) **Neonatology services director.** The medical staff will designate a physician board certified, board eligible, or residency trained in neonatology and credentialed to provide neonatal care as neonatology services director.

(F) **Physician qualifications.**

(i) Physician members of the obstetrics-gynecology service must be board certified, board eligible, or residency trained in obstetrics and gynecology.

(ii) Physician members of the neonatology service must be board certified, board eligible, or residency trained in neonatology.

(G) **Training.** Emergency room, obstetrics unit, newborn nursery, and neonatal intensive care unit nursing personnel must have completed the Pediatric Advanced Life Support Program (PALS) and or the Neonatal Advanced Life Support Program (NALS) offered through the American Heart Association or have equivalent training.

(3) **Supplies and equipment.**

(A) **Emergency department.** A Level I hospital is subject to the same emergency department requirements as a Level II hospital as set forth in (c)(3)(A) in this Section.

(B) **Obstetrics unit.** A Level I hospital is subject to the same obstetrics requirements as a Level II hospital as set forth in (c)(3)(B) of this Section.

(C) **Operating suite.** The operating suite shall have the following supplies and equipment on site, functional and available for use:

(i) All the supplies and equipment listed for Level II classification [see (c)(3)(C) in this Section];

(ii) Cardiopulmonary bypass capability; and

(iii) operating microscope.

(D) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit will have the following supplies and equipment on site, functional, and available for use:

(i) the post-anesthesia supplies and equipment listed for Level III classification set forth in (b)(3)

(B) of this Section; and

(ii) Equipment for the continuous monitoring of intracranial pressure.

(E) **Intensive care unit.** A Level I hospital is subject to the same intensive care unit requirements as a Level III hospital as set forth in (b)(3)(C) of this Section.

(4) **Policies on transfers.** A Level I hospital is subject to the same policies on transfers requirements as a Level II hospital as set forth in (c)(4) of this Section.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-18. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-19. Classification of emergency ophthalmology services

(a) **Level III.** A Level III hospital will provide services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or an Intermediate, Advanced Emergency Medical Technician (AEMT), or paramedic , as defined in OAC 310:641-1-7, on site 24 hours a day. A hospital must be classified at Level III for emergency ophthalmology services if it complies with all of this Section:

(1) **Clinical services and resources.** Diagnostic, surgical, or medical specialty services are not required.

(2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or an Intermediate, Advanced Emergency Medical Technician (AEMT), or paramedic , as defined in OAC 310:641-1-7, will be on site 24 hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic, at least one of the practitioners on duty will have received training in advanced life support techniques and will be competent to initiate treatment of the emergency patient.

(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital must have the following equipment and supplies on site, functional, and immediately available:

(A) Ophthalmic irrigating device or procedure and sterile irrigating solution suitable for ophthalmic irrigation;

(B) Nitrazine pH paper;

(C) Distance and near vision charts or projector, or other equipment for the proper assessment of visual acuity;

(D) Ophthalmoscope;

(E) Agents for pupillary dilation such as:

(i) Topical sympathomimetic; and

(ii) Topical parasympatholytics.

(F) Drugs for the treatment of acute angle-closure glaucoma including:

(i) Topical miotic agents;

(ii) Topical adrenergic antagonists;

(iii) Oral and intravenous carbonic anhydrase inhibitors; and

(iv) Hyperosmotic agents.

(G) Topical anesthetic agents;

(H) Penlight and loupes or magnifying lenses;

(I) Equipment for tonometry;

- (J) Sterile, individually wrapped, fluorescein impregnated paper strips;
- (K) Supplies and equipment necessary for patching the eye;
- (L) Lid retractors;
- (M) Ophthalmic spud device or equivalent;
- (N) Topical antibiotics;
- (O) Eye shields; and
- (P) Light source with a blue filter or Wood lamp.

(4) **Agreements and policies on transfers.**

(A) The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another hospital.

(B) The hospital must have a written agreement with a hospital, or board certified, board eligible, or residency trained ophthalmologist, or group of ophthalmologists to provide immediate consultative services for ophthalmology patients 24 hours a day. These services must include providing instructions for the initiation of appropriate therapy and/or patient transfer. Appropriately trained and credentialed optometrists may also provide consultative and therapeutic services within their scope of practice.

(b) **Level II.** A Level II hospital will provide emergency medical services with an organized emergency department. A physician and nursing staff will be on site 24 hours a day. A hospital must be classified at Level II for emergency ophthalmology services if it complies with all of this subsection (b):

(1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the emergent ophthalmology patient and credentialed by the hospital to provide emergency medical services and nursing personnel must be on site 24 hours a day.

(B) **Diagnostic imaging.** The hospital's diagnostic x-ray services must be available 24 hours a day. A radiology technologist will be on duty or on call and immediately available 24 hours a day.

(C) **Clinical laboratory service.** The hospital's clinical laboratory services must be available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (ii) Coagulation studies;
- (iii) Blood gas/pH analysis; and

(iv) Comprehensive microbiology services or appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Ophthalmologist.** A physician board certified, board eligible, or residency trained in ophthalmology will be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(C) **Optometrist.** Appropriately trained and credentialed optometrists may also provide consultative and therapeutic services within their scope of practice.

(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital must have the following equipment and supplies on site, functional, and immediately available:

(A) The equipment and supplies listed in (a)(3)(A) through (O) in this Section for Level III classification; and

(B)
Slit-lamp biomicroscope.

(4) **Agreements and policies on transfers.**

(A) The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another hospital.

(B) The hospital must have a written agreement with a hospital, or board certified, board eligible, or residency trained ophthalmologist, or group of ophthalmologists to provide immediate consultative services for ophthalmology patients 24 hours a day. These services must include providing instructions for the initiation of appropriate therapy and/or patient transfer.

(c) **Level I.** A Level I hospital must provide emergency medical services with organized emergency and ophthalmology departments. A physician and nursing staff with special capability in ophthalmic care will be on site 24 hours a day. The hospital must have the capability to provide immediate diagnostic imaging and sight saving surgical intervention 24 hours a day. A hospital must be classified at Level I for emergency ophthalmology services if it complies with (c)(1) through (c)(4) of this subsection:

(1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the emergent ophthalmology patient and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in ophthalmic care must be on site 24 hours a day.

(B) **Ophthalmology and ophthalmic surgery.** The hospital must have an organized ophthalmology and ophthalmic surgery service with appropriately credentialed physicians experienced in ophthalmic medical and surgical procedures immediately available 24 hours a day. Physician members of the ophthalmology service must be board certified, board eligible, or residency trained in ophthalmology. On call physicians will respond as required by the hospital's policy.

(C) **Neurology.** A board certified, board eligible, or residency trained neurologist must be on site or on call 24 hours a day and promptly available in the emergency department.

(D) **Anesthesia.** A board certified, board eligible, or residency trained anesthesiologist must be on site or on call 24 hours a day and promptly available. All anesthesia will be administered in accordance with OAC 310:667-25-2.

(E) **Operating suite.** An operating suite with adequate staff and equipment must be immediately available 24 hours a day. The hospital will define and document in writing the minimum staffing requirements for the operating suite. An on call schedule for emergency replacement staff must be maintained. At least one operating suite will have conventional and laser surgery and photocoagulation capability.

(F) **Post-anesthesia recovery unit.** The hospital must have a post-anesthesia recovery room or intensive care unit that is in compliance with OAC 310:667-15-7 and nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(G) **Intensive care unit.** The hospital's intensive care unit must include:

- (i) Compliance with OAC 310:667-15-7;
- (ii) A registered nurse on duty in the intensive care unit when it does not have a patient;
- (iii) A registered nurse on call and immediately available when the unit does not have a patient; and
- (iv) The hospital will define and document in writing the minimum staffing requirements for the intensive care unit. These staffing requirements will be monitored through the quality improvement program.

(H) **Diagnostic Imaging.** The hospital will have diagnostic x-ray, computed tomography, and ultrasonography services available 24 hours a day. A radiologic technologist, computerized tomography technologist, and staff designated as qualified to perform ultrasonography will be on duty or on call and immediately available 24 hours a day. A single technologist designated as qualified by the

radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging services include:

- (i) Angiography;
- (ii) Ultrasonography;
- (iii) Computed tomography;
- (iv) Magnetic resonance imaging; and
- (v) Neuroradiology.

(I) **Clinical laboratory service.** The hospital must have clinical laboratory services available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) All the clinical laboratory services listed for Level II classification as set forth in (b)(1)(C) of this Section;
- (ii) Comprehensive immunohematology services including blood typing and compatibility testing;
- (iii) A supply of blood and blood products on hand that is properly stored and adequate to meet expected patient needs; and
- (iv) Access to services provided by a community central blood bank.

(J) **Social services.** Social services available and provided as required in Subchapter 31 of this Chapter.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Ophthalmology services director.** The medical staff will designate a physician credentialed to provide medical and/or surgical ophthalmic care as ophthalmology services director.

(C) **Physician qualifications.** Physician members of the ophthalmology service must be board certified, board eligible, or residency trained in ophthalmology.

(D) **Optometrist.** Appropriately trained and credentialed optometrists may also provide consultative and therapeutic services within their scope of practice.

(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-19(b)(3), the hospital must have the following equipment and supplies on site, functional, and immediately available:

- (A) Gonioscopy equipment; and
- (B) Equipment for indirect ophthalmoscopy.

(4) **Policies on transfers.** The hospital must have written policies defining the medical conditions and circumstances for those emergency patients that may be retained for treatment in-

house, and for those who require stabilizing treatment and transfer to another facility.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-20. Classification of emergency stroke services

(a) **Level I Stroke Center.** A Level I Stroke Center must comply with primary and secondary stroke recognition and prevention guidelines as required by state law . A Level I Stroke Center will serve as a resource center for other hospitals in the region and will a comprehensive receiving hospital staffed and equipped to provide total care for all major needs of the stroke patient as determined by:

- (1) An up-to-date certification as a Comprehensive Stroke Center from a Centers for Medicare and Medicaid Services deemed accrediting agency or a Department approved organization that uses a nationally recognized set of guidelines; and
- (2) Providing quality assurance information, including benchmark tracking and other data to the department upon request.

(b) **Level II Stroke Center.** A Level II Stroke Center must comply with primary and secondary stroke recognition and prevention guidelines as required by state law. A Level II Stroke Center will be a receiving center staffed by in-patient stroke services staff and willequipped to provide definitive care for a major proportion of stroke patients within the region as determined by:

- (1) An up-to-date certification as a Primary Stroke Center from a Centers for Medicare and Medicaid Services deemed accrediting agency or a Department approved organization that uses a nationally recognized set of guidelines; and
- (2) Providing quality assurance information, including benchmark tracking and other data to the department upon request.

(c) **Level III Stroke Center.** A Level III Stroke Center must comply with secondary stroke recognition and prevention guidelines as required by state law. A Level III Stroke Center will be staffed and equipped to provide initial diagnostic services, stabilization, thrombolytic therapy, emergency care to patients who have suffered an acute stroke (which is a stroke where symptoms have on-set within the immediately preceding 12 hours). A Level III Stroke Center must have an up-to-date certification as an Acute Stroke Ready Hospital from a Centers for Medicare and Medicaid Services deemed accrediting agency or from a department approved organization that uses a nationally recognized set of guidelines or from the department for a period not to exceed 3 years. A hospital must be classified at a Level III Stroke Center if it complies with (c)(1) through (c) (7) of this subsection (c):

(1) Stroke Team:

- (A) The stroke team must be available 24 hours a day, 7 days a week;
- (B) The stroke team will include a licensed physician trained in the care of the emergent stroke patient and credentialed by the hospital to provide emergency medical service for stroke patients, including the ability to

administer thrombolytic agents;

(C) Each stroke team member must be either on-site or able to respond to the hospital within 20 minutes to the emergency department of the Stroke Center;

(D) Stroke members will be trained in the care of a stroke patient, with the training updated annually;

(E) The stroke team's written protocols:

(i) State the standard practice for the care of stroke patients;

(ii) Establish expected response time and requires the response time of stroke patients to be recorded in writing;

(iii) Require the appropriate administration of an FDA-approved thrombolytic agent to occur within 60 minutes after a patient arrives at the emergency department at least 50% of the time; and

(iv) Include emergency stroke care protocols as further described in (2)(D) in this subsection (c).

(F) The stroke team's policies and procedures will include provisions that:

(i) The stroke coordinator must be either a licensed nurse or other health professional; and

(ii) All stroke team members are identified in writing.

(2) Emergency Department:

(A) The emergency department will include a licensed independent practitioner able to:

(i) Recognize, assess and if indicated administer thrombolytic therapy to stroke patients; and

(ii) Assess potential stroke patients within 15 minutes of arrival.

(B) The emergency department will include nursing personnel trained in emergent stroke care that are available on-site 24 hours a day. Training must occur at least every 2 years through evidence of competency;

(C) The emergency department must have written comprehensive stroke protocols for the treatment and stabilization of a stroke patient. These protocols include:

(i) Detailed instructions on IV thrombolytic use;

(ii) Reversal of anticoagulation in patients with hemorrhagic stroke;

(iii) A standardized stroke assessment scale;

(iv) Protocols for the control of seizures;

(v) Blood pressure management; and

(vi) Care for patients, who have suffered a stroke, but are not eligible to receive thrombolytic agents.

(D) The emergency department collaborates with emergency medical service agencies to develop inter-facility transfer protocols for stroke patients and will only use those emergency medical service agencies that have a Department approved protocol for the inter-facility

transfer of stroke patients.

(3) Supplies and equipment:

(A) All equipment and supplies will meet the requirements of OAC 310:667-59-9 (a)(3);

(B) The following must be available on-site 24 hours a day:

- (i) thrombolytic agents, which are FDA approved for the treatment of acute non-hemorrhagic stroke;
- (ii) seizure control agents; and
- (iii) thiamine and glucose for intravenous administration.

(4) Neuroimaging services:

(A) Diagnostic x-ray and computerized tomography (CT) services must be on site and available 24 hours a day;

(B) Radiologic technologist and CT technologist must be on duty or on call with a 20 minute response time, 24 hours a day, seven (7) 7 days a week. A single technologist designated as qualified by the radiologist in both diagnostic x-ray and CT procedures may be used to meet this requirement if an on-call schedule of additional diagnostic imaging personnel is maintained;

(5) Laboratory services:

Laboratory services must be on-site and available 24 hours a day, 7 days a week. These services include:

(A) A complete blood count;

(B) Metabolic profile;

(C) Coagulation studies (prothrombin time, international normalized ratio);

(D) Pregnancy testing; and

(E) Troponin I.

(6) Outcome and quality improvement:

(A) The hospital will track the number of all stroke and acute stroke patients, the number treated with thrombolytic therapy, including how soon after hospital presentation (arrival to needle time), the number of acute stroke patients not treated and indications for why they were not treated;

(B) There will be an official policy to review the care of all acute stroke patients that were eligible for thrombolytics and did not receive them;

(C) There will be a policy for and review of all patients who received thrombolytics more than 60 minutes after hospital presentation;

(D) If a hospital fails to provide thrombolytics within 60 minutes to at least 50% of eligible patients for two consecutive quarters, they will develop and implement an internal plan of corrections;

(E) Provide no less than quarterly feedback to:

(i) Hospital physicians and other health professionals;

(ii) Emergency medical service agencies; and

(iii) Referring hospitals;

(F) There will be a review of all acute stroke patients who require more than 2 hours to be transferred (arrival-to-departure time);

(G) The time from ordering to interpretation of a head CT or MRI will be tracked; and

(H) Door-to-computer link time for cases where a tele-technology is used;

(I) The hospital will make available to the Department any information referenced in this paragraph upon request.

(7) Agreements and policies:

(A) The Level III stroke center must have a written plan for transfer of patients to a Level I or Level II stroke facility as appropriate, defining medical conditions and circumstances for those emergency patients who:

(i) May be retained for treatment in-house;

(ii) Require stabilizing treatment; and

(iii) Require transfer to another facility.

(B) If a stroke telemedicine program is utilized, there will be a written, contractual agreement addressing, at a minimum, performance standards, legal issues and reimbursement.

(d) Level IV Stroke Referral Center. A Level IV Stroke referral center must comply with secondary stroke recognition and prevention guidelines as required by state law and must be a referral center lacking sufficient resources to provide definitive care for stroke patients. A Level IV Stroke referral Center will provide prompt assessment, indicated resuscitation and appropriate emergency intervention. The Level IV Stroke referral Center will arrange and expedite transfer to a higher level stroke center as appropriate. A hospital must receive a Level IV Stroke referral Center designation by the Department, with renewal occurring in 3 year intervals, provided the hospital is not certified as a level I, II or III stroke center if it complies with all of this subsection (d):

(1) Emergency Department:

(A) For acute stroke patients requiring transfer by emergency medical services, said services will be contacted and emergently requested no more than 20 minutes after patient arrival;

(B) Enter into transfer agreements for expeditious transfer of acute stroke patients to stroke centers able to provide a higher level of care;

(C) Have a comprehensive plan for the prompt transfer of acute stroke patients to higher level stroke centers which includes an expected arrival-to-departure time of less than 60 minutes, with the ability to provide documentation demonstrating the ability to meet this requirement at least 65% of the time on a quarterly basis;

(D) A health care professional that is able to recognize and assess stroke patients within 15 minutes of arrival; and

(E) Collaborate with emergency medical service agencies to develop inter-facility transfer protocols for stroke patients and will only use those emergency medical

- service agencies that have a Department approved protocol for the inter-facility transfer of stroke patients.
- (2) **Supplies and equipment:** All Level IV Stroke referral Centers must meet the requirements of OAC 310:667-59-9(a)(3).
- (3) **Laboratory services:** No requirements.
- (4) **Outcome and quality improvement:** The following outcome and quality improvement requirements are applicable to Level IV Stroke referral Centers, which include tracking of all patients seen with acute stroke:
- (A) A hospital will meet the applicable outcome and quality measures listed in (c)(6) in this Section; and
 - (B) Track and review all acute stroke transfer cases requiring longer than an arrival-to-departure time of less than 60 minutes. If over two consecutive quarters inter-facility transfers (arrival-to-departure) exceeds 60 minutes more than 35% of the time the facility will create and implement an internal plan of correction.
- (5) **Agreements and policies:**
- (A) A Level IV Stroke referral Center must have a written plan for transfer of patients to a Level I, II or III Stroke Center. The written plan will establish medical conditions and circumstances to determine:
 - (i) Which patients may be retained or referred for palliative or end-of-life care;
 - (ii) Which patients shall require stabilizing treatment; and
 - (iii) Which patients shall require transfer to a Level I, II or III Stroke Center;
 - (B) Development and implementation of policy and transfer agreements directing transfer of acute stroke patients to the closest appropriate higher level facility. Patient preference may be taken into consideration when making this decision.

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00 ; Added at 25 Ok Reg 2785, eff 7-17-08 (emergency); Added at 26 Ok Reg 2054, eff 6-25-09 ; Amended at 27 Ok Reg 2542, eff 7-25-10 ; Amended at 32 Ok Reg 1790, eff 9-11-15 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

AGENCY NOTE: In the process of drafting and revising new language for this section 310:667-59-20, a change in numbering was not captured in the new rule text in subparagraph (d)(4)(A) of this section. The cross-reference to 310:667-59-20(G) in this subparagraph is invalid and refers to a non-existent subsection. The cross-reference should refer to 310:667-59-20(c)(6), relating to outcome and quality improvement measures. This error will be revised in future rule-making.

310:667-59-21. Classification of emergency neurology services

(a) **Level III.** A Level III hospital will provide services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or Intermediate, Advanced Emergency Medical Technician (AEMT) or paramedic, as defined in OAC 310:641-1-7, on site 24 hours a day. A hospital must be classified at Level III for emergency neurology services if it complies with all of this subsection:

- (1) **Clinical services and resources.** Diagnostic, surgical, or medical specialty services are not required.

(2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or Intermediate, Advanced Emergency Medical Technician (AEMT), or paramedic, as defined in OAC 310:641-1-7, will be on site 24 hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic, at least one of the practitioners on duty will have received training in advanced life support techniques and will be competent to initiate treatment of the emergency patient.

(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital will have the following equipment and supplies on site, functional, and immediately available:

- (A) Seizure control agents;
- (B) Thiamine and glucose for intravenous administration; and
- (C) Antipyretics and procedures for reducing body temperature when necessary.

(4) **Agreements and policies on transfers.**

(A) The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another facility.

(B) The hospital must have a written agreement with a hospital, or board certified, board eligible, or residency trained neurologist, or group of neurologists to provide immediate consultative services for neurology patients 24 hours a day. These services must include providing instructions for the initiation of appropriate therapy and/or patient transfer.

(b) **Level II.** A Level II hospital will provide emergency medical services with an organized emergency department. A physician and nursing staff will be on site 24 hours a day. A hospital must be classified at Level II for emergency neurology services if it complies with all of this subsection (b):

(1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the emergent neurology patient and credentialed by the hospital to provide emergency medical services and nursing personnel must be on site 24 hours a day.

(B) **Diagnostic imaging.** The will have diagnostic x-ray and computerized tomography services available 24 hours a day. A radiologic technologist and computerized tomography technologist must be on duty or on call and immediately available 24 hours a day. A single technologist designated as qualified by the radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging services include:

- (i) Ultrasonography; and
- (ii) Computed tomography.

(C) **Clinical laboratory service.** The hospital's clinical laboratory services must be available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (ii) Cerebrospinal fluid, cell count, white blood cell differential, protein, glucose, Gram stain, and antigen testing when appropriate;
- (iii) Coagulation studies;
- (iv) Blood gas/pH analysis;
- (v) Drug and alcohol screening; and
- (vi) Comprehensive microbiology services or appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Neurologist.** A physician board certified, board eligible, or residency trained in neurology will be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital must have the following equipment and supplies on site, functional, and immediately available:

- (A) Equipment to perform electroencephalographic (EEG) testing;
- (B) Seizure control agents;
- (C) Thiamine and glucose for intravenous administration;
- (D) Antipyretics and procedures for reducing body temperature when necessary;
- (E) Sterile procedure trays for:
 - (i) Lumbar puncture and measurement of intracranial pressure; and
 - (ii) Gastric lavage and administration of activated charcoal.
- (F) Agents to manage increased intracranial pressure including:
 - (i) Osmotic diuretics such as mannitol;
 - (ii) Loop diuretics such as furosemide; and
 - (iii) Corticosteroids when appropriate.

(G) Drugs to manage migraine headache such as sumatriptin, ergotic agents, antinauseants, narcotic analgesics, etc.; and

(H) Thrombolytic agents for treatment of acute nonhemorrhagic stroke.

(4) **Agreements and policies on transfers.** A Level II hospital is subject to the same agreements and policies on transfers requirements as a Level III hospital as set forth in (a)(4) in this Section.

(c) **Level I.** A Level I hospital must provide emergency medical services with organized emergency, neurology, and neurosurgery departments. A physician and nursing staff with special capability in neurologic care will be on site 24 hours a day. The hospital must have the capability to provide immediate diagnostic imaging and neurosurgical intervention 24 hours a day. A hospital must be classified at Level I for emergency neurology services complies with all of this subsection:

(1) **Clinical services and resources.**

(A) **Emergency services.** A Level I hospital is subject to the same emergency services requirements as a Level II hospital as set forth in (b)(1)(A) of this Section.

(B) **Neurology.** The hospital must have an organized neurology service with appropriately credentialed physicians experienced in neurologic procedures that must be immediately available 24 hours a day. Physician members of the neurology services must be board certified, board eligible, or residency trained in neurology. On call physicians will respond as required by the hospital's policy.

(C) **Neurosurgery.** The hospital must have an organized neurosurgery service with appropriately credentialed physicians experienced in neurosurgical procedures that must be immediately available 24 hours a day. Physician members of the neurosurgery service must be board certified, board eligible, or residency trained in neurosurgery. On call physicians will respond as required by the hospital's policy.

(D) **Anesthesia.** A board certified, board eligible, or residency trained anesthesiologist must be on site or on call 24 hours a day and promptly available. All anesthesia will be administered in accordance with OAC 310:667-25-2.

(E) **Operating suite.** An operating suite with adequate staff and equipment must be immediately available 24 hours a day. The hospital will define and in writing the minimum staffing requirements for the operating suite. An on call schedule for emergency replacement staff must be maintained.

(F) **Post-anesthesia recovery unit.** The hospital must have a post-anesthesia recovery room or intensive care unit that is in compliance with OAC 310:667-15-7 with the nursing personnel and anesthesia services remaining in

the unit until the patient is discharged from post-anesthesia care.

(G) **Intensive care unit.** The hospital's intensive care unit must include:

- (i) Compliance with OAC 310:667-15-7;
- (ii) A registered nurse on duty in the intensive care unit whenever it has a patient;
- (iii) A registered nurse on call and immediately available when the unit has a patient; and
- (iv) Written minimum staffing requirements for the intensive care unit that will be monitored through the quality improvement program.

(H) **Diagnostic Imaging.** The hospital will have diagnostic x-ray and computed tomography services available 24 hours a day. A radiologic technologist and computerized tomography technologist must be on duty or on call and immediately available 24 hours a day. A single technologist designated as qualified by the radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging services include:

- (i) Cerebral angiography;
- (ii) Myelography;
- (iii) Ultrasonography;
- (iv) Computed tomography;
- (v) Magnetic resonance imaging; and
- (vi) Neuroradiology.

(I) **Electrophysiologic Testing.** The hospital will have electrophysiologic testing services including electroencephalography (EEG), electrocardiography (ECG), and electromyography (EMG) services available as needed.

(J) **Clinical laboratory service.** The hospital's clinical laboratory services must be available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) All the clinical laboratory services listed for Level II classification as set forth in (b)(1)(C) of this Section;
- (ii) Comprehensive immunohematology services including blood typing and compatibility testing;
- (iii) A supply of blood and blood products on hand that is properly stored and adequate to meet expected patient needs; and
- (iv) Access to services provided by a community central blood bank.

(K) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this

Chapter.

(L) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators will be available 24 hours a day and will comply with OAC 310:667-23-6.

(M) **Rehabilitation services.**

(i) The hospital must provide rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically ill patient;
or

(ii) If it is unable to satisfy (i) of this subparagraph (M), it must have a written transfer agreement with a hospital which meets the requirements of Subchapter 35 of this Chapter.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Neurology services director.** The medical staff will designate a physician credentialed to provide neurologic and/or neurosurgical care as neurology services director.

(C) **Physician qualifications.** All physicians of the neurology service and neurosurgical service must be board certified, board eligible, or residency trained in neurology.

(3) **Supplies and equipment.**

(A) **Emergency department.** In addition to the requirements at OAC 310:667-59-19(d)(3), the hospital must have the following equipment and supplies on site, functional, and immediately available:

- (i) All the emergency department equipment and supplies listed for Level II classification as set forth in (b)(3) of this Section;
- (ii) Seizure control agents;
- (iii) Emergency burr hole as part of the sterile procedure tray; and
- (iv) Equipment to monitor intracranial pressure.

(B) **Operating suite.** The operating suite must have the following supplies and equipment on site, functional and available for use:

- (i) Cardiopulmonary bypass capability;
- (ii) Operating microscope;
- (iii) Thermal control equipment for patients and infusion of blood, blood products, and other fluids;
- (iv) X-ray capability including c-arm intensifier;
- (v) Endoscopes;
- (vi) Craniotomy instruments; and
- (vii) Equipment for the continuous monitoring of intracranial pressure.

(C) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit must have the following supplies and

equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
- (ii) Equipment for the continuous monitoring of intracranial pressure;
- (iii) Pulse oximetry;
- (iv) End-tidal CO₂ determination; and
- (v) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.

(D) **Intensive care unit.** The intensive care unit must have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
- (ii) Equipment for the continuous monitoring of intracranial pressure;
- (iii) Cardiopulmonary resuscitation cart;
- (iv) Electrocardiograph-oscilloscope-defibrillator-pacer; and
- (v) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.

(4) **Policies on transfers.** The policies on transfers are as set forth in(a)(4)(A) of this Section (relating to agreements and policies on transfers).

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-22. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-23. Classification of emergency psychiatric services

(a) **Level III.** A Level III hospital will provide emergency medical services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or an Intermediate, Advanced Emergency Medical Technician (AEMT), or paramedic, as defined in OAC 310:641-7, on site 24 hours a day. A hospital must be classified at Level III for emergency psychiatric services if it complies with all of this subsection:

- (1) **Clinical services and resources.** Diagnostic, surgical, or medical specialty services are not required.
- (2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or an Intermediate, Advanced Emergency Medical Technician (AEMT), or paramedic, as defined in OAC 310:641-1-7, will be on site 24 hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic level emergency medical

technician, at least one of the practitioners on duty will have received training in advanced life support techniques and must be competent to initiate treatment of the emergency patient.

(3) **Outpatient psychiatric resources.** The hospital will maintain a current list of outpatient psychiatric resources available within the community or region and make appropriate referrals for patients who do not require emergency inpatient psychiatric treatment.

(4) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital will have the following equipment and supplies on site, functional, and immediately available:

(A) Psychotropic medications appropriate for treating psychiatric emergencies including benzodiazepines such as lorazepam and neuroleptics such as haloperidol; and

(B) Thiamine and glucose for intravenous administration.

(5) **Agreements and policies on transfers.**

(A) The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another hospital.

(B) The hospital must have a written agreement with a hospital, or board certified, board eligible, or residency trained psychiatrist, or group of psychiatrists to provide immediate consultative services for psychiatric patients 24 hours a day. These services include providing instructions for the initiation of appropriate therapy and/or patient transfer.

(b) **Level II.** A Level II hospital will provide emergency medical services with an organized emergency department. A physician and nursing staff must be on site 24 hours a day. A hospital must be classified at Level II for emergency psychiatric services if it complies with all of this subsection (b):

(1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the emergent psychiatric patient and credentialed by the hospital to provide emergency medical services and nursing personnel must be on site 24 hours a day.

(B) **Outpatient psychiatric resources.** A Level II hospital is subject to the same outpatient psychiatric resources requirements as a Level III hospital as set forth in (a)(3) of this Section.

(C) **Diagnostic imaging.** The hospital's diagnostic x-ray services must be available 24 hours a day. A radiologic technologist will be on duty or on call and immediately available 24 hours a day.

(D) **Clinical laboratory service.** The hospital's clinical laboratory services will be available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on

an emergency basis 24 hours a day. These services include:

- (i) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (ii) Coagulation studies;
- (iii) Blood gas/pH analysis;
- (iv) Therapeutic drug monitoring;
- (v) Drug and alcohol screening; and
- (vi) Comprehensive microbiology services or appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Psychiatrist.** A physician board certified, board eligible, or residency trained in psychiatry will be available for consultation on site or immediately available by telephone or other electronic means 24 hours a day.

(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3), the hospital must have the following equipment and supplies on site, functional, and immediately available:

(A) Equipment to perform electroencephalographic (EEG) testing;

(B) Psychotropic medications appropriate to deal with psychiatric emergencies including benzodiazepines such as lorazepam and neuroleptics such as haloperidol; and

(C) Thiamine and glucose for intravenous administration.

(4) **Agreements and policies on transfers.** A Level II hospital is subject to the same agreements and policies on transfers requirements as a Level III hospital as set forth in (a)(5) of this Section.

(c) **Level I.** A Level I hospital will provide emergency medical services with organized emergency and psychiatry departments. A physician and nursing staff with special capability in psychiatric care must be on site 24 hours a day. The hospital must have the capability to provide immediate emergency inpatient psychiatric treatment 24 hours a day. A hospital must be classified at Level I for emergency psychiatric services if it complies with all of this subsection (c):

(1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the emergent psychiatric patient and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in psychiatric care must be on site 24 hours a day. Emergency room personnel must receive training on the facility's policies and procedures related to psychiatric patients including

those for the use of physical and chemical restraints and seclusion, obtaining informed consent for psychotropic medications, suicide precautions, patient right to refuse treatment and the duty to protect, Emergency Order of Detention and commitment procedures, and determining a patient's legal status.

(B) **Psychiatry.** The hospital must have an organized psychiatric service with appropriately credentialed physicians immediately available 24 hours a day. Physician members of the psychiatric service must be board certified, board eligible, or residency trained in psychiatry. On call physicians will respond as required by the hospital's policy.

(C) **Outpatient psychiatric resources.** The hospital will maintain a current list of outpatient psychiatric resources available within the community or region and make appropriate referrals and follow-ups for patients who do not require emergency inpatient psychiatric treatment.

(D) **Inpatient psychiatric services.** All inpatient psychiatric services will be provided under the direction of a physician director of inpatient psychiatric services and will comply with Subchapter 33 of this Chapter.

(E) **Diagnostic Imaging.** The hospital's diagnostic x-ray and computed tomography services must be available 24 hours a day. A radiologic technologist and computerized tomography technologist will be on duty or on call and immediately available 24 hours a day. A single technologist designated as qualified by the radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging services include:

- (i) Computed tomography;
- (ii) Magnetic resonance imaging; and
- (iii) Neuroradiology.

(F) **Clinical laboratory service.** A Level I hospital is subject to the same clinical laboratory service requirements as a Level II hospital as set forth in (b)(1)(D) of this Section.

(G) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(2) **Personnel.**

(A) **Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(B) **Psychiatric services director.** The medical staff will designate a physician credentialed to provide psychiatric care as psychiatric services director.

(C) **Psychiatric nursing services director.** A registered nurse with experience in psychiatric nursing will be

responsible for psychiatric nursing service administration.
(D) **Physician qualifications.** Physician members of the psychiatry service must be board certified, board eligible, or residency trained in psychiatry.

(3) **Supplies and equipment: Emergency department.** A Level I hospital is subject to the same supplies and equipment requirements as a Level II hospital as set forth in (b)(3) of this Section.

(4) **Policies on transfers.** The policies on transfers are as set forth in (a)(5)(A) of this Section (relating to policies on transfers).

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

310:667-59-24. [RESERVED]

[Source: Reserved at 17 Ok Reg 2992, eff 7-13-00]

310:667-59-25. Classification of emergency general medicine services

(a) **Level IV.** A Level IV hospital will provide emergency medical services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or an Intermediate, Advanced Emergency Medical Technician (AEMT) or paramedic , as defined in OAC 310:641-1-7, on site 24 hours a day. A hospital must be classified at Level IV for emergency general medicine services if it complies with all of this subsection:

(1) **Clinical services and resources.** Diagnostic, surgical, or medical specialty services are not required.

(2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or an Intermediate, Advanced Emergency Medical Technician (AEMT) or paramedic, as defined in OAC 310:641-1-7, is required on site 24 hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic, then at least one of the practitioners on duty must have received training in advanced life support techniques and must be competent to initiate treatment of the emergency patient.

(3) **Supplies and equipment.** The hospital must have equipment for use in the resuscitation of patients of all ages on site, functional, and immediately available, including at least the items specified in OAC 310:667-59-9(a)(3).

(4) **Policies on transfers.** The hospital must have written policies defining the medical conditions and circumstances for emergency patients that may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another hospital.

(b) **Level III.** A Level III hospital will provide emergency medical services with an organized emergency department. A physician and nursing staff with special capability in emergency care are required on

site 24 hours a day. General surgery and anesthesiology services will be available either on duty or on call. A hospital must be classified at Level III for emergency general medicine services if it complies with all of this subsection (b):

(1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the critically injured and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in emergency care must be on site 24 hours a day.

(B) **General surgery.** A board certified, board eligible, or residency trained general surgeon must be on call 24 hours a day and promptly available in the emergency department.

(C) **Anesthesia.** Anesthesia services must be on call 24 hours a day, promptly available, and administered in accordance with OAC 310:667-25-2.

(D) **Internal medicine.** A physician board certified, board eligible, or residency trained in internal medicine must be on call 24 hours a day and promptly available in the emergency department.

(E) **Other specialties.** The hospital will also have the following specialty services on call and promptly available:

- (i) Family/general medicine;
- (ii) Pathology; and
- (iii) Radiology.

(F) **Operating suite.** An operating suite with thermal control equipment for patients and infusion of blood and fluids must be available 24 hours a day.

(G) **Post-anesthesia recovery unit.** The hospital must have a post-anesthesia recovery room or intensive care unit that is in compliance with OAC 310:667-15-7 with nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(H) **Intensive care unit.** The hospital's intensive care unit must include:

- (i) Compliance with OAC 310:667-15-7;
- (ii) A registered nurse on duty in the intensive care unit when it has a patient;
- (iii) A registered nurse on call and immediately available when the unit does not have a patient;
- (iv) Written minimum staffing requirements for the intensive care unit that are monitored through the quality improvement program; and
- (v) The equipment listed in OAC 310:667-59-9(b)(3)(C).

(I) **Diagnostic imaging.** The hospital must have diagnostic x-ray services available 24 hours a day. A radiology technologist must be on duty or on call and immediately available 24 hours a day.

(J) **Clinical laboratory service.** The hospital must have clinical laboratory services available 24 hours a day. All or part of these services may be provided by arrangements with certified reference laboratories that are available on an emergency basis 24 hours a day. These services include:

- (i) Comprehensive immunohematology services including blood typing and compatibility testing;
- (ii) A supply of blood and blood products on hand that is properly stored and adequate to meet expected patient needs;
- (iii) All blood and blood products are properly stored;
- (iv) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (v) Coagulation studies;
- (vi) Blood gas/pH analysis;
- (vii) Comprehensive microbiology services or appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures; and
- (viii) Drug and alcohol screening.

(K) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(2) **Personnel: Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director. The emergency services director may serve as the trauma service director.

(3) **Supplies and equipment: Emergency department.** The emergency department must have equipment for use in the resuscitation of patients of all ages on site, functional, and available in the emergency department, including at least the items specified in OAC 310:667- 59-9(b)(3)(A).

(4) **Policies on transfers.** A Level III hospital is subject to the same policies on transfers requirements as a Level IV hospital as set forth in (a)(4) of this Section.

(5) **Organ Procurement.** The hospital, in association with an organ procurement organization certified by the CMS, will develop policies and procedures to identify and refer potential organ donors.

(c) **Level II.** A Level II hospital will provide emergency medical services with an organized emergency department. A physician and nursing staff with special capability in emergency care will be on site 24 hours a day. General surgery and anesthesiology services will be available on site or on call 24 hours a day. Services from an extensive group of clinical specialties including infectious disease, internal medicine, nephrology, and orthopedics will be promptly available on call. A hospital must be classified at Level II for emergency general medicine services if it

complies with all of this subsection (c):

(1) **Clinical services and resources.**

(A) **Emergency services.** A physician competent in the care of the emergent patient and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in emergency care must be on site 24 hours a day.

(B) **General surgery.** A Level II hospital is subject to the same general surgery requirements as a Level III hospital as set forth in (b)(1)(B) of this Section.

(C) **Anesthesia.** Anesthesia services must be on call 24 hours a day, promptly available, and administered in accordance with OAC 310:667-25-2.

(D) **Internal medicine.** A physician board certified, board eligible, or residency trained in internal medicine must be on call 24 hours a day and promptly available in the emergency department.

(E) **Other specialties.** The hospital must also have the following specialty services on call and promptly available:

- (i) Cardiology;
- (ii) Family/general medicine;
- (iii) Infectious disease.
- (iv) Neurology;
- (v) Obstetrics/gynecology;
- (vi) Ophthalmology;
- (vii) Orthopedics;
- (viii) Otolaryngology;
- (ix) Pathology;
- (x) Pediatrics;
- (xi) Psychiatry;
- (xii) Pulmonary medicine;
- (xiii) Radiology;
- (xiv) Urology; and
- (xv) Nephrology.

(F) **Operating suite.** An operating suite with adequate staff and equipment must be immediately available 24 hours a day. The hospital will define and document in writing the minimum staffing requirements for the operating suite. The operating room will be equipped in accordance with OAC 310:667-59-9(c)(3)(B). An on call schedule for emergency replacement staff will be maintained.

(G) **Post-anesthesia recovery unit.** The hospital must have a post-anesthesia recovery room or intensive care unit that is in compliance with OAC 310:667-15-7 with nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care. The post-anesthesia recovery unit will be equipped in accordance with OAC 310:667-59-9(c)(3)(C).

(H) **Intensive care unit.** The hospital's intensive care unit must include:

- (i) Compliance with OAC 310:667-15-7 ;
- (ii) A registered nurse on duty in the intensive care unit whenever it has a patient;
- (iii) A registered nurse on call and immediately available when the unit does not have a patient;
- (iv) Written minimum staffing requirements for the intensive care unit that are monitored through the quality improvement program; and
- (v) Equipment in accordance with OAC 310:667-59-9(c)(3)(D).

(I) **Diagnostic Imaging.** The hospital's diagnostic x-ray services must be available 24 hours a day. A radiologic technologist and computerized tomography technologist will be on duty or on call and immediately available 24 hours a day. A single technologist designated as qualified by the radiologist in both diagnostic x-ray and computerized tomography procedures may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging services include:

- (i) Angiography;
- (ii) Ultrasonography;
- (iii) Computed tomography;
- (iv) Magnetic resonance imaging;
- (v) Neuroradiology; and
- (vi) Nuclear medicine imaging.
- (vii) For a hospital licensed as a general medical surgical hospital or specialty hospital, diagnostic imaging services shall also comply with the applicable requirements in Subchapter 23 of this Chapter.

(J) **Clinical laboratory service.** A Level II hospital is subject to the same clinical laboratory requirements as a Level III hospital as set forth in (b)(1)(J) of this Section.

(K) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators will be available 24 hours a day. Respiratory therapy services will comply with OAC 310:667-23-6.

(L) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(2) **Personnel: Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(3) **Supplies and equipment: Emergency department.** The emergency department must have equipment for use in the resuscitation of patients of all ages on site, functional, and available in the emergency department, including the items specified in OAC 310:667-59-9(c)(3)(A).

(4) **Policies on transfers.** A Level II hospital is subject to the same policies on transfers requirements as a Level IV hospital as

set forth in (a)(4) of this Section.

(5) **Organ Procurement.** The hospital, in association with an organ procurement organization certified by CMS, will develop policies and procedures to identify and refer potential organ donors.

(d) **Level I.** A Level I hospital will provide emergency medical services with an organized emergency department. A physician and nursing staff with special capability in emergency care will be on site 24 hours a day. General surgery and anesthesiology services will be available on site or on call 24 hours a day. Additional clinical services and specialties such as nuclear diagnostic imaging, dermatology, endocrinology, and hematology/oncology specialists must also be promptly available. A hospital must be classified at Level I for emergency general medicine services if it complies with all of this subsection:

(1) **Clinical services and resources.**

(A) **Emergency services.** A Level I hospital is subject to the same emergency services requirements as a Level II hospital as set forth in (c)(1)(A) of this Section.

(B) **General surgery.** A Level I hospital is subject to the same general surgery requirements as a Level III hospital as set forth in (b)(1)(B) of this Section.

(C) **Anesthesia.** Anesthesia services must be on call 24 hours a day, promptly available, and administered in accordance with OAC 310:667-25-2.

(D) **Internal medicine.** A physician board certified, board eligible, or residency trained in internal medicine must be on call 24 hours a day and promptly available in the emergency department.

(E) **Other specialties.** The hospital must also have services from the following specialties on call and promptly available:

- (i) All the specialty services listed for Level II classification [see (c)(1)(E) in this Section];
- (ii) Critical care medicine;
- (iii) Dermatology;
- (iv) Emergency medicine;
- (v) Endocrinology;
- (vi) Gastroenterology;
- (vii) Hematology/oncology; and
- (viii) Rheumatology.

(F) **Operating suite.** A Level I hospital is subject to the same operating suite requirements as a Level II hospital as set forth in (c)(1)(F) of this Section.

(G) **Post-anesthesia recovery unit.** A Level I hospital is subject to the same post-anesthesia recovery unit requirements as a Level II hospital as set forth in (c)(1)(G) of this Section.

(H) **Intensive care unit.** A Level I hospital is subject to the same intensive care unit requirements as a Level II hospital as set forth in (c)(1)(H) of this Section. A physician with privileges in critical care must be on duty

in the unit or immediately available in the hospital 24 hours a day.

(I) **Diagnostic Imaging.** A Level I hospital is subject to the same diagnostic imaging requirements as a Level II hospital as set forth in (c)(1)(I) of this Section.

(J) **Clinical laboratory service.** A Level I hospital is subject to the same clinical laboratory requirements as a Level III hospital as set forth in (b)(1)(J) of this Section.

(K) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators will be available 24 hours a day. Respiratory therapy services will comply with OAC 310:667-23-6.

(L) **Acute hemodialysis.** The hospital will have the capability to provide acute hemodialysis services 24 hours a day. All staff providing hemodialysis patient care will have documented hemodialysis training and experience.

(M) **Social services.** Social services must be available and provided in accordance with Subchapter 31 of this Chapter.

(2) **Personnel: Emergency services director.** The medical staff will designate a physician credentialed to provide emergency medical care as emergency services director.

(3) **Supplies and equipment: Emergency department.** The emergency department must have equipment for use in the resuscitation of patients of all ages on site, functional, and available in the emergency department, including the items specified in OAC 310:667-59-9(d)(3)(A).

(4) **Policies on transfers.** The hospital shall have written policies defining the medical conditions and circumstances for those emergency patients which may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another facility. A Level I hospital is subject to the same policies on transfers requirements as a Level IV hospital as set forth in (a)(4) of this Section.

(5) **Organ Procurement.** The hospital, in association with an organ procurement organization certified by CMS, will develop policies and procedures to identify and refer potential organ donors.

[Source: Added at 17 Ok Reg 2992, eff 7-13-00 ; Amended at 20 Ok Reg 1664, eff 6-12-03 ; Amended at 39 Ok Reg 1392, eff 9-11-22]

SUBCHAPTER 61. RURAL EMERGENCY HOSPITALS

310:667-61-1. Purpose

This Subchapter 61 creates a category of licensure to enable certain rural Oklahoma hospitals to receive federal healthcare reimbursements from Medicare and Medicaid programs, as rural emergency hospitals, pursuant to the Social Security Act § 1861(kkk), Title 42 U.S.C. § 1395x and 42 CFR Parts 485 and 489, to enable them to

continue providing services to the rural communities they serve.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

310:667-61-2. Definitions

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

"CMS" means the Centers for Medicare & Medicaid Services, a part of the United States Department of Health and Human Services.

"Code of federal regulations" or **"CFR"** means the codification of the general and permanent rules published by the departments and agencies of the federal government.

"Conditions of participation" means certain CMS regulations setting minimum health and safety standards for healthcare organizations to meet to participate in federally funded healthcare programs, such as Medicare and Medicaid.

"Facility" means:

- (A) *was a critical access hospital; or*
- (B) *was a subsection (d) hospital (as defined in section 1395ww(d)(1)(B) of Title 42 U.S.C.) with not more than 50 beds located in a county (or equivalent unit of local government) in a rural area (as defined in section 1395ww(d)(2)(D) of Title 42 U.S.C.), or was a subsection (d) hospital (as so defined) with not more than 50 beds that was treated as being located in a rural area pursuant to section 1395ww(d)(8)(E) of Title 42 U.S.C. [Title 42 U.S.C. 1395x]*

"Rural emergency hospital" or **"REH"** means a facility, as defined above, that:

- (A) *is enrolled under Title 42 U.S. C. §1395cc(j), which relates to the enrollment process for providers of services and suppliers, submits the additional information described in paragraph 1395x(kkk)(4)(A) of Title 42 U.S.C., related to providing an action plan, describing any outpatient services offered and the proposed use of the additional facility payment to REHs, for purposes of such enrollment, and makes the detailed transition plan described in clause (i) of such paragraph available to the public, in a form and manner determined appropriate by the U.S. Secretary of Health & Human Services ("Secretary");*
- (B) *does not provide any acute care inpatient services, other than those described in paragraph Title 42 U. S. C. 1395x(kkk)(6)(A), related a skilled nursing facility to furnish post-hospital extended care services;*
- (C) *has in effect a transfer agreement with a level I or level II trauma center;*
- (D) *meets-*

- (i) *licensure requirements as described in paragraph Title 42 U.S.C. 1395x(kkk)(5);*
- (ii) *the requirements of a staffed emergency department as described in paragraph Title 42 U.S.C. 1395x(kkk)(1)(B);*
- (iii) *such staff training and certification requirements as the Secretary may require;*
- (iv) *conditions of participation applicable to-*
 - (I) *critical access hospitals, with respect to emergency services under section 485.618 of title 42, Code of Federal Regulations ("CFR") (or any successor regulation); and*
 - (II) *hospital emergency departments under this subchapter, as determined applicable by the Secretary; [Title 42 U.S.C. 1395x(kkk)] and*

(E) means an entity that operates for the purpose of providing emergency department services, observation care, and other outpatient medical and health services specified by the Secretary in which the annual per patient average length of stay does not exceed 24 hours. [42 CFR Part 485, § 485.502]

"Rural emergency hospital services" means *the following services furnished by a rural emergency hospital ...that do not exceed an annual per patient average of 24 hours in such rural emergency hospital:*

- (A)... Emergency department services and observation care; and*
- (B) ... At the election of the rural emergency hospital, with respect to services furnished on an outpatient basis, other medical and health services as specified by the Secretary through rulemaking. [Title 42 U.S.C. 1395x (kkk)(1)]*

"Twenty-four hours" or "24 hours" means *the time calculation for determining the length of stay of a patient receiving REH services, which begins with the registration, check-in or triage of the patient (whichever occurs first) and ends with the discharge of the patient from the REH. [42 CFR Part 485, §485.502]*

"U.S.C." means the United States Code, a consolidation and codification by subject matter of the general and permanent laws of the United States.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

310:667-61-3. Licensure

(a) No person or entity shall operate a facility as a rural emergency hospital without first obtaining a license from the Department. The applicant for licensure must:

- (1) be within the definition of facility in OAC 310:667-63-2;
- (2) include an action plan for initiating rural emergency hospital services, including a detailed transition plan that lists the specific services that the facility will retain, modify, add and discontinue;

and

(3) a description of services that the facility intends to provide on an outpatient basis.

(b) The applicant for REH licensure is subject to the licensure requirements set forth in OAC 310:667-1-3. All applicants receiving REH licensure are subject to the regulatory requirements specific to the type of facility in OAC 310:667.

(c) A licensed general hospital or critical access hospital that applies for and receives licensure as a rural emergency hospital and elects to operate as a rural emergency hospital will retain its original license as a general hospital or critical access hospital. The original license will remain inactive while the REH license is in effect.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

310:667-61-4. REH basic requirements

No person or entity shall be licensed as an REH, to provide rural emergency hospital services, unless:

- (1) the facility meets the definition of a rural emergency hospital contained in OAC 310:667-63-2;
- (2) the facility has in effect a provider agreement as defined in 42 CFR Part 489, §489.3; and
- (3) the facility meets the CMS conditions of participation set forth in 42 CFR Part 485, §§ 485.508 through 485.641.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

310:667-61-5. Minimum operational requirements

No facility shall operate as a REH unless:

- (1) The facility satisfies the emergency department requirements for a critical access hospital set forth in OAC 310:667-39-14;
- (2) The facility satisfies the emergency department requirements for a REH as promulgated by CMS;
- (3) The facility provides rural emergency hospital services;
- (4) The facility has in effect a transfer agreement with a level I or level II trauma center that meets the requirements of OAC 310:667-59, Classification of Hospital Emergency Services;
- (5) The facility complies with state and federal law, CMS staffing requirements and all CMS conditions of participation;
- (6) The facility may not have inpatient beds, except that such hospital may have a unit that is a distinct part of such hospital and that is licensed as a skilled nursing facility to provide post-hospital extended care services; and
- (7) The facility may own and operate an entity that provides ambulance services.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

APPENDIX A. VENTILATION REQUIREMENTS FOR AREAS AFFECTING PATIENT CARE IN HOSPITALS AND OUTPATIENT FACILITIES [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ;
Revoked and reenacted at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

APPENDIX B. STATION OUTLETS FOR OXYGEN, VACUUM (SUCTION), AND MEDICAL AIR SYSTEMS IN HOSPITALS [REVOKED]

[**Source:** Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ;
Revoked and reenacted at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

APPENDIX C. SOUND TRANSMISSION LIMITATIONS IN GENERAL HOSPITALS [REVOKED]

[**Source:** Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ;
Revoked and reenacted at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

APPENDIX D. FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND AIR CONDITIONING SYSTEMS IN GENERAL HOSPITALS [REVOKED]

[Source: Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ;
Revoked and reenacted at 20 Ok Reg 1664, eff 6-12-03 ; Revoked and reenacted at 21 Ok Reg 2785, eff
7-12-04 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

APPENDIX E. HOT WATER USE - GENERAL HOSPITAL [REVOKED]

[**Source:** Added at 12 Ok Reg 1555, eff 4-12-95 (emergency); Added at 12 Ok Reg 2429, eff 6-26-95 ;
Revoked and reenacted at 20 Ok Reg 1664, eff 6-12-03 ; Revoked at 36 Ok Reg 1730, eff 9-13-19]

CHAPTER 668. UNCOMPENSATED CARE FUND [REVOKED]

[**Authority:** 63 O.S., §§ 1-104 et seq. and 1-702b]
[**Source:** Codified 5-25-01]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:668-1-1. Purpose [REVOKED]

[**Source:** Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ;
Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-1-2. Definitions [REVOKED]

[**Source:** Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ;
Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-1-3. Rounding of numbers [REVOKED]

[**Source:** Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ;
Revoked at 24 Ok Reg 2022, eff 6-25-07]

SUBCHAPTER 3. REPORTS AND FINANCIAL STATEMENTS [REVOKED]

310:668-3-1. Filing requirements [REVOKED]

[**Source:** Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ;
Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-3-2. Report forms [REVOKED]

[**Source:** Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ;
Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-3-3. Verification and documentation [REVOKED]

[**Source:** Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ;
Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-3-4. Amendments [REVOKED]

[**Source:** Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ;
Revoked at 24 Ok Reg 2022, eff 6-25-07]

SUBCHAPTER 5. FEE ASSESSMENTS [REVOKED]

310:668-5-1. Calculation of fee [REVOKED]

[Source: Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ; Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-5-2. Billing procedure [REVOKED]

[Source: Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ; Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-5-3. Due date for fee payment [REVOKED]

[Source: Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ; Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-5-4. Adjustments to fees [REVOKED]

[Source: Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ; Revoked at 24 Ok Reg 2022, eff 6-25-07]

SUBCHAPTER 7. FUND DISTRIBUTION [REVOKED]

310:668-7-1. Calculation of pro rata share [REVOKED]

[Source: Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ; Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-7-2. Distribution procedure [REVOKED]

[Source: Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ; Revoked at 24 Ok Reg 2022, eff 6-25-07]

SUBCHAPTER 9. ENFORCEMENT AND GRIEVANCE [REVOKED]

310:668-9-1. Termination of license [REVOKED]

[Source: Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ; Revoked at 24 Ok Reg 2022, eff 6-25-07]

310:668-9-2. Grievance procedure [REVOKED]

[Source: Added at 17 Ok Reg 3461, eff 8-29-00 (emergency); Added at 18 Ok Reg 1721, eff 5-25-01 ; Revoked at 24 Ok Reg 2022, eff 6-25-07]

CHAPTER 669. TRAUMA CARE ASSISTANCE REVOLVING FUND

[**Authority:** 63 O.S., §§ 1-104, 1-2512, and 1-2530.9]
[**Source:** Codified 6-11-01]

SUBCHAPTER 1. GENERAL PROVISIONS

310:669-1-1. Purpose

This Chapter implements a Trauma Care Assistance Revolving Fund under authority of 63 O.S. §1-2530.9.

[**Source:** Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01 ; Amended at 40 Ok Reg 1586, eff 9-11-23]

310:669-1-2. Definitions

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

"Ambulance service" means an entity licensed in accordance with 63 O.S. Supp. 2000, 1-2501, et seq.

"Bad debt" means the actual amount of uncollectible charges written off by a distribution entity, and arising from providing trauma care at an inpatient or outpatient facility, or transportation service, and that is calculated as the net of bad debt recoveries applied against bad debt expenses.

"Charity care" means trauma care at an inpatient or outpatient facility, or transportation services for which a distribution entity never expected to be reimbursed based on the distribution entity's determination of the patient's ability to pay based on the distribution entity's established standards.

"Commissioner" means the State Commissioner of Health.

"Cost report" means the latest annual reporting statement filed by a facility with its fiscal intermediary in compliance with requirements enforced by the Centers for Medicare and Medicaid Services.

"Cost to charge ratio" means the factor(s) calculated annually using information reported as part of a facility's cost report.

"Department" means the State Department of Health.

"Distribution entity" means an ambulance service or trauma facility that provided uncompensated care and reported the care respectively to the pre-hospital emergency medical service database in accordance with OAC 310:631-3-160(b), and the state trauma registry in accordance with OAC 310:669-3-1. This will also include physicians licensed in Oklahoma during the time the trauma care is provided.

"Fund" means the Trauma Care Assistance Revolving Fund.

"Gross revenues" means the charges for inpatient and outpatient services uniformly applied at the regular rates established to all patients by the distribution entity prior to the application of any adjustments, allowances, discounts, or revenue deductions.

"Medicare Allowed Reimbursement" means the allowed reimbursement established by the Centers for Medicare and Medicaid

Services for the geographic location where inpatient or outpatient care is provided by a physician or transportation services are provided by a freestanding ambulance service.

"Run report" means the standard report form developed by the Commissioner to facilitate the collection of a standardized data set related to the provision of emergency medical and trauma care in accordance with 63 O.S. Section 1-2511.

"Tier A Physician" means a physician credentialed by the medical staff to provide emergency care to trauma patients in the specialties of emergency medicine, neurosurgery, general surgery, maxillo-facial surgery, orthopedic surgery, surgery specialties, anesthesiology, and trauma intensivists.

"Tier B Physician" means a physician credentialed by medical staff to provide care to trauma patients in a specialty area not defined in Tier A.

"Trauma" means bodily injury that produces injuries severe enough to cause disability or death.

"Trauma care" means treatment or transportation for treatment of a bodily injury that produces injuries severe enough to cause disability or death.

"Trauma facility" means a hospital classified by the Department as providing a Level I, II, III, or IV Trauma and Emergency Operative Service.

"Trauma registry" means *the statewide emergency medical services and trauma analysis system developed pursuant to the provisions of Section 1-2511 of Title 63 of the Oklahoma Statutes.* [63:330.97]

"Trauma team" means a specific team identified in policy and required to respond to the hospital to care for the traumatically injured within a specified period of time, monitored by a quality assurance process.

"Uncompensated care" means care provided for which expected payment was not received from the patient or insurer or any other identified payor source. Uncompensated care is the sum of a distribution entity's bad debt and charity care.

[Source: Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01 ; Amended at 19 Ok Reg 393, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1064, eff 5-13-02 ; Amended at 21 Ok Reg 2440, eff 7-11-05 ; Amended at 24 Ok Reg 2025, eff 6-25-07]

310:669-1-3. Rounding of numbers

The Department shall take the pro rata distributions to the second decimal point or hundredths place (.00) by rounding back from the third or thousandths place (.000).

[Source: Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01 ; Amended at 26 Ok Reg 1759, eff 4-27-09 through 7-14-10 (emergency)¹; Amended at 27 Ok Reg 2545, eff 7-25-10 ; Amended at 40 Ok Reg 1586, eff 9-11-23]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency amendatory*

action, the last prior permanent text is reinstated. Therefore, on 7-15-10 (after the 7-14-10 expiration of the emergency action), the text of section 310:669-1-3 reverted back to the permanent text that became effective 6-11-01, as was last published in the 2006 Edition of the OAC, and remained as such until amended again by permanent action on 7-25-10.

SUBCHAPTER 3. DATA ACCUMULATIONS

310:669-3-1. Data accumulation

(a) A trauma facility shall accumulate data in accordance with the following procedures:

- (1) Within thirty (30) calendar days of receiving a run report from an ambulance service, enter transportation-related data to the trauma registry;
- (2) Immediately after entering data received from an ambulance service into the trauma registry, indicate the date entered and initials of the person making the entry on the ambulance service's filing; and
- (3) Periodically throughout the year make entries to the trauma registry for the facility's own total charges, total costs, or total collections.

(b) An ambulance service shall submit run reports to the Department in accordance with the requirements of OAC 310:641-3-160(b).

(c) A physician submitting claim for payment to the Trauma Care Assistance Revolving Fund shall maintain records on all trauma cases showing all charges, the Centers for Medicare and Medicaid Services reimbursement methodology based on the appropriate procedure code, and subsequent collections.

[Source: Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01 ; Amended at 21 Ok Reg 2440, eff 7-11-05]

SUBCHAPTER 5. REPORTS AND FINANCIAL STATEMENTS

310:669-5-1. Filing requirements

(a) There shall be a minimum of two filing periods annually with such filing periods to be designated by the Department. By the end of each filing period, each distribution entity requesting distribution of a pro rata share of the Trauma Care Assistance Revolving Fund shall file a report with the Commissioner for the designated filing period.

(b) Each distribution entity shall use the forms established by OAC 310:669-5-2 to report the following:

- (1) A link(s) to identify the trauma registry data;
- (2) The dollars of gross revenues for the distribution entity's trauma care bad debts;

- (3) The dollars of gross revenues for the distribution entity's trauma charity care;
- (4) The cost to charge ratio calculated using the costs and charges for all departments of a trauma facility; and
- (5) The trauma facility's specific ambulance department cost to charge ratio for a hospital-based ambulance service.

(c) Trauma reported to the trauma registry is described by one of the following:

(1) An ICD-9 code of 800.00 to 959.9, and is limited to contacts within thirty (30) days of the injury, and is accompanied by one or more of the following events for the patient:

- (A) An admission to a hospital of at least forty-eight (48) hours; or
- (B) Transfer from a lower level to a higher level of trauma care for major trauma; or
- (C) Admission to an intensive care unit; or
- (D) Admission directly to an operating room for surgery of the head, chest, abdomen, or vascular system; or
- (E) A declaration of dead on arrival; or
- (F) A declaration of dead in the emergency room or elsewhere in the hospital.
- (G) In addition to meeting the requirements at 310:669-5-1(c), each reportable case must also meet at least one of the following criteria as computed by the trauma registry software, unless the patient was declared dead on arrival to the hospital or died while in the hospital:
 - (i) Have an Abbreviated Injury Score of 3 or higher; or
 - (ii) Have an Injury Severity Score of 9 or higher; or
 - (iii) Have a Survival Probability of 0.90 or less; or

(2) Oral-maxillo-facial injuries requiring the immediate treatment and presence of a licensed physician or licensed dentist credentialed by the hospital to perform oral-maxillo-facial surgery, with an ICD-9 code of 800.0 to 959.9 and meeting at least one of the following criteria:

- (A) Panfacial trauma involving fractures of the zygomaticomalar complex type, or a Lefort type (I, II, or III) and a mandibular fracture. Panfacial trauma may also include multiple soft tissue injuries, lacerations, or avulsions; or
- (B) Bilateral fracture of the mandible with flail symphyseal segment; or
- (C) Multiple severe mandibular fractures requiring tracheostomy or intubation of greater than 24 hours; or
- (D) Depressed zygomaticomalar complex fractures with entrapment of the inferior rectus muscle or impingement on the optic nerve bundle; or
- (E) Facial lacerations that involve major vessels, major branches of the facial nerve, or the parotid duct; or

(3) Traumatic injuries to the hand requiring the immediate presence and treatment by a physician credentialed by the

hospital with ICD-9 codes of 800.00 to 959.9 and meeting one of the following criteria:

(A) Complete amputations or lacerations of the hand which result in disruption of the vascular supply to one or more digits or the entire hand; or

(B) Severely crushed or mangled hand injuries with associated vascular injuries, fractures and/or dislocations.

(d) Time sensitive traumatic injuries requiring immediate surgical intervention by a surgical specialist to prevent loss of life, limb, or vision, and not meeting the criteria identified in 310:669-5-1(c) may be considered for Trauma Fund Disbursement as approved by the Medical Audit Committee and the Oklahoma Trauma System Improvement and Development Advisory Council and reported to the Board of Health. Such approval shall occur periodically and shall not be effective retroactively.

(e) Cases meeting any of the following exclusionary conditions shall not be reported to the trauma registry or be eligible for reimbursement from the Fund:

(1) Isolated orthopedic injuries to the extremities due to a same level fall;

(2) Overexertion injuries;

(3) Injuries resulting from a pre-existing condition such as osteoporosis or esophageal stricture;

(4) Injuries greater than 30 days old;

(5) Poisoning and toxic events; and

(6) Submersion injuries.

(f) Uncompensated expenses incurred by a distribution entity associated with major trauma patients, and such trauma care has been reported to the state pre-hospital emergency medical service database and/or the state trauma registry, shall be eligible for reimbursement.

Uncompensated expenses incurred for emergency transport to a trauma facility from the scene of the injury or from a lower level to a higher level of trauma care are eligible for reimbursement when the case meets one or more of the following conditions:

(1) The extent of patient injury is verified through a hospital trauma registry as described at OAC 310:667-5-1(c), (d), and (e); or

(2) Glasgow coma score equal to or less than thirteen (13) directly related to the mechanism of injury; or

(3) Signs and symptoms of respiratory compromise resulting from trauma requiring intervention; or

(4) Hemodynamic compromise from trauma resulting in decreased blood pressure; or

(5) Penetrating injury above the groin; or

(6) Amputation proximal to the wrist or ankle; or

(7) Complete amputations or lacerations of the hand which result in disruption of the vascular supply to one or more digits or the entire hand; or

(8) Severely crushed or mangled hand injuries with associated vascular injuries, fractures and/or dislocations.

(9) Paralysis resulting from traumatic injury, including pre-hospital treatment for spinal precautions based upon the signs

and symptoms of neurological deficit; or
(10) Flail chest; or
(11) Two or more proximal long bone fractures (humerus and/or femur); or
(12) Open or depressed skull fracture; or
(13) Unstable pelvis; or
(14) Pediatric trauma score equal to or less than eight (8).
(15) Time sensitive traumatic injuries requiring immediate surgical intervention by a surgical specialist to prevent loss of life, limb, or vision, and not meeting the criteria identified in 310:669-5-1 (c) and approved by the Medical Audit Committee and the Oklahoma Trauma System Improvement and Development Advisory Council and reported to the Board of Health.

(g) A distribution entity shall exclude from its contractual adjustments gross revenue amounts written off as a result of governmental payors' set reimbursement rates that are not subject to negotiation by the entity. Contractual adjustment exclusions may include but are not limited to Medicare, Medicaid, and Indian Health Service reimbursement, and shall not include Workers Compensation.

(h) A free-standing ambulance service shall calculate transportation reimbursement using the Centers for Medicare and Medicaid Services reimbursement methodology in place as of the date of transportation.

(i) A physician shall calculate procedure reimbursement using the Centers for Medicare and Medicaid Services reimbursement methodology based on the appropriate procedure code.

(j) A distribution entity shall not include in uncompensated care any deductible or coinsurance that the patient fails to pay to the distribution entity unless the distribution entity has pursued reasonable collection efforts consistent with those generally used by similar entities. A distribution entity shall not include any amount it is not entitled to collect from the patient.

(k) If a trauma facility transfers a major trauma patient to another facility classified to provide a higher level of trauma care, the transfer shall be performed in accordance with the Oklahoma Triage, Transport, and Transfer Guidelines established under OAC 310:641-3-130(b)(3). The transferring facility shall include in uncompensated care reported in accordance with OAC 310:669-5-2 only those gross revenues incurred which were necessary to provide stabilizing treatment prior to effecting an appropriate transfer. Gross revenues for inappropriate definitive diagnostic testing prior to transfer shall not be reported as uncompensated care.

[Source: Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01 ; Amended at 19 Ok Reg 393, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1064, eff 5-13-02 ; Amended at 20 Ok Reg 1665, eff 6-12-03 ; Amended at 21 Ok Reg 2440, eff 7-11-05 ; Amended at 24 Ok Reg 2025, eff 6-25-07]

310:669-5-2. Report forms

(a) Each trauma facility shall detail eligible trauma cases, cross-reference report components, detail and summarize uncompensated care, and

report the facility's cost to charge ratio on a "Hospital Claim Form" that includes the following:

(1) Demographic data downloaded from the trauma registry including:

- (A) Creation number of the Trauma registry entry;
- (B) Patient's Social Security Number, if available;
- (C) Medical record number for the trauma facility;
- (D) Patient's date of arrival at the trauma facility in the format mm/dd/yyyy;
- (E) Patient last name;
- (F) Patient first name; and
- (G) Patient date of birth in the format mm/dd/yyyy, if available

(2) Financial Information from the trauma registry and/or the financial records of the trauma facility and cross-references and calculations including:

- (A) Total hospital charges as reported in the trauma registry;
- (B) Total collections as reported in the trauma registry;
- (C) Total hospital gross revenues as reported in the trauma facility's financial records;
- (D) The cost to charge ratio for all departments of the facility in place as of the patient's date of arrival at the trauma facility;
- (E) Adjusted hospital gross revenues calculated by multiplying the figure in C of this paragraph by the ratio in D of this paragraph;
- (F) Actual total collection for the patient's services as of the date the "Hospital Claim Form" is prepared by the trauma facility;
- (G) Contractual adjustments pertinent to the trauma services received by the patient;
- (H) The trauma facility's uncompensated care services for the patient calculated by subtracting the figures in items F of this paragraph and G of this paragraph from the calculated amount in E of this paragraph.

(b) Each free-standing ambulance service shall detail eligible trauma cases, detail and summarize uncompensated care on an "EMS Claim Form" that includes the following:

(1) Demographic data extracted from the run report including:

- (A) Run report number or lithocode;
- (B) Transported person's Social Security Number, if available;
- (C) Transported person's last name;
- (D) Transported person's first name;
- (E) Transported person's date of birth in the format mm/dd/yyyy, if available;
- (F) Transported person's pickup date in the format mm/dd/yyyy;
- (G) The name of the delivered to facility; and
- (H)

- (I) The Glasgow Coma Score and trauma criteria as reported on the run report, or information using such other uniform trauma reporting standards as the Department determines are reasonable and necessary to accurately classify each trauma case.
- (2) Financial information from the free-standing ambulance financial records of the ambulance service including:
 - (A) Total reimbursement using the Medicare allowed reimbursement or other methodology in place on the date of transportation;
 - (B) Actual total collections for the transported person's services as of the date the "Free Standing Ambulance Service Revolving Fund Distribution Request Form" is prepared by the trauma facility;
 - (C) Contractual adjustments pertinent to the transportation services received by the transported person;
 - (D) The free-standing ambulance services uncompensated care for the transported person calculated by subtracting the figures in items (B) of this paragraph and (C) of this paragraph from the amount in (A) of this paragraph.
- (c) Each hospital-based ambulance service shall, at a minimum, detail eligible trauma cases and summarize uncompensated care in a format approved by the Department which includes the following:
 - (1) Demographic data extracted from the run report including:
 - (A) Run report number or lithocode;
 - (B) Transported person's Social Security Number, if available;
 - (C) Transported person's last name;
 - (D) Transported person's first name;
 - (E) Transported person's date of birth in the format mm/dd/yyyy, if available;
 - (F) Transported person's pickup date in the format mm/dd/yyyy;
 - (G) The name of the delivered to facility; and
 - (H) The Glasgow Coma Score and trauma criteria as reported on the run report, or information using such other uniform trauma reporting standards as the Department determines are reasonable and necessary to accurately classify each trauma case.
 - (2) Financial information from the hospital-based ambulance financial records of the ambulance service including:
 - (A) Total reimbursement using the lesser of the Medicare per trip limit or the services' charges multiplied by the hospital's ambulance department specific cost to charge ratio;
 - (B) Actual total collections for the transported person's services as of the date the is prepared by the emergency medical service provider;
 - (C) Contractual adjustments pertinent to the transportation services received by the transported

- person;
- (D) The hospital-based ambulance services uncompensated care for the transported person is calculated by subtracting the figures in items (B) of this paragraph and (C) of this paragraph from the amount in (A) of this paragraph.
- (3) As an alternative to the report described in (1) of this subsection, a hospital-based ambulance service may report using a format approved by the Department by extracting from the trauma registry all information the trauma facility reports and adding to that information the ambulance-specific information from (1) of this subsection and (2) of this subsection.
- (d) It is the responsibility of a physician submitting a claim for Trauma Fund disbursement to validate the submission of trauma cases meeting the requirements of 310:669-5-1 with the trauma registrar in the hospital in which the trauma care was provided, and to submit eligible trauma cases and summarize uncompensated care in a format approved by the Department which includes the following:
 - (1) Demographic data extracted from the trauma registry including:
 - (A) Creation number of the trauma registry entry;
 - (B) Patient's Social Security Number, if available;
 - (C) Patient's date of arrival at the trauma facility in the format mm/dd/yyyy;
 - (D) Patient date of birth in the format mm/dd/yyyy, if available; and
 - (E) Physical findings and treatment as specified in the Centers for Medicare and Medicaid Services reimbursement methodology based on the appropriate procedure code.
 - (2) Financial information from the physician records including:
 - (A) Total allowable reimbursement using the Medicare methodology in place on the date of care;
 - (B) Actual total collections for patient services as of the date the request for revolving fund distribution is prepared in a format approved by the Department;
 - (C) Contractual adjustments pertinent to the services received by the patient;
 - (D) The physician's uncompensated care cost calculated by subtracting the figures in items (B) of this paragraph; and
 - (C) of this paragraph from the amount in (A) of this paragraph.
- (e) Each distribution entity shall file with the appropriate request form a properly signed and notarized contract in accordance with the Central Purchasing Act (74 O.S. Supp. 2000 Section 85.1 et seq.) to permit encumbrance by the State of the funds for the distribution.

[Source: Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01 ; Amended at 21 Ok Reg 2440, eff 7-11-05 ; Amended at 24 Ok Reg 2025, eff 6-25-07]

310:669-5-3. Verification and documentation

Upon written request from the Department, a distribution entity shall submit to the Department a copy of the following:

- (1) Cost report; or
- (2) Other financial, licensure, statistical, contractual, or payment information to verify the distribution entity's data.

[Source: Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01]

310:669-5-4. Amendments

(a) A distribution entity's data originally reported to the trauma registry may be subject to audit as established by law, contractual agreement, or for the facility's owners or operators to exercise fiscal and fiduciary responsibility. A State or Federal agency, a fiscal intermediary, or an independent auditor may perform an audit. The audit report may also be eligible for appeal.

(b) A distribution entity may also receive an additional collection(s) for care treated as uncompensated on a prior request for distribution report.

(c) When a late collection(s) or an audit or its appeal results in revising data filed in accordance with OAC 310:669-5-1 and 5-2, the distribution entity shall report to the Department according to Department guidelines. Any additional monies received from other sources of funding for a case that was reimbursed by the Trauma Fund must be returned to the Fund and applied towards future disbursements.

[Source: Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01 ; Amended at 21 Ok Reg 2440, eff 7-11-05 ; Amended at 24 Ok Reg 2025, eff 6-25-07]

SUBCHAPTER 7. FUND DISTRIBUTION

310:669-7-1. Calculation of pro rata share

(a) Available monies in the Trauma Care Assistance Revolving Fund shall be disbursed as follows:

(1) A minimum of seventy-percent of the total available monies shall be allotted for distribution to ambulance services and hospitals in accordance with the Department's calculated pro rata share.

(2) Up to thirty (30) percent of the total available monies shall be allotted for distribution to Tier A physicians in accordance with the Department's calculated pro rata share. If the total available monies distributed to Tier A physicians is less than thirty (30) percent of the total available monies, the remainder of this thirty (30) percent shall be allotted for distribution to Tier B physicians. If the total available monies distributed to Tier A and Tier B physicians is less than thirty (30) percent of the total available monies, the remainder of the monies shall be allotted for distribution to ambulance services and hospitals.

(b) For each distribution entity that filed a report in accordance with OAC 310:669-5-1 and 5-2, the Department shall calculate the distribution entity's pro rata share of the available monies in the Trauma Care

Assistance Revolving Fund developed in accordance with 47 O.S. Supp. 2000 Section 6-101 using the following fraction:

- (1) The numerator of the fraction shall equal the sum of the distribution entity's own uncompensated trauma care dollars multiplied by the cost to charge ratio of the facility; and
- (2) The denominator of the fraction shall equal the sum of the uncompensated trauma care dollars for all distribution entities after each facility's cost to charge ratio is applied.

[Source: Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01 ; Amended at 21 Ok Reg 2440, eff 7-11-05 ; Amended at 24 Ok Reg 2025, eff 6-25-07]

310:669-7-2. Distribution procedure

(a) The Department shall distribute a pro rata share of the Trauma Care Assistance Revolving Fund to each distribution entity that filed a report as required by OAC 310:669-5-1 and 5-2, in accordance with the designated filing periods as described in 310:669-5-1, as follows:

- (1) Calculated in accordance with OAC 310:669-7-1; and
- (2) Adjusted for amendments of data filed in accordance with OAC 310:669-5-4.

(b) The Department shall notify each distribution entity in writing of the pro rata distribution share the Department calculated in accordance with OAC 310:669-7-1. The distribution notice shall include the following:

- (1) The total Trauma Care Assistance Revolving Fund monies available to be distributed, and to be retained by the Department;
- (2) The numerator and the denominator of the distribution entity's pro rata distribution fraction calculated in accordance with OAC 310:669-7-1; and
- (3) The contact person and the address at the Department to submit questions.

(c) The Department shall make a pro rata distribution of the Trauma Care Assistance Revolving Fund.

[Source: Added at 17 Ok Reg 3465, eff 8-29-00 (emergency); Added at 18 Ok Reg 2047, eff 6-11-01 ; Amended at 19 Ok Reg 393, eff 11-19-01 (emergency); Amended at 19 Ok Reg 1064, eff 5-13-02 ; Amended at 21 Ok Reg 2440, eff 7-11-05]

CHAPTER 670. CITY AND COUNTY DETENTION FACILITY STANDARDS

[Authority: 63 O.S., § 1-104; 74 O.S., § 192]
[Source: Codified 12-31-92]

SUBCHAPTER 1. GENERAL PROVISIONS

310:670-1-1. Purpose

The rules in this Chapter provide procedures for inspecting all city and county detention facilities, city or county lockup facilities, and city or county detention facilities holding juveniles, as authorized by 74 O.S., Section 192.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-1-2. Definitions

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

"ACA" means American Correctional Association.

"Available" means that the subject individual is either on site or on the premises.

"Barrack-style" means *a single designated space within a city or county jail facility for the purpose of housing three or more inmates.*[57 O.S. § 57(F)]

"Bodily search" means any invasive examination by hand of an inmate's person or clothing. Bodily searches do not include "pat-downs."

"Central control" means the central point within the facility where security activities are monitored and controlled.

"Contraband" means anything not authorized to be in an inmate's possession.

"Dayroom" means space for activities that is situated immediately adjacent to the inmates' sleeping area and separated from the sleeping area by a wall.

"Department" means Oklahoma State Department of Health.

"Detention facility" means a facility that may hold a person for an indefinite period of time.

"Detention Officer" means a person whose training, education and/or experience specifically qualifies him or her to perform the duties indicated in the job description and the jail standards, or a person who holds a certification accorded pursuant to 70 O.S. Section 3311. The individual performing the duties must be trained in appropriate laws, codes, standards, policies and procedures.

"Direct contact with inmates" means contact between Detention Officers and inmates in inmate living areas.

"Direct supervision" means the Detention Officer is in direct contact with inmates and is in a position to constantly monitor behaviors and interact with inmates.

"Emergency care" means *medical or surgical care necessary to treat the sudden onset of a potentially life-or limb-threatening condition or symptom* [57 O.S. § 38.3(A)(1)].

"Facility administrator" means sheriff, police chief, city manager, private contractor or a designee thereof charged with maintaining and operating a lockup facility, or detention facility.

"Grievance" means a circumstance or action considered unjust.

"Holding facility" means a facility that shall hold *persons under arrest who are charged with a crime* no longer than twelve (12) hours [74 O.S. § 192(B)].

"Hot meal" means a measure of food served and eaten at one sitting prepared in accordance with and served at a palatable temperature range of 110° - 120° F. (43.3°- 48.8° C.).

"Indigent inmate" means an inmate who has a total receipt of or a balance of less than \$15.00 from the first day through the last of the preceding month.

"Inmate" means any individual, whether in pretrial, sentenced or un-sentenced status who is confined in a detention facility.

"Juvenile" means a person who is subject solely to the jurisdiction of a juvenile court or who is subject to the provisions of Title 10A O.S. § 2-5-205 or 10A O.S. § 2-5-206 (relating to classification as a youthful offender as defined at 10A O.S. § 2-5-202).

"Last locked/secure door" means the last secure barrier between staff and the inmate.

"Life endangering situations" means a suicide attempt, or obvious serious injury or illness, which in the evaluation of the staff requires an immediate response.

"Life threatening" means a situation in which life saving measures are taken.

"Living area" means those areas of a facility utilized for the day-to-day housing and activities of inmates. These areas do not include reception and release areas and special use cells such as sobering, safety, and holding or staging cells normally located in receiving areas.

"Lockup facility" means a facility that may hold a person no longer than ten (10) days. It is usually operated by a town or city for the temporary detention of persons awaiting arraignment. Persons who need to be detained longer than ten (10) days shall be transferred to a detention facility.

"New construction" means a facility with final plans approved after January 1, 1992.

"Non-secure areas" means those areas where a youth or juvenile is in the custody of law enforcement and may not be able to leave or depart from the presence of law enforcement, yet the youth or juvenile is not detained in a facility which limits movement.

"On site" means a Detention Officer being physically present within the detention facility.

"On the premises" means a Detention Officer being physically present within the structure incorporating the detention facility, or within a building or structure sharing the same realty or located on realty that is contiguous to the realty upon which the structure incorporating the detention facility is located, provided that such remote building or

structure is not located farther than 500 feet from the detention facility.

"Pat-down" means a noninvasive search of an inmate by hand performed by lightly skimming the exterior surface of the clothing covering the legs and torso.

"Physician or other licensed medical personnel" means a psychiatrist, medical doctor, osteopathic physician, physician's assistant, registered nurse, licensed practical nurse, emergency medical technician at the paramedic level or clinical nurse specialist [57 O.S. § 4.1(3)].

"Sensitive functions and procedures" means any bodily search or the visual supervision of any activity requiring an inmate to partially or fully disrobe.

"Sight check" means when a Detention Officer physically observes an inmate.

"Sight contact" means clear visibility within close proximity.

"Sound contact" means direct oral communication.

"Substantial remodeling" means the cost to repair/replace is at least fifty (50) percent of the cost to replace the facility.

"Sustained contact" means sight or sound contact that is not brief and inadvertent.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:670-1-3. Implementation and inspection

A local facility administrator shall develop and implement written policies and procedures pertaining to the daily management and operation of the facility. Each facility shall develop and maintain an operations manual sufficient to demonstrate compliance with the standards in Section 1 of Subchapter 3 of this Chapter, or Section 1 of Subchapter 5 of this Chapter.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03]

310:670-1-4. Holding facilities exempt

Pursuant to Title 74 O.S. § 192(B), a holding facility is not required to meet the standards for detention facilities, *as long as no person is held therein for a period longer than twelve (12) hours and as long as an employee of the county, city, or town is available to render aid to or to release any person so confined in the event aid or release is required because of a health or life-endangering emergency.*

[Source: Added at 36 Ok Reg 1731, eff 9-13-19]

310:670-1-5. Policies and procedures

Where this Chapter specifies that the facility shall develop a policy and procedure, the following standards shall apply.

(1) A policy may include a procedure. A procedure may represent policy.

- (2) Policies and/or procedures developed based on requirements in this Chapter shall identify the following:
- (A) The rule or law addressed by the policy and procedure;
 - (B) The position(s) or personnel responsible for implementation and oversight of the policy and procedure;
 - (C) The actions to be taken or procedures to be followed by facility personnel. This is the who, what, where, and when of the procedure;
 - (D) The position(s) or personnel responsible for reviewing the policy and procedure;
 - (E) A schedule for reviewing the policy that identifies the frequency at which the policy and procedure will be reviewed; and
 - (F) A signature page to capture the signature and date that the responsible official adopted the policy and/or procedure and the dates that review of the policy and/or procedure were completed.

[Source: Added at 36 Ok Reg 1731, eff 9-13-19]

SUBCHAPTER 3. STANDARDS FOR LOCKUP FACILITIES

310:670-3-1. Basic standards

The facility administrator shall develop and implement written policies and procedures for the operation of a lockup facility which shall include and address at a minimum, the following:

- (1) Arrest and commitment papers shall be verified.
- (2) An inmate shall be searched during admission.
- (3) An inmate's property shall be inventoried and property shall be stored in a secure location.
- (4) Medical reception information shall be recorded in the inmate file and shall include, at a minimum, the following information:
 - (A) Current illnesses and health problems;
 - (B) Behavioral observation, including state of consciousness and mental status, history of alcohol or drug abuse and treatment;
 - (C) Body deformities and trauma markings such as bruises, lesions, jaundice, and ease of body movement;
 - (D) Condition of skin and visible body orifices, including infestations;
 - (E) Medications taken and any special health requirements;
 - (F) Whether the inmate is thinking about suicide or has recently attempted suicide; and
 - (G) Disposition or referral of the inmate to qualified medical personnel on an emergency basis [57 O.S. § 4.1(3)].

- (5) A first aid kit shall be available at locations designated by the facility administrator.
- (6) Two (2) completed, documented, local or collect telephone calls shall be allowed at time of booking or after a reasonable length of time as determined by the administrator or designee. The administrator or designee shall document an inmate's refusal to make calls. In facilities where inmates have unlimited access to operational telephones, an inmate's refusal to make telephone calls is not required to be documented.
- (7) Clean bedding and personal hygiene items shall be available and provided at the facility.
- (8) Shower facilities shall be available with hot and cold running water at a ratio of at least one (1) shower for every twenty (20) inmates.
- (9) Continual supervision shall be provided by a trained employee.
- (10) Hourly visual sight checks shall be conducted and documented.
- (11) Male and female inmates shall be housed in separated living areas with visual separation between the two genders. Housing of inmates with mixed gender identification will be administered in a manner to maximize inmate safety.
- (12) The facility shall comply with applicable building and fire safety codes of the State Fire Marshall as provided in Title 74 O.S. § 317 et seq.
- (13) Each inmate shall be provided at least three (3) meals each twenty-four (24) hours that meet the national recommended allowance for basic nutrition. At least two (2) hot meals shall be provided daily. There shall not be more than fourteen (14) hours between the breakfast and the evening meals.
- (14) Minimum Fire Safety Requirements:
- (A) **Automatic smoke detection.** The facility shall be equipped with a smoke detection system and a sprinkler system that is approved by the Fire Marshal.
 - (B) **Bedding.** Polyurethane foam mattresses, pads and pillows are prohibited. Mattresses that are in compliance with the requirements of the State Fire Marshall shall be used.
 - (C) **Emergency lighting.** Each facility shall have emergency lighting that meets the minimum standards of the State Fire Marshall.
 - (D) **Supervision of inmates.** Detention Officer posts shall be located and staffed close enough to the lockup area to permit Detention Officers to hear and respond promptly to calls for assistance, and provide immediate response to emergencies.
 - (E) **Exits.** There shall be designated and marked emergency evacuation exits that comply with the requirements of the State Fire Marshall.
- (15) Inmates held over twenty-four (24) hours shall be issued and required to wear a clean set of detention facility clothing to include at least shirt and trousers or coveralls and footwear. An

inmate shall receive a complete change of clothing at least one (1) time each week. Inmate street clothing shall be placed in inmate property.

(16) A Detention Officer shall be on duty on each floor where inmates are confined unless the facility is equipped with:

(A) Viewing access to all areas of the facility through closed circuit TV system; and

(B) An intercommunication system between the cell/living area and Detention Officer post/control center to communicate with and monitor inmates.

(17) Any lockup facility constructed or substantially remodeled after January 1, 1992 shall meet the requirements of OAC 310:670-5-11 except 310:670-5-11(b) (7), (8), and (13).

(18) Any lockup facility which houses forty (40) inmates or less shall be staffed consistent with the requirements at Title 74 O.S. § 192(C)]. Staff shall be available to perform sensitive functions and procedures as necessary to accommodate inmate gender.

(19) Any lockup facility *H which houses more than forty prisoners and less than seventy-five prisoners* shall be staffed consistent with the requirements at Title 74 O.S. § 192(D)]. Staff shall be available to perform sensitive functions and procedures as necessary to accommodate inmate gender.

(20) Smoking policies in lockup facilities shall conform to the requirements in Title 21 O.S. § 1247.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

SUBCHAPTER 5. STANDARDS FOR DETENTION FACILITIES

310:670-5-1. Admission, release and records

The following admission and release procedures shall be followed. A facility shall have written policies and procedures for the reception, orientation and release of inmates.

(1) The admission process of new inmates shall include at least the following:

(A) Verification of arrest or commitment papers;

(B) A search of the individual upon entering the facility and a complete bodily search of the individual may be authorized prior to entering the general population;

(C) Intake screening by trained facility personnel utilizing, in part, a medical/mental health questionnaire approved by the Department of Health, or a screening conducted by a physician or other licensed medical personnel;

(D) Procedures to ensure orientation and understanding of facility rules;

(E) Issue bedding, clothing, and footwear; and

- (F) Classification and assignment to a housing unit.
- (2) Positive identification shall be made of the arresting or committing officer, including verification of the officer's authority to make the commitment.
- (3) Each newly admitted inmate shall be permitted to complete at least two (2) local or collect telephone calls during the admission process or after a reasonable length of time as determined by the administrator. These telephone calls shall be documented and an inmate's refusal to make telephone calls shall be documented. In facilities, where inmates have unlimited access to operational telephones, an inmate's refusal to make telephone calls is not required to be documented.
- (4) The types of personal property inmates may retain in their possession during confinement shall be specified in a facility's policies and procedures. Secure storage for property not authorized to be in the inmate's possession, to include civilian street clothing shall be provided.
- (5) A written itemized inventory shall be made of all personal property of a newly admitted inmate.
- (6) Before an inmate is released, positive identification shall be made of the individual and authority for release shall be verified.
- (7) After the individual is positively identified, the inmate's personal property shall be returned. The items shall be compared with the inventory list and the inmate shall sign for the returned property upon release.
- (8) A logbook or computer record shall be maintained on all inmates admitted to the facility. The logbook or computer record shall include at least the following:
- (A) Name of the inmate;
 - (B) Date and time of admission;
 - (C) Date and time of release;
 - (D) Offense charges;
 - (E) Arrest number;
 - (F) Date of birth;
 - (G) Race; and
 - (H) Gender;
 - (I) Social security number;
 - (J) Booking and intake number.
- (9) An intake shall be completed for every person admitted to a facility. The intake information shall be placed in the inmate's file and shall contain at least the following information:
- (A) Date and time of admission;
 - (B) Name and aliases of inmate;
 - (C) Address;
 - (D) Name and title of arresting or delivering officer and employing agency;
 - (E) Charges;
 - (F) Date of birth;
 - (G) Race;
 - (H) Gender;
 - (I) Height;

- (J) Weight (verified by scale);
- (K) Eye color;
- (L) Hair color;
- (M) Scars, tattoos and other identifying markings;
- (N) Special medical and mental health comment-data and recommendations;
- (O) Name, relationship, address and phone number of emergency contact; and
- (P) Court judgment and sentence if the inmate is sentenced.

(10) Records shall be safeguarded from unauthorized disclosure. Written policies and procedures shall specify the process that inmates and former inmates are allowed access to their records.

(11) Individual records shall be maintained and kept current for each inmate which shall contain at least the following information:

- (A) Intake information;
- (B) Commitment papers and court order;
- (C) Reports of disciplinary actions or unusual occurrences;
- (D) Medical, mental health and dental orders issued by the health care authority;
- (E) The medical reception information collected pursuant to the requirements at OAC 310:670-5-8(2)(B);
- (F) Photographs or video imaging; and
- (G) Personal property inventory.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-5-2. Security and control

The facility administrator shall develop and implement written policies and procedures for the safety, security and control of staff, inmates and visitors. Policies and procedures shall address at least the following:

- (1) A central control center shall be maintained to coordinate the facility's internal and external security network. The control center shall be staffed twenty-four (24) hours-a-day. The control center or other location may be designated by the facility administrator and shall be responsible for inmate counts and key control.
- (2) There shall be an inmate count at the beginning of each shift change. The inmate count shall be documented.
- (3) There shall be at least one (1) visual sight check every hour which shall include all areas of each cell, and such sight checks shall be documented.
- (4) All security perimeter entrances, control center doors, cell block doors and doors opening into a corridor shall be locked except when used for authorized entry and exit. Staff members shall know which doors should be locked and under what circumstances they should be opened.

(5) No one person shall be permitted to enter an inmate's cell or other area in which an inmate is confined, past the last locked door, without backup assistance. Prior to breaching the last locked/secure door, central control or another staff member who can provide assistance will be notified. Documentation shall reflect the reason for the decision to enter a cell without backup assistance and a permanent record of the event shall be maintained.

(6) A weekly security device inspection shall be performed and priority corrective action taken on any discrepancy. A weekly inspection report shall be submitted to the facility administrator.

(7) Searches of facilities and inmates to control contraband shall be unannounced and at irregular intervals. These searches shall be documented.

(8) The availability, control and use of firearms, ammunition, chemical agents and related security equipment shall be sufficient to meet needs. The level of authority required for access to, and use of, security equipment shall be specified in policy and procedure. Chemical agents shall be used only with the authorization of the facility administrator or designee. Detention Officers shall be trained in the use of chemical agents as prescribed by the manufacturer's specification.

(9) Firearms, ammunition, chemical agents and related security equipment shall be stored in a secure but readily accessible depository located outside the inmate living area. The facility may adopt policy and procedures that authorize trained and certified Detention Officers to be equipped with chemical agent and non-lethal weapons while on duty.

(10) Firearms, chemical agents and related security equipment shall be inventoried at least one (1) time each month to determine their condition and expiration dates. Firearms shall be cleaned and fired annually and repairs shall be made as needed.

(11) In an emergency situation, supervision of armed personnel is essential and only weapons/firearms authorized by the administrator shall be used.

(12) Personnel discharging firearms or using chemical agents shall submit a written report to the facility administrator documenting the nature of the incident and the identity of the personnel and inmates involved. All persons, employees and inmates involved in an incident where a weapon or chemical agent or force was used shall receive an immediate medical examination and/or treatment.

(13) Except in emergency situations, a weapon shall not be permitted in the secure area. There shall be a system of checking firearms and ammunition for temporary secure storage outside the secure perimeter.

(14) All keys shall be issued from a secure location designated by the detention facility administrator, and a log shall be used to record the number of each key, location of the lock and the number of keys to each lock. The key control system shall include a current accounting of the location and authorized person to

have each key. Keys shall be returned to the control center or a secure issue location at each shift change. There shall be at least one (1) duplicate key to each lock that is maintained in a secure location inaccessible to inmates.

(15) Tools and utensils such as hacksaw blades, welding equipment, culinary, barber shears and all sharps of similar-type equipment shall be secured, issued and used in accordance with prescribed policy and procedure. The control system shall also provide for this type of tool and equipment brought into the facility by outside authorized persons.

(16) Inmates shall not possess flammable, toxic or caustic materials unless they are under supervision of qualified personnel. Such materials shall be stored in secure areas that are inaccessible to inmates.

(17) A post order shall be prepared for each post or duty assignment to be performed, and it shall specify the procedure to be followed for completing the assignment.

(18) There shall be written procedures for dealing with an escape. These procedures shall be available to all personnel and shall provide for sounding an alarm, alerting officials, mobilizing resources and ending the alert. Following an escape, the staff shall prepare an analysis of the escape and defects in the security system shall be corrected immediately.

(19) There shall be written procedures that specify what actions to take in emergency situations, i.e., fire, disturbances, and taking hostages. The procedures shall specify areas of responsibility, the staff to be involved, when and what authorities shall be notified, how the problem may be contained and what shall be done after the incident ends. Emergency housing and supervision of inmates shall be provided.

(20) Staff shall be knowledgeable of and trained in the implementation of the emergency plans.

(21) An emergency auxiliary power generator or battery-operated system that meets applicable requirements of the State Fire Marshall shall be provided to maintain lighting and essential equipment in an emergency.

(22) All emergency equipment shall be inspected at least one (1) time each month and corrective action taken as needed. These inspections shall be documented.

(23) The use of physical force by staff shall be restricted to instances of justifiable self-protection, protection of others, protection of property and prevention of an escape, and shall be only to the degree necessary. A written report shall be prepared and submitted to the administrator following the use of physical force. All persons, employees, and inmates involved in an incident where a weapon, chemical agent, or physical force was used shall receive an immediate physical inspection, and if affected by the action, shall receive a medical examination and treatment.

(24) Instruments of restraint such as handcuffs, leg irons, restraint chairs, restraint beds and straitjackets, shall not be applied longer than authorized by policy and procedure and

equipment manufacturer's specifications. Inmates placed in restraints shall not be left without required supervision.

Instruments of restraint shall be used only as follows:

- (A) As a precaution against escape during transfer;
 - (B) For medical/mental health reasons, by direction of the designated medical authority and detention facility administrator or designee; and
 - (C) To prevent inmate self-injury, injury to others or property damage, and then only with the approval of the detention facility administrator or designee.
- (25) Guidelines for transporting inmates shall emphasize safety and security and shall be available to all staff involved in transporting inmates.
- (26) All entrances and exits to the facility shall be secure.
- (27) The Department shall be notified no later than the next working day if any of the following incidents occur:
- (A) Extensive damage to detention facility property;
 - (B) Serious injury to staff or inmate defined as life threatening or requiring transfer to outside medical facility;
 - (C) Escape;
 - (D) Serious suicide attempt, defined as life threatening or requiring transfer to outside medical facility; and
 - (E) Death.
- (28) Trustees shall be either locked down or confined to the facility when not engaged in a job assignment. Trustees permitted outside the facility shall be supervised according to the written policy of the sheriff, chief of police, detention facility administrator and/or as required by state statute.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-5-3. Supervision of inmates

- (a) The movement of inmates from one location to another shall be controlled and supervised by staff.
- (b) Staff shall provide twenty-four (24) hour supervision of inmates.
- (c) Detention Officer posts shall be located and staffed to monitor all inmate activity either physically or electronically and close enough to the living areas to respond immediately to calls for assistance, and respond to emergency situations. A Detention Officer shall be on duty at all times at each location where inmates are confined or the observation shall be conducted by closed circuit TV. The location shall be equipped with an intercommunication system that terminates in a location that is staffed twenty-four (24) hours a day and is capable of providing an emergency response.
- (d) There shall be sufficient staff to perform all assigned functions relating to security, custody and supervision of inmates. Staff assignments shall provide for backup assistance for all employees entering locations where inmates are confined.

- (1) Any city jail or county detention facility which houses forty (40) inmates or less shall be staffed consistent with the requirements at Title 74 O.S. § 192(C)].
- (2) Any city jail or county detention facility *which houses more than forty prisoners and less than seventy-five prisoners* shall be staffed consistent with the requirements at Title 74 O.S. § 192(D)].
- (3) Facilities which house seventy-five inmates or more shall have on site one (1) dispatcher or control center operator and a minimum of two (2) Detention Officers on the premises.
- (e) All inmates shall be searched when entering or leaving the security area.
- (f) Policies and procedures shall specify a system for the supervision of female inmates by male staff and supervision of male inmates by female staff.
- (g) When both male and female inmates are housed in a facility, at least one male and one female Detention Officer shall be available to perform sensitive functions and procedures as necessary to accommodate inmate gender.
- (h) An inmate shall be prohibited from supervising, controlling, exerting or assuming any authority over another inmate.
- (i) The name and telephone number of the practicing attorneys and bonds persons in the area shall be posted conspicuously near the telephone used by inmates. This can be a telephone book.
- (j) Direct supervision of inmates shall be permitted if the facility has policies and procedures in place to ensure the safety of employees, inmates and visitors and if the physical plant design lends itself to direct supervision operation.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-5-4. Inmate rules, discipline and grievances

- (a) Written facility rules shall list all chargeable offenses, and the range of sanctions and disciplinary procedures to be followed and shall be made available to inmates. A rule book that contains all chargeable offenses, range of sanctions, and disciplinary procedures is provided to each inmate upon booking and is translated into those languages spoken by the significant number of inmates. When a literacy or language problem prevents an inmate from understanding the rule book, a staff member shall assist the inmate.
- (b) All persons who deal with inmates shall be familiar with the rules of inmate conduct, and the approved sanctions. To prevent discrepancies among staff in interpretations, in-service training shall be conducted as often as necessary by direction of the administrator.
- (c) Employees shall prepare a disciplinary report when they have reason to believe that an inmate has committed a violation of rules.
- (d) Disciplinary reports prepared by staff shall include at least the following:
 - (1) Specific rules violated;
 - (2) A formal statement of the charge;

- (3) Any unusual inmate behavior;
- (4) Any staff or inmate witness;
- (5) Disposition of any physical evidence;
- (6) Any immediate action taken, including the use of force; and
- (7) Date and time of the report.

(e) Administrative due process procedures shall be followed for all rule violations. A chairperson or a committee may be appointed by the administrator to hear the charges and make a decision on appropriate action to be taken. Due process procedures shall include at least the following elements:

- (1) Written rules that specifies offenses and sanctions;
- (2) Inmate has been made aware of the rules and sanctions;
- (3) Inmate receives written notice of the charges and is offered a hearing prior to sanction;
- (4) Inmate is present at the hearing and hears the evidence, except for confidential information or if the inmate displays unruly behavior or waives that right in writing;
- (5) Inmate has the right to make a statement;
- (6) Inmate has the right to call relevant witnesses;
- (7) Inmate may be assisted by a willing inmate or staff member of their choosing;
- (8) The decision shall be based solely on the evidence and shall be rendered in writing;
- (9) Record shall be made of the hearing;
- (10) Decision shall be reviewed by the facility administrator or designee;
- (11) An inmate shall have the right to appeal the decision of the facility administrator or designee to the next level of authority;
- (12) A record of the charges and hearing disposition shall be maintained in the inmate's file.

(f) If an inmate allegedly commits an act covered by statutory law, the case may be referred to the appropriate court or law enforcement officials for prosecution.

(g) There shall be a written policy and procedure to respond to inmate requests of staff and grievances. The grievance policy shall conform to the requirements in Title 57 O.S. § 566.3 and include the following:

- (1) procedures whereby any inmate may appeal and have resolved grievances;
- (2) the types of complaints covered and excluded consistent with applicable state and federal law and rule, and court decisions, to include policies and conditions within the jurisdiction of the facility that affect the inmate personally, actions by employees and inmates, and incidents occurring within the facility that affect the inmate personally;
- (3) a grievance form or instructions for registering a grievance;
- (4) resolution of the grievance at the lowest appropriate staff level;
- (5) appeal to the next level of review;
- (6) written reasons for denial of grievance at each level of review which acts on the grievance;
- (7) provision for response within a reasonable time limit;

(8) provision for resolving questions of jurisdiction within the facility; and.

(9) procedures to control the submission of an excessive number of grievances.

(h) County jails *may deduct an amount of ten cents (\$0.10) per page from any monies collected from an inmate for copies made at the request of the inmate* [Title 19 O.S. § 531(B)].

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-5-5. Classification and segregation

The facility administrator shall develop and implement written policies and procedures for the classification and segregation of inmates. The classification plan shall ensure the safety of inmates and staff. The following criteria shall ensure an adequate classification and reclassification system.

(1) Inmates of opposite sex shall be housed in separated living areas. Separation shall be by substantial architectural arrangements which permit no sustained sight contact. Housing of inmates with mixed gender identification will be administered in a manner to maximize inmate safety.

(2) Juvenile offenders.

(A) If detention of a juvenile is authorized, such juveniles shall be housed completely separate from adults without sustained sight and sound contact. Inadvertent contact with incarcerated adults outside of jail living areas not dedicated for use by juvenile offenders should be minimized.

(B) A juvenile may be held for up to six (6) hours for the purpose of identification, investigation, processing, release to parent(s), transfer to court, or transfer to juvenile facility following the initial custody.

(C) A juvenile criminal-type offender may be securely detained in an adult jail or lockup for up to six hours immediately before or immediately after a court appearance, provided sight and sound separation is maintained. This period may be extended to twenty-four hours (excluding weekends and holidays) where the jurisdiction is outside the metropolitan statistical area where:

- (i) state law requires an initial court appearance within twenty-four (24) hours after being taken into custody;
- (ii) there is no acceptable alternative placement; and
- (iii) the jail has been determined by the Department to provide for sight and sound separation.

(3) Inmates considered to be a threat to other inmates or staff shall be housed separately from other inmates for the following reasons:

- (A) Inmate's past criminal history;
- (B) The nature and severity of the charges pending against the inmate;
- (C) Inmate's behavior while in the facility; and
- (D) Other relevant reasons as directed by the administrator.

(4) Inmates may be double-celled or confined to barrack-style housing if the floor space meets the square footage requirements. These inmates shall be afforded the same living conditions and privileges as those occupying the general population. Any exception regarding conditions and privileges shall be defined by the administrator.

(5) Inmates who are intoxicated or under the influence of a controlled substance shall be housed separately from other inmates until such time as the medical authority or the detention facility administrator determines their suitability for placement into general population or other appropriate housing.

(6) Inmates who appear to have a significant medical or psychiatric problem may be separated from other inmates.

(7) Unsented inmates shall be separated from sentenced inmates, to the extent possible, and shall be permitted whatever confinement is least restrictive unless inmate behavior or other security considerations dictate otherwise.

(8) Classification and segregation shall not be done solely on the basis of race, color, creed or national origin.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 36 Ok Reg 1731, eff 9-13-19 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:670-5-6. Safety, sanitary and hygiene standards

The administrator shall develop and implement policies and procedures for the safety and maintenance of sanitation throughout the facility. These shall include at least the following:

(1) The facility shall be kept in a clean condition consistent with the requirements in Title 57 O.S. § 4.

(2) There shall be a housekeeping plan for the facility that includes a cleaning schedule with specific duties. Supervision of cleaning activities performed by inmates will be provided consistent with the facility's policy.

(3) Floors shall be kept clean, dry and free of hazardous substances.

(4) Inmates shall be provided with materials and supplies on a routine sufficient to maintain clean showers, washbasins and toilets.

(5) Smoking policies in city and county detention facilities shall conform to the requirements in Title 21 O.S. Section 1247.

(6) Upon admission or after commitment by the court, each inmate shall be issued personal hygiene items to include soap, towel, toilet paper, toothbrush and toothpaste. Feminine hygiene articles shall be provided upon request. Razors are issued to each inmate consistent with facility policy, and collected immediately after use and disposed of or stored as specified by facility policy and procedures. Inmates shall not share razors. With the exception of toilet paper and feminine hygiene items, inmates who are not indigent and have funds in their inmate account may be required to purchase hygiene items from the detention facility.

(7) Clean bedding shall be issued to each inmate who is confined overnight in the facility except where indicated by circumstances defined in the facility's policy. A standard issue of bedding shall include:

(A) A mattress with a cleanable surface; and

(B) Enough clean blankets consistent with existing interior weather conditions.

(8) Inmates held over twenty-four (24) hours shall be issued a clean set of appropriately sized detention facility clothing to include, at least, a shirt and trousers or coveralls and footwear.

(9) An inmate shall be given an opportunity to receive a complete change of clothing at least one (1) time each week.

(10) Clean bedding and towels shall be offered at least one (1) time each week.

(11) Laundry services shall be sufficient to permit regular exchange of all inmate clothing, bedding and towels.

(12) Blankets and mattresses shall be cleaned or sanitized before reissue.

(13) Issuance of all clothing and bedding shall be documented and inmates shall be held accountable for these items.

(14) The supply of bedding, linens and clothing shall exceed that required for the facility's maximum inmate rated population capacity.

(15) Under extreme circumstances it may be necessary for the administration to authorize the removal of linens, clothing and bedding from an inmate. Such action may be taken only as a measure to protect the inmate from self-injury, to protect others or to prevent facility damages. Such actions shall be documented and reviewed at least weekly by detention facility administration or an appointed designee. A paper gown or another appropriate garment may be provided as appropriate.

(16) Sufficient showers shall be provided in housing units to provide inmates the opportunity to bathe at least three (3) times each week. Inmates working in food service shall be required to bathe daily.

(17) Haircuts shall be available to inmates based on arrangements specified in facility policy and procedures.

(18) The potable water supply shall meet all state and local water quality standards. Hot and cold water shall be provided in showers and washbasins.

(19) Any condition conducive to harboring or breeding insects, rodents or other vermin shall be eliminated immediately. Licensed pest control professionals shall be contracted to perform pest control on a scheduled basis specified in the facility policy and procedure.

(20) Liquid and solid wastes shall be collected, stored and disposed of in a manner that avoids nuisance and hazards and protects the health and safety of inmates and staff. Biomedical waste shall be stored and destroyed in compliance with state and federal requirements.

(21) The facility's fire prevention policies and procedures shall ensure the safety of staff, inmates and visitors and shall conform to the requirements of the Oklahoma State Fire Marshal, as provided in Title 74 O.S. § 317 et seq. These shall include, but not be limited to an adequate fire protection service; a system of fire inspection and testing of equipment and documentation on a weekly basis; and the availability of fire hoses or extinguishers at appropriate locations throughout the facility. The facility shall have an automatic fire alarm and heat and smoke detection system approved by the Oklahoma State Fire Marshal, as provided in Title 74 O.S. § 317 et seq.

(22) The facility shall have a written evacuation plan in the event of fire or major emergency. Inmates shall be instructed on emergency procedures.

(23) There shall be a reliable means to permit prompt release of inmates from locked areas in case of emergency. The route of evacuation shall be posted in conspicuous locations throughout the facility.

(24) Facility furnishings, walls, ceilings and floors shall be constructed of material that meets the code requirements of the Oklahoma State Fire Marshal, as provided in Title 74 O.S. § 317 et seq.

(25) Heating systems shall be capable of maintaining a temperature of at least sixty-five (65) degrees Fahrenheit. Open-faced or un-vented heaters are not permitted.

(26) Air circulation and ventilation shall be capable of maintaining a temperature of at least eighty-five (85) degrees Fahrenheit or lower. If temperature exceeds eighty-five (85) degrees Fahrenheit, positive air movement shall be provided by use of fans, coolers, or air conditioning units. New facilities or substantially remodeled facilities shall be equipped with central air conditioning or individual air conditioning units which are capable of maintaining a temperature of eighty-five (85) degrees Fahrenheit.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-5-7. Food services and dietary requirements

(a) Each inmate shall be provided at least three (3) meals each twenty-four (24) hours that meet the national recommended allowance for basic

nutrition. At least two (2) hot meals shall be provided daily. There shall not be more than fourteen (14) hours between the breakfast and evening meals.

(b) Special diets shall be available for inmates with a physician's or dentist's order. The order should be supported by evidence of the medical condition addressed by the diet. Special diets shall be planned and prepared by one who is skilled in preparing special diets according to a physician's or dentist's order. Inmate diets are modified when ordered by the appropriate licensed individual to meet specific requirements related to clinical conditions.

(c) If it is a requirement of an inmate's religious beliefs that the inmate adhere to dietary practices, reasonable provision shall be made for such diets from meals that are currently being served.

(d) A uniform record keeping system shall be developed to record the items served for each meal. This record shall be maintained in a manner that is retrievable for review and maintained for a minimum of one month.

(e) Food shall not be used as a reward or disciplinary action, nor shall the menu be varied for the same reason.

(f) All meals shall be served under the supervision of staff. An inmate's refusal to eat as an act of grievance shall be documented consistent with facility policy and reported to jail administration on a periodic basis as established by facility policy. A record of the grievance and its attempted resolution should conform with the grievance requirements at 310:670-5-4(g). The designated medical authority shall be advised of the refusal. The refusal to eat one meal shall not trigger the requirements in this paragraph.

(g) Any inmate assigned to food service shall be closely supervised and shall maintain a high degree of personal hygiene. Each inmate, providing food service or acting as a food employee, shall be instructed they are to inform the kitchen supervisor and shall not work in the kitchen if they are experiencing nausea, vomiting, abdominal cramps, diarrhea, an active respiratory infection, or fever, or have open sores on their hands or arms. Each inmate, providing food service or acting as a food employee, shall wear a hairnet or hat, beard guard, and gloves while preparing and serving food.

(h) Ice machines that are available to the inmates shall be dispenser-type.

(i) Menus shall be reviewed and approved in advance by a registered dietician or a request may be made to the Department of Health for a standardized menu.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-5-8. Medical care and health services

Adequate medical care shall be provided in a facility. The administrator shall develop and implement written policies and procedures for complete emergency medical and health care services. Policies and procedures shall include at least the following:

(1) The administrator shall be responsible for the facility's medical services and shall develop, with the assistance of a designated medical authority, the facility's health care plan. Security restrictions shall be considered in the development of the plan, and any medical personnel included in the plan shall have their responsibilities regulated by written job descriptions. The health care plan shall cover at least the standards outlined in this section.

(2) Intake screening shall be performed on all inmates immediately upon admission to the facility and before being placed in the general population or housing area. An inmate whose screening indicates a significant medical or psychiatric problem, or who may be a suicide risk, shall be observed frequently by the staff consistent with the facility's policy and the identified need until the appropriate medical evaluation has been completed. After medical evaluation, these inmates may be assigned to housing consistent with the medical evaluation.

(A) Medications in the possession of the inmate at the time of the booking, whether prescription or over-the-counter shall be logged, counted and secured. *Prescription medications shall be provided to the [inmate] as directed by a physician or designated medical authority. The [inmate] shall be observed to ensure the prisoner takes the medication. The physician or designated medical authority shall be particularly aware through his or her training of the impact of opiate or methadone withdrawal symptoms that may occur in regard to the mental and physical health of the [inmate]. The physician or medical authority shall prescribe and administer appropriate medications to the [inmate] pursuant to Section 5-204 of Title 43A of the Oklahoma Statutes as the medical authority deems appropriate to address those symptoms. Neither prescription nor over-the-counter medications shall be kept by [an inmate] in a cell with the exception of prescribed nitroglycerin tablets and prescription inhalers. Over-the-counter medications shall not be administered without a physician's approval unless using prepackaged medications [57 O.S. § 4.1(1)].* This authorization to allow certain medications in a cell does not require a facility to allow the medications in a cell where inmate safety is threatened or abuse of the medication is documented. Prepackaged over-the-counter medications are those medications provided in single-dose packaging.

(B) Medical reception information shall be documented in a format approved by the designated medical authority which shall include inquiry into:

- (i) Current illnesses and health problems including medications taken and any special health requirements;
- (ii) Behavioral observation, including state of consciousness and mental status;

(iii) Notation of body deformities, trauma markings, i.e., bruises, lesions, ease of movement, and jaundice;

(iv) Condition of skin and visible body orifices, including infestations; and

(v) Disposition/referral of inmates to qualified medical personnel on an emergency basis.

(3) Delousing procedures shall be developed in coordination with the designated medical authority and used whenever vermin are detected.

(4) Inmates are informed upon admission to the facility about the procedures for gaining access to medical and health care services. These procedures shall be posted in a conspicuous place.

(5) Each facility shall have a plan and provide twenty-four (24) hour emergency medical and dental care. Emergency plans shall at least include arrangements for:

(A) The use of one (1) or more hospital emergency rooms or other appropriate health care facility;

(B) The use of an emergency medical vehicle; and

(C) An emergency on-call physician and dentist when the emergency health care facility is not located in a nearby community.

(6) If the need is indicated by the intake screening at booking, inmates held for forty-eight (48) hours or more, shall be scheduled for a medical examination which shall be conducted by licensed medical personnel.

(7) An appointment shall be made with a physician or other licensed medical personnel, as defined at Title 57 O.S. § 4.1(3), within forty-eight (48) hours of a valid written request unless more immediate action is dictated by the severity of the current situation.

(8) If medical services are delivered in the facility, adequate space, equipment, supplies and materials as determined by the designated medical authority, shall be provided for primary health care delivery.

(9) First aid kits approved by the designated medical authority shall be available in each facility. They shall be located in an area(s) also approved by the designated medical authority.

(10) Referral sources shall be identified in advance by the designated medical authority or administrator.

(11) The administration of medications, and the date, time and place of medical encounters shall be documented.

(A) The facility may maintain bulk supplies of nonprescription drugs for dispensing to inmates if ordered or otherwise authorized by a physician or other licensed medical personnel, currently licensed to practice medicine in this state. Nonprescription drugs may be dispensed to an inmate for nonscheduled dosage regimens.

(B) A facility may maintain nonprescription drugs for dispensing from a common or bulk supply if all of the

following are accomplished:

(i) The facility must have and follow a written policy and procedure to assure safety in dispensing and documentation of medications given to each resident.

(ii) The facility shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for all medications maintained in bulk.

(iii) Only licensed nurses, physicians, pharmacists or certified medication aides (CMA) may dispense for administration these medications and only upon the written order for as needed (p.r.n.) or nonscheduled dosage regimens, as documented in the clinical record of the inmate.

(iv) The facility shall maintain records of all bulk medications which are dispensed on an individual signed medication administration record (MAR).

(v) The original labels shall be maintained on the container as it comes from the manufacturer or on the unit-of-use (blister packs) package.

(vi) The maximum size of packaging shall be established by the facility in its policy and procedures and shall insure that inmates receive the correct dosage; provided however, that no liquid medications shall be acquired nor maintained in a package size which exceeds 16 fluid ounces.

(vii) Facilities may have only oral analgesics, antacids, and laxatives for bulk dispensing and/or drugs listed in a facility formulary developed or approved by the medical director.

(C) Facilities are not required to package nonprescription drugs in individual containers with individual labels.

(D) These provisions shall not prohibit authorized over the counter sales, from the commissary, of medications prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.

(12) Copies of the medical record, or a discharge summary if any, shall accompany an inmate upon transfer to another facility.

(13) Any remaining medications, for which the inmate has been charged, shall accompany the inmate upon transfer to another facility or upon release, or those charges shall be reversed.

Medications that were in the possession of the inmate on admission, and were not dispensed, and for which the inmate has a lawful prescription, shall be returned unless there is documentation of abandonment. The amount of medications provided shall be documented. The count at that time shall be logged. Continuity of care is required when transferring or discharging inmates from the facility, including when referring an

inmate to community-based providers. When health care is transferred to another facility or to providers in the community, appropriate information shall be shared with the new providers in accordance with consent requirements. Sufficient medications shall be provided upon transfer or release for inmates with known serious health conditions. Sufficient medication should be coordinated with the receiving facility. The inmate is liable for payment of the cost of these medications pursuant to Oklahoma statute [Title 19 O.S. § 746(B)].

(14) Staff shall wear disposable gloves when dealing with possible exposure to an inmate's body fluids.

(15) Biomedical waste shall be stored and destroyed in compliance with state and federal requirements.

(16) Sharps, i.e., needles, lancets and scalpels shall be disposed of in a puncture-proof container.

(17) Staff shall receive a TB skin test as a part of the pre-employment evaluation and each twelve (12) months as long as the test is negative. Individuals with positive skin tests shall be referred to the local health department or personal physician for evaluation. Employees will also be offered hepatitis B vaccination within one month of employment, at no cost to the employee.

(18) Universal precautions shall be used at all times by all employees.

(19) Medication aides are restricted in the scope of activities they may perform. Those restrictions are established in Title 63 O.S. § 1-1950.3(E).

(20) County jails, under the authority of the sheriff and Title 19 O.S. § 531(B), may *deduct monies collected from an inmate as a medical payment on account for each medical services visit the inmate receives while incarcerated in the county jail, except as otherwise provided in Title 19 O.S. § 531(B).*

(21) Inmates are responsible for the costs of incarceration, medical care and treatment as provided in Section 979a of Title 22 of the Oklahoma Statutes.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-5-9. Mail and visitation

Written policies and procedures shall govern inmate correspondence and visitation. For the purposes of this section, correspondence, mail and email shall have the same meaning. Policies and procedures shall include at least the following:

(1) There shall be no limitations on the volume of mail an inmate may send or receive as long as the inmate provides postage or email access fees and the inmate conforms with correspondence policies. The facility shall provide postage or email access, one (1) time per week, for inmates who do not have funds for correspondence with their attorney, court officials, elected officials, and next of kin.

(2) The number of approved correspondents for an inmate shall be unlimited unless restrictions are imposed based on violation of the facility's correspondence policy. A facility shall allow inmates access to publications to the extent that such access is consistent with security.

(3) Prior to delivery, incoming and outgoing inmate mail may be subject to inspection for contraband items or violations of content restrictions as established in the facility's correspondence policies.

(A) Outgoing mail violating correspondence policies will be returned to the inmate with an explanation of the violation unless it is used as evidence in a court/ disciplinary hearing. The inmate may also be placed on a restricted correspondence list and/or be subject to disciplinary action.

(B) Inmate mail received which violates the facility's correspondence policies will be held for 15 days pending inmate response to a written notice of the facility's intent to return the correspondence. With the exception of contraband in violation of state or federal law, pending the outcome of any grievance hearing, the inmate will be notified as to his/her option for disposal by either having the material returned to the sender, sending the material home at the inmate's expense, or having the material destroyed.

(4) Incoming inmate mail from court officials, the inmate's attorney and elected public officials shall be opened and inspected for contraband only in the presence of the inmate.

(5) Outgoing inmate mail to court officials, the inmate's attorney and elected public officials shall not be opened.

(6) Cash, checks or money orders received from incoming mail may be accepted and credited to the inmate's account at the discretion of the facility's policy. Charges to inmate funds must conform to Title 19 O.S. § 531. Contraband shall be removed if it is discovered in either incoming or outgoing mail.

(7) Outgoing mail shall be collected and sent daily except Sundays and holidays. Incoming mail shall be delivered to inmates within twenty-four (24) hours of its arrival at the facility with the exception of weekends.

(8) The number of visitors an inmate may receive and the length of visits shall be limited only by facility security, visitation, space and schedules.

(9) Licensed attorneys shall be allowed additional visitation privileges and accommodations, which ensure privacy and are consistent with security.

(10) Policies and procedures shall be developed to address special visits for persons who have come long distances.

(11) Visitors shall register upon entry to the facility and may be searched as established by jail policy.

(12) Visitation by a person under age 18 may be permitted if the visitor is a member of the inmate's immediate family and if a

parent or legal guardian accompanies the visitor.

(13) Licensed clergy may be allowed additional visitation privileges and accommodations which ensure privacy and are consistent with security.

(14) A court order restricting outgoing or incoming correspondence or telephone calls for an inmate shall supersede this rule.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-5-10. Training and staff development

(a) **Training policies.** The administrator shall develop policies and procedures for staff orientation and training. The training program shall be supervised by a designated employee. A facility with more than one-hundred (100) employees shall employ a full-time person for staff orientation and training.

(b) **Training and testing requirements.** Policies and procedures shall include at least the following requirements for training:

(1) A new employee whose primary responsibilities include supervision of inmates shall receive orientation and training prior to job assignment by the employing agency. An employee who has received orientation and training may be assigned to inmate supervision prior to passing the Detention Officer examination.

(2) All employees, including the detention facility administrator and all supervisors, whose primary responsibilities include supervision of inmates, shall receive at least twenty-four (24) hours of training during the first year of their employment that covers at least the following:

- (A) Security procedures;
- (B) Supervision of inmates;
- (C) Report writing and documentation;
- (D) Inmate rules and regulations;
- (E) Grievance and disciplinary procedures;
- (F) Rights and responsibilities of inmates;
- (G) Emergency procedures;
- (H) First aid and cardiopulmonary resuscitation; and
- (I) Requirements of this Chapter.

(3) After the first year of employment, an employee whose primary responsibilities include supervision of inmates shall receive at least the training listed below.

- (A) Four (4) hours review of the required training identified in paragraph two (2) of this section.
- (B) Four (4) hours of training as directed by the administrator; the content and instructors shall be selected by the administrator.
- (C) Renewal training as required for first aid and cardiopulmonary resuscitation skills.

(4) A documentation log shall be maintained by the Administrator to record the courses completed by each employee for their initial

and annual training and include test results.

(5) Training may be given through other programs that have first been reviewed and approved by the Department.

(6) An examination covering the standards in this Chapter is required for new employees whose primary responsibilities include supervision of inmates. The examination shall be completed within the first year of employment unless there is documented evidence an examination was not available, or other extenuating circumstances caused the delay. In the event of delayed examination, an examination will occur at the next available opportunity. A passing score on the test as administered by the Department or its representatives shall be seventy (70) percent or higher. Any person scoring less than seventy (70) percent shall not be considered to have satisfactorily completed training and may retest as necessary for a period of up to one year.

(c) **Training program approval.** An entity which desires to sponsor a training program shall file an application for approval on the forms prescribed by the Department.

(1) No training examination program shall be operated, and no students shall be solicited or enrolled, until the Department has approved the program.

(2) The application requires the following information:

- (A) Name and address for the entity sponsoring the program and for the contact person for the program;
- (B) The location of the administrative office of the program and the location where records are maintained;
- (C) A program plan that follows the minimum curriculum for the standards in this Chapter, as prescribed by the Department including, but not limited to:
 - (i) the specific knowledge outcomes for the course(s);
 - (ii) an outline of the associated content for each knowledge outcome;
 - (iii) the teaching methods and any instructional media to be utilized;
 - (iv) a breakdown of the curriculum into clock hours of instruction.
- (D) A sample training completion certificate;
- (E) Education and experience requirements for training instructors.

(d) **Requirements for administration of the examination.** An entity which desires to sponsor an examination shall file an application for approval on the forms prescribed by the Department.

(1) The examination shall be administered and evaluated only by a Department approved entity which may be periodically monitored by the Department.

(2) Each examination entity must provide the Department with the following:

- (A) Name and address for the entity sponsoring the examination and for the contact person for the program;

- (B) The location of the administrative office of the program and the location where records are maintained;
 - (C) Written job analysis studies to determine the pool of test questions;
 - (D) Test question validation studies;
 - (E) Assurances of how the examination process will be secured from tampering and compromise.
- (3) Each examination entity shall provide the examinee with the following:
- (A) The notice showing pass/fail results;
 - (B) The notice shall specify the areas of failure.
- (4) The Department may withdraw approval of a testing entity when it allows one or more of the following:
- (A) Disclosure of the examination;
 - (B) Allowing another entity not approved by the Department to score the examination;
 - (C) Tampering with the examination;
 - (D) The examination was administered by a non-qualified individual.
- (5) The trainee may sit for the examination at a different location than where training was completed if the testing entity is provided with a training completion certificate from the training entity.
- (e) **Content of the examination.** The competency examination shall:
- (1) Address each requirement specified in the minimum curriculum for the standards in this Chapter, as prescribed by the Department;
 - (2) Be developed from a pool of test questions, only a portion of which is used in any one (1) examination;
 - (3) Use a system that prevents disclosure of both the pool of test questions and the individual examination results.
- (f) **Successful completion of the examination.** An individual shall score at least seventy (70) percent on the examination for a passing score.
- (g) **Failure to complete the competency examination.** If an individual does not complete the competency examination successfully, the individual shall be notified by the testing entity of, at least, the following:
- (1) The areas which the individual did not pass;
 - (2) That the individual may retest as necessary for a period of up to one year.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-5-11. Physical plant

(a) Existing facilities.

- (1) The reception and release area shall be located inside the security perimeter, but outside the inmate living area. There shall be a secure weapons storage area outside of the custody perimeter.

(2) All cells and living areas shall have at least forty (40) square feet of floor space for the initial inmate and at least twenty (20) square feet of floor space for each additional inmate occupying the same cell. Double-celling of inmates is permitted if there is at least sixty (60) square feet of floor space for two (2) persons.

(3) The facility shall have at least one (1) special purpose cell to provide for the temporary detention of inmates under the influence of alcohol or dangerous substances or for persons who are uncontrollably violent or self-destructive. These cells shall be designed to prevent injury.

(4) The housing and activity areas shall provide, at least the following:

(A) Lighting of at least twenty (20) foot candles;

(B) One (1) toilet and one (1) washbasin, with hot and cold running water, in every cell or barrack at a ratio of at least one (1) toilet and one (1) washbasin to twenty (20) inmates; and

(C) A shower with non-skid floors and with hot and cold running water, at a ratio of at least one (1) shower to twenty (20) inmates in the housing areas.

(5) There shall be sufficient floor drains to ensure a sanitary facility.

(6) There shall be designated and marked emergency evacuation exits that comply with the requirements of the Oklahoma State Fire Marshal and which permit prompt evacuation of inmates and staff in an emergency.

(7) A county may provide a barrack-style detention facility to accommodate minimum-security inmates. It shall be equipped with washbasins, toilets and showers with hot and cold running water at a ratio of at least one (1) washbasin, one (1) toilet and one (1) shower to twenty (20) inmates. A barrack-style detention facility shall meet all requirements for a detention facility.

(b) **New facilities and substantial remodeling of facilities (after January 1, 1992).** Plans for the construction of a new facility or the substantial remodeling of an existing facility shall be submitted to the Department for review and approval. Detention facilities are encouraged to submit plans to the Department for any re-modeling or repair that does not meet the substantial remodeling threshold to ensure standards are met.

(1) A new detention facility shall be geographically accessible to criminal justice and community agencies.

(2) The reception and release area shall be located inside the security perimeter but outside inmate living area. The reception and release area shall have the following components:

(A) Sally port;

(B) Secure weapons storage, outside the detention facility custody perimeter;

(C) Temporary holding rooms with adequate seating for its rated capacity, toilets and washbasins;

(D) Booking area;

(E) Medical examination room;

- (F) Shower facilities;
 - (G) Secure area for inmate personal property storage;
 - (H) Telephone access;
 - (I) Interview room; and
 - (J) General administration space.
- (3) Cells shall be constructed and arranged to allow direct natural light into each area where feasible.
- (4) Windows installed after January 1, 2018, shall conform to ACA standards as adopted in 2017.
- (5) All areas shall provide for at least twenty (20) foot candles of light.
- (6) Each cell and detention room shall have at least forty (40) square feet of floor space for the initial inmate, and at least twenty (20) square feet of floor space for each additional inmate occupying the same cell. Double-celling is permitted if there is at least sixty (60) square feet of floor space for two (2) persons. Each room or cell shall have:
- (A) One (1) toilet and one (1) washbasin with hot and cold running water, for every single or double occupancy cell or barrack at a ratio of at least one (1) toilet and one (1) washbasin to twenty (20) inmates.
 - (B) Bunks and storage as indicated by square feet.
- (7) A county may provide a barrack-style detention facility to accommodate minimum security inmates. A barrack-style detention facility shall be equipped with washbasins, toilets and showers with hot and cold running water at a ratio of at least one (1) washbasin, one (1) toilet and one (1) shower to twenty (20) inmates. A barrack-style detention facility shall meet all requirements for detention facilities.
- (8) There shall be a dayroom area for each living unit containing at least thirty-five (35) square feet of floor space per inmate for the maximum number of inmates who use the dayroom at one time. It shall be separate and distinct from the sleeping area but immediately adjacent and accessible.
- (9) Living areas shall be planned and organized to permit segregation of inmates according to existing laws, and the facility's classification plan.
- (10) Each facility shall have at least one (1) special purpose cell or room to provide for the temporary detention of persons under the influence of alcohol or dangerous substances, or for persons who are uncontrollably violent or self-destructive. Such cells shall be designed and located to prevent injury to confined persons.
- (11) There shall be showers with hot and cold running water at a ratio of at least one (1) shower to twenty (20) inmates in the housing areas.
- (12) There shall be floor drains maintained in working order.
- (13) If the facility maintains an arsenal it shall be located outside the inmate area accessible only to authorized persons for secure storage, care and issuance of weapons, firearms, ammunition, chemical agents and other related security equipment.

(14) Space shall be provided for the secure storage of items an inmate has in his possession at the time of booking.

(15) Space shall be provided for administrative, professional and clerical staff, including conference rooms, storage room for records, public lobby and toilet facilities.

(16) There shall be designated and marked emergency exits that comply with the requirements of the Oklahoma State Fire Marshal and which permit prompt evacuation.

(17) In areas not specifically covered by these standards, new buildings and buildings undergoing substantial remodeling shall generally meet requirements of the State Fire Marshal and the plans shall be approved by the State Fire Marshal.

(c) **Temporary tent detention facilities.** The Department must approve the establishment and design of this type of facility. The State Fire Marshal must approve it. A county may erect a tent detention facility which is temporary in nature, to meet the needs of the county for confining minimum-security inmates. A tent detention facility shall not detain juveniles and shall maintain continuous, physical and architectural separation of male and female inmates. A tent detention facility shall not be required to meet minimum requirements for a detention facility but shall provide at least the following:

(1) **Accommodations.**

- (A) Basic daily living needs;
- (B) Medical needs;
- (C) Shelter from inclement weather;
- (D) Freedom from obvious safety hazards;
- (E) Fire extinguishers as recommended by the Oklahoma State Fire Marshal; and
- (F) General comfort consistent with security and control of inmates.

(2) **Security.**

- (A) Tents erected inside a fenced area suitable for guarding and controlling inmates; and
- (B) Permit inmates to have visitors consistent with security requirements.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 36 Ok Reg 1731, eff 9-13-19 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 7. STANDARDS FOR DETENTION FACILITIES HOLDING JUVENILES

310:670-7-1. Standards for detention facilities holding juvenile offenders

(a) A juvenile shall be incarcerated only in a city or county detention facility authorized by the appropriate judicial or juvenile bureau authority. A juvenile shall not be detained in any holding facility or lockup facility. This requirement does not preclude juveniles being held in non-

secure areas until a parent or other responsible party arrives to take custody of the juvenile.

(b) Prior to a juvenile being placed in an eligible detention facility, permission shall be obtained from the appropriate judicial or juvenile bureau authority. A record of permission shall be maintained at the facility.

(c) Sight checks of juvenile inmate living areas shall be performed at least one (1) time each hour. The check shall include all areas of each cell and the inmates shall be visually observed. Checks shall be documented in writing on a form provided by the administrator.

(d) An adult inmate who is assigned trusty status shall not be permitted sustained contact with a juvenile inmate. A staff member shall serve a juvenile inmate's meals.

(e) In addition to existing visitation privileges, juvenile inmates shall be permitted visits from authorized juvenile agency personnel. Visits from family members, who are unable to visit during normal visiting hours shall be allowed so long as arrangements for them are made in advance, with the administrator, and provided they do not jeopardize security. Each facility that holds a juvenile shall have written policies and procedures for such visits.

(f) A juvenile inmate shall be able to communicate with staff members at all times. This can be either by voice or electronic means. If electronic systems are used, there shall be a backup plan to insure communication ability is maintained.

(g) No staff member shall be permitted to enter a juvenile inmate living area i.e., past the last locked door, without backup assistance being available from another staff member. At least one (1) staff member shall be of the same sex as the juvenile inmate except in life endangering situations. Anytime a decision is made to enter the living area without appropriate backup assistance as defined above, the action shall be documented. Documentation shall show the reason for the decision and a permanent record shall be maintained.

(h) A juvenile charged with a crime which would constitute a felony if committed by an adult, or a juvenile who is an escapee from a juvenile training school or from a Department of Human Services group home, may be detained in any detention facility authorized by the appropriate judicial or juvenile bureau authority, police station or similar law enforcement office, not approved for long-term detention, for a period of six (6) hours or less for identifying, processing or arranging for transfer to a juvenile detention facility or alternative program. In no other circumstances shall a juvenile be securely detained in an adult detention facility.

[Source: Amended at 8 Ok Reg 3129, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1433, eff 5-1-92 ; Amended at 13 Ok Reg 2139, eff 6-13-96 ; Amended at 20 Ok Reg 2387, eff 7-11-03 ; Amended at 21 Ok Reg 2445, eff 7-11-05 ; Amended at 36 Ok Reg 1731, eff 9-13-19]

310:670-7-2. Certification of detention facilities holding juvenile offenders

(a) The Department will coordinate with the Office of Juvenile Affairs to certify detention facilities for holding juvenile offenders based on a

facility's compliance with the rules in this Subchapter [10A O.S. § 2-3-103(E)].

(b) The designation of a detention facility as a place for the detention of juveniles is made from a list of eligible facilities supplied by the Department of Health. Eligible facilities are those facilities deemed by the Department as compliant with the applicable standards of this Chapter.

[Source: Added at 36 Ok Reg 1731, eff 9-13-19]

310:670-7-3. Recording and reporting the use of detention facilities to hold juvenile offenders

(a) Any adult jail, lockup or other adult facility shall record and report, in a manner consistent with requirements of the Office of Juvenile Affairs, the detention of any person under the age of eighteen (18) [10A O.S. § 2-3-103(F)].

(b) Records of detention for persons under the age eighteen (18) and detained in the last year shall be subject to review during the Department's annual inspection.

[Source: Added at 36 Ok Reg 1731, eff 9-13-19]

CHAPTER 673. ALZHEIMER'S DEMENTIA AND OTHER FORMS OF DEMENTIA SPECIAL CARE DISCLOSURE RULES

[**Authority:** 63 O.S., §§ 1-104 et seq. and 1-879.2a et seq.]

[**Source:** Codified 6-25-99]

SUBCHAPTER 1. GENERAL PROVISIONS

310:673-1-1. Purpose

This Chapter provides for the disclosure of information on special care provided to persons with Alzheimer's dementia and other forms of dementia for entities subject to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act and licensed by the Oklahoma State Department of Health. This rule is authorized under the following laws: the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act (63 O.S. Section 1-879.2a et seq.); and the Oklahoma Public Health Code (63 O.S. Section 1-104 et seq.)

[**Source:** Added at 16 Ok Reg 2520, eff 6-25-99 ; Amended at 40 Ok Reg 1586, eff 9-11-23]

310:673-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"**Act**" means the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.

"**Department**" means the Oklahoma State Department of Health.

"**Special care facility**" means *any nursing facility, residential care facility, assisted living facility, adult day care center, continuum of care facility, or special care facility that publicly advertises, intentionally markets, or otherwise engages in promotional campaigns for the purpose of communicating that said facility offers care or treatment methods within the facility that distinguish it as being especially applicable to or suitable to persons with Alzheimer's dementia or other forms of dementia.* [63:1-879.2c].

[**Source:** Added at 16 Ok Reg 2520, eff 6-25-99 ; Amended at 40 Ok Reg 1586, eff 9-11-23]

SUBCHAPTER 3. STANDARDIZED DISCLOSURES AND REVIEWS

310:673-3-1. Disclosure and posting requirement

(a) Before entering an agreement to offer care or services as a special care provider, each provider shall submit a standardized disclosure form with the Department.

- (b) When there is any change in the information on file with the department, an updated form shall be submitted to the department at the time the change is made.
- (c) During regular inspections by the Department, the facility shall provide a current disclosure form for the Department to verify if the form is current and the services are provided to residents as described in the form.
- (d) A current form shall be posted on the facility's website.

[Source: Added at 16 Ok Reg 2520, eff 6-25-99 ; Amended at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-2. Description of standardized disclosure form

The standardized disclosure form requires the following:

- (1) *A written description of the special care unit, program, or facility's overall philosophy and mission as it relates to the needs of residents with Alzheimer's dementia or other forms of dementia;*
- (2) *The process and criteria for placement in, or transfer or discharge from, the unit, program, or facility;*
- (3) *The process used for assessment, establishment, and implementation of a resident plan of care, as it relates to Alzheimer's dementia and other forms of dementia, including the method by which the plan evolves, the frequency of assessment, and how the facility will respond to changes in the condition of the resident;*
- (4) *Staff-to-resident ratios, staff training and continuing education that are in addition to all regularly prescribed training and are commensurate with the need for increased care and supervision for residents with Alzheimer's dementia and other forms of dementia;*
- (5) *The physical environment and design features appropriate to support the functioning of cognitively impaired residents;*
- (6) *The types and frequency of resident activities designed for residents with Alzheimer's dementia or other forms of dementia and descriptions of those therapeutic activities designed to address cognitive function and engage residents with varying stages of dementia;*
- (7) *The involvement of families in care planning and other aspects of care, and the availability of family support programs;*
- (8) *The fees for care and any additional fees; and*
- (9) *Any accreditations or certifications issued to the facility related to the care and services provided to residents with Alzheimer's dementia or other forms of dementia. [63:1-879.2c.B].*

[Source: Added at 16 Ok Reg 2520, eff 6-25-99 ; Amended at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-3. Department review

A facility will be sent an electronic notification to the email provided within the disclosure form once it has been submitted to the electronic filing system. The Department shall review disclosure forms

for completeness and accuracy each time a form is submitted as required by law. During the regular inspection, the Department shall verify the disclosure form is current and the services provided match those described within the disclosure form.

[Source: Added at 16 Ok Reg 2520, eff 6-25-99 ; Amended at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-4. Standardized disclosure changes [REVOKED]

[Source: Added at 16 Ok Reg 2520, eff 6-25-99 ; Revoked at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-5. Conditions to refuse to renew [REVOKED]

[Source: Added at 16 Ok Reg 2520, eff 6-25-99 ; Revoked at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-6. Violations of disclosure form requirements

A violation of any of the provisions in the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act shall subject the offending facility to the notice and enforcement provisions for the facility's license.

[Source: Added at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-7. Disclosures provided

(a) The facility shall provide a current disclosure to any representative of a person with Alzheimer's dementia or other forms of dementia who is considering placement within a special care unit, program, or facility in addition to having a current disclosure form as required by 63 O.S. 1-879.2 c.

(b) The Department shall provide a copy of the disclosure to the State Long-Term Care Ombudsman.

[Source: Added at 40 Ok Reg 1586, eff 9-11-23]

CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

Editor's Note: Numerous rules in this Chapter were added or revised by the Oklahoma State Department of Health in 2007. However, after these rules, as identified below, had been promulgated in the Oklahoma Register and published in the 2007 OAC Supplement, the Department discovered that an earlier draft of the rules, which had NOT been adopted by the State Board of Health, had been inadvertently submitted to the Legislature, Governor, and Secretary of State for review, final adoption, and promulgation [see 24 Ok Reg 2030, effective 6-25-07]:310:675-1-2310:675-7-5.1310:675-7-12.1310:675-7-17.1310:675-7-18.1310:675-7-21310:675-9-13.1310:675-13-7310:675-21-1 through 310:675-21-5Appendix BUpon discovery of this error, the agency initiated another rulemaking action, and the rules were readopted in 2008. After review and final adoption, those rules were promulgated at 25 Ok Reg 2482, effective 7-11-08. [See also Editor's Note published at 25 Ok Reg 2482]

[**Authority:** 63 O.S., §§ 1-104 and 1-1901 et seq.]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:675-1-1. Purpose

The purpose of this Chapter is to implement the "Nursing Home Care Act" (63 O.S. 1991, §§ 1-1901 et seq.) and to establish the minimum criteria for the issuance or renewal of a nursing or specialized facility license.

[**Source:** Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93]

310:675-1-2. Definitions

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

"Act" means Title 63 of the Oklahoma Statutes, Sections 1-1901 and following as amended also known as the Nursing Home Care Act.

"Allied health professional" means one of the following persons: physician assistant, physical, speech, or occupational therapist, occupational therapy assistant, physical therapy assistant, or qualified social worker.

"Antipsychotic drug" means a drug, sometimes called a major tranquilizer, used to treat symptoms of severe psychiatric disorders, including but not limited to schizophrenia and bipolar disorder.

"Attendant" means the person having control of an animal/pet visiting or in residence in a facility.

"Approval" means the mandatory state government process by which an agency or program is reviewed, and publicly proclaimed, to render a service worthy of note.

"CEP" means the nurse aide competency evaluation program.

"Certification" means the process by which a non-governmental agency, or association, or governmental agency attests that an individual or facility has met certain predetermined standards specified by the certifying body.

"Certified medication aide" means a person who has passed a Department approved program for administering medications.

"Certified nurse aide" means any person who provides, for compensation, nursing care or health-related services to residents of a facility, who is not a licensed health professional and has completed a Department approved training and competency program.

"Charge nurse" means a registered nurse or licensed practical nurse responsible for supervising nursing services on a specific shift.

"Chemical restraints" means the use of a medication for the purpose of discipline, convenience, or in an emergency situation to control mood or behavior and not required to treat the resident's symptoms.

"Consultant registered nurse" means a registered nurse who provides consultation to the director of nursing and administrator concerning the delivery of nursing care for all residents in the facility.

"Denial" means a decision made by the appropriate body to disapprove an application.

"Direct care staff" means nursing, activity, social and therapy staff.

"Director of nursing" means either a registered nurse or licensed practical nurse, who has the authority and responsibility to administer nursing services within the facility.

"Emergency" means, for the purposes of Title 63 O.S. § 1-1912, a serious, potentially life-threatening or life-endangering situation in which immediate action is necessary to ensure the health, safety, or welfare of residents, and for which the facility:

- (A) does not have a plan acceptable to the Department to ensure health, safety or welfare of residents; or
- (B) refuses to remedy the situation.

"Health related services" means any medically directed service provided by any person in a facility that may include but is not limited to, the following:

- (A) Positioning and turning of residents;
- (B) Self-help skill training;
- (C) Assistance with prosthetic/assistive devices;
- (D) Medication administration;
- (E) Nutrition and hydration;
- (F) Monitoring of resident vital signs;
- (G) Catheter and nasogastric care;
- (H) Behavior modification programs;
- (I) Administering a medically related care plan; and
- (J) Restorative services.

"In charge" and **"supervision"** means the administrator must have the requisite authorization from the licensee to make those purchases and incur those necessarily attendant debts in order to comply with the rules promulgated by the Board and all pertinent state statutes.

"Inservice education" means activities intended to assist the individual to acquire, maintain, and/or increase competence in fulfilling the assigned responsibilities specific to the employer's expectations.

"Licensed health professional" means one of the following: a physician; dentist, podiatrist, chiropractor, physician assistant, nurse practitioner; pharmacist; physical, speech, or occupational therapist; registered nurse, licensed practical nurse; licensed or certified social worker; or licensed/registered dietitian.

"Licensed nurse" means a registered nurse or a licensed practical nurse who is currently licensed by the Oklahoma Board of Nursing.

"Licensed pharmacist" means a person who is a graduate of an accredited pharmacy program and is currently licensed by the Oklahoma Board of Pharmacy.

"Licensed practical nurse" means a person who is a graduate of a state approved practical nursing education program, or who meets other qualifications established by the Oklahoma Board of Nursing, and is currently licensed by the Oklahoma Board of Nursing.

"Licensure" means the process by which the Department grants to persons or entities the right to establish, operate, or maintain any facility.

"Local law enforcement" means:

- (A) The municipal police department, if the facility is within the jurisdiction of any municipality of this state, or
- (B) The county sheriff, if the facility is outside the jurisdiction of any municipality within this state.

"Long-term care facility" means:

- (A) a nursing facility as defined in 63 O.S. § 1-1902;
- (B) a continuum of care facility as defined under the Continuum of Care and Assisted Living Act; or
- (C) the nursing care component of a life care community as defined by the Long-term Care Insurance Act.

"Manager" or "supervisor" means the person or entity which performs administrative services for the licensee. The manager or supervisor is not legally responsible for the decisions and liabilities of the licensee, and does not stand to gain or lose financially as a result of the operation of the facility. The manager is paid a fee or salary for services, and the primary remuneration shall not be based upon the financial performance of the facility.

"Misappropriation of resident's property" means the taking, sequestration, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal control of a resident, without the effective consent of the resident or other appropriate legal authority, or the taking of any action contrary to any duty imposed by federal or state law prescribing conduct relating to the custody or disposition of resident's property.

"Nurse aide" means any person providing nursing or nursing related services to residents in a facility, but does not include an individual who is a licensed health professional, or who volunteers to provide such services without monetary compensation.

"Nurse aide trainee" means any person who has been employed by a facility to provide nursing care or health related services, and is

enrolled in but has not completed a Department approved training and competency program.

"Orientation" means the training for a particular job activity given to all employees.

"Perishables" means food supplies, to include dietary supplements and intravenous feedings, medical supplies, and medications.

"Physical restraints" means any manual method or physical or mechanical device, material or equipment attached or adjacent to the resident's body that the resident cannot remove easily, that is not used for the purpose of therapeutic intervention or body alignment as determined by resident assessment and care planning, and which restricts the resident's desired freedom of movement and access to his or her body.

"Prescribing clinician" means:

- (A) an allopathic or osteopathic physician licensed by and in good standing with the Oklahoma State Board of Medical Licensure and Supervision or the Oklahoma State Board of Osteopathic Examiners, as appropriate;
- (B) a physician assistant licensed by and in good standing with the Oklahoma State Board of Medical Licensure and Supervision; or
- (C) an Advanced Practice Registered Nurse licensed by and in good standing with the Oklahoma Board of Nursing.

"Qualified nutritionist" is a Department approved person who holds a baccalaureate with major studies in food and nutrition, dietetics, or food service management; has one year experience in the dietetic service of a health care institution; and participates in continuing education annually.

"Registered/licensed dietitian" means a person who is registered as a dietitian by the American Dietetic Association and licensed by the Oklahoma Board of Medical Licensure and Supervision.

"Registered nurse" means a person who is a graduate of a state approved registered nursing education program, and who is currently licensed by the Oklahoma Board of Nursing.

"Registry" means a Department maintained list of individuals who have successfully completed a nurse aide training and competency evaluation program, or a competency evaluation program, approved by the Department.

"Representative of a resident" means a representative of a resident as defined by 63 O.S. § 1-1902.

"Resident" means a resident as defined by 63 O.S. § 1902.

"Revoke" means to rescind approval of a previous action.

"Specialized facility" means any facility which offers or provides inpatient long-term care services on a twenty-four hour basis to a limited category of persons requiring such services, including, but not limited to, a facility providing health or habilitation services for developmentally disabled persons, infants and/or children, or Alzheimer's and dementia residents.

"Standards of nursing practice" means an authoritative statement that describes a level of care or performance common to the profession of nursing by which the quality of nursing practice can be

judged. Standards of nursing practice include both standards of care and standards of professional performance.

"Standards of care" means a description of a competent level of care demonstrated by a process of accurate assessment and diagnosis, planning, appropriate interventions, and predicted patient outcomes. (Appendix B of this Chapter.)

"Standards of professional performance" means a description of a competent level of behavior in the professional role including activities related to quality assurance, education, consultation, research, ethics, resource utilization, accountability, peer review, and interdisciplinary collaboration.

"Suspended license" means a license that is issued for a period not to exceed three years to a facility which has temporarily closed or ceased operations.

"Training and competency evaluation program" means a program approved by the Department to instruct and evaluate individuals to act as nurse aides.

"Transfer" means the move of a resident from one facility to another facility.

"Intra-facility transfer" means the moving of a resident from one room to another within a facility.

"Transfer of ownership" means a change of substantial, or controlling interest, in the ownership of a facility. A change of less than five percent (5%) of the interest of the owner does not constitute a transfer of ownership unless it also results in a change of control of the owner.

"Willful violation" means:

- (A) a pattern of violation of staffing requirement;
- (B) a violation of staffing requirement in which the facility knew or should have known staffing would be insufficient to meet the requirement yet took no action to avert the violation; or
- (C) the reporting of materially inaccurate or misleading information of staffing to the Health Care Authority.

[**Source:** Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 18 Ok Reg 3599, eff 8-22-01 through 7-14-02 (emergency)¹; Amended at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 24 Ok Reg 2030, eff 6-25-07 ²; Amended at 25 Ok Reg 2482, eff 7-11-08 ; Amended at 36 Ok Reg 1748, eff 9-13-19 ; Amended at 37 Ok Reg 1448, eff 9-11-20]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), the text of 310:675-1-2 reverted back to the permanent text that became effective 6-25-01, as was last published in the 2001 Edition of the OAC, and remained as such until amended again by permanent action on 7-11-03.*

Editor's Note: ²*See Editor's Note at beginning of this Chapter.*

310:675-1-3. Staff identification

Each facility shall ensure that each staff member wears an identification badge that clearly indicates the staff member's name and title.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01]

310:675-1-4. Purpose, authority and indoor tobacco smoke

(a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]

(b) The Commissioner of Health has conducted a study and is recommending these measures to the Board of Health under his authority as stated in section 1-106 of the Public Health Code. [63 O.S. § 1-106] The Board has the authority to establish prevention programs for non-communicable disease and to promulgate rules for the control of causative or toxic substances, which can cause disease under section 1-502b of the Public Health Code. [63 O.S. § 1-502b] The Board is adopting this rule under its authority in sections 1-104 and 1-1526 of Title 63 of the Oklahoma Statutes. [63 O.S. §§ 1-104 & 1-1526]

(c) Smoking or possessing a lighted tobacco product is prohibited in a facility and within fifteen (15) feet of each entrance to a facility and of any air intakes; provided however, the facility may provide a smoking room available to the residents and their guests and another room available to the employees.

(d) An indoor smoking room may be provided if:

- (1) It is completely enclosed;
- (2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;
- (3) It allows for visual observation of the residents from outside of the smoking room; and
- (4) The plans are reviewed and approved by the Department.

(e) To enable better observation and supervision of residents who wish to smoke outside, a facility may designate a smoking area outside an entrance other than the main entrance which may be closer than fifteen (15) feet to the entrance providing consideration is given to minimizing the possibility of smoke entering the building.

(f) The walkway to the main entrance shall also be smoke free.

(g) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room or a designated outdoor smoking area under paragraph "c" above.

(h) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.

(i) The facility's tobacco use policy shall be clearly posted near the main entrance, and prospective residents or their legal representatives shall be notified of the policy prior to the residents' acceptance for admission.

[Source: Added at 19 Ok Reg 2098, eff 7-1-02]

310:675-1-5. Relocation of a resident by the Department in emergency

- (a) The Department may relocate a resident in an emergency when:
- (1) The Department determines that the resident is in immediate jeopardy which cannot be rectified without relocation; or
 - (2) The facility has substantial quality of care non-compliance with the rules and/or certification standards and when actual harm has occurred in the facility; or
 - (3) The facility is unable to meet the needs of the resident.
- (b) The Department may order the removal of all the residents to close the facility.
- (c) The Department shall involve the resident and the resident's family or representative in the decision to relocate the resident; however, the Department may move the resident without the consent of the resident or the family if necessary to preserve the health, welfare or safety of the resident. If the resident does not consent, then if possible a member of the Adult Protective Services staff must agree in writing that the resident needs to be moved.
- (d) The Department shall give written notice to the resident and to the facility of the reasons for the discharge or transfer if the resident or the resident's families do not agree to transfer the resident.
- (e) If the resident has no specific preference, the Department shall relocate the residents to the nearest facility capable of care for the resident if acceptable to the resident.
- (f) Should a resident be aggrieved by the decision of the Department to relocate or transfer that resident, the Department shall conduct a hearing before relocating the resident unless to do so will fail to preserve the health, welfare or safety of the resident.
- (g) The hearing will be conducted following Chapter 2 of this title and the Administrative Procedures Act.
- (h) The hearing will be conducted at the facility, and will be attended by the Administrative Law Judge and the Department's legal counsel. The Department will maintain a record on the case as it would for another individual proceeding.
- (i) The Administrative Law Judge shall make this case a priority and shall issue a written opinion within one working day from the close of the hearing.
- (j) The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order that the transfer was according to law or not.
- (k) The order may be appealed to District Court as in any other individual proceeding under the Administrative Procedures Act.

[Source: Added at 20 Ok Reg 2399, eff 7-11-03]

310:675-1-6. Waiver

(a) The Commissioner of Health, in accordance with 63 O.S. Section 1-1900.2, may waive provisions of the Nursing Home Care Act and this Chapter, if the Department of Health determines that such waiver would not endanger the life, safety or health of any resident of a nursing facility and the waiver application meets the requirements specified in this section and 63 O.S. Section 1-1900.2.

(b) Any facility requesting a waiver shall apply in writing to the Department of Health. Such application shall include:

- (1) The specific statute(s) or regulation(s) for which the waiver is requested;
- (2) Reason(s) for requesting a waiver;
- (3) An explanation of how the requested waiver fosters the development of resident autonomy, individualization and culture change in support of a deinstitutionalization model;
- (4) The specific relief requested; and
- (5) Any documentation which supports the application for waiver.

(c) In consideration of any application for waiver, the Commissioner of Health may consider the following:

- (1) Compliance with 63 O.S. Section 1-1900.2;
- (2) The level of care provided;
- (3) The maximum resident capacity;
- (4) The impact of a waiver on care provided;
- (5) Alternative policies or procedures proposed; and
- (6) Compliance history with provisions of the Nursing Home Care Act and this Chapter.

(d) The Department of Health shall consider each request for a waiver and shall approve or disapprove the request in writing within sixty (60) business days of receipt of the request.

(e) If the Department of Health finds that an application is incomplete, the Department shall advise the applicant in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) business days to submit additional or clarifying information in writing to the Department of Health upon receipt of written notification.

(f) The facility that is granted a waiver shall notify residents of the facility or, where appropriate, the guardians or legal representatives of such residents of the waiver in writing.

(g) An applicant who disagrees with the Department's decision regarding the waiver application may file a written petition requesting review by an administrative law judge in an individual proceeding under the Oklahoma Administrative Procedures Act.

(h) The Department may revoke a waiver through an administrative proceeding in accordance with the Oklahoma Administrative Procedures Act upon finding the nursing facility is operating in violation of the waiver or the waiver endangers the life, safety or health of any resident in the nursing facility.

SUBCHAPTER 3. LICENSES

310:675-3-1. License required [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-1.1. Application for licensure

- (a) No person or entity shall operate a facility without first obtaining a license.
- (b) The applicant shall file a licensure application in a timely manner, on the forms provided by the Department, with a check for the filing fee payable to the Oklahoma State Department of Health. The filing fee is set by statute, and currently is calculated as Ten Dollars (\$10.00) per licensed bed.
- (c) The facility owner shall be the applicant for the license, unless a receiver has been appointed. If there is a receiver, the receiver shall be the applicant.
- (d) If the facility is leased, then the person or entity to whom the facility is leased shall be the applicant. If the lessee does not assume all rights to the facility and the lessor reserves some participatory rights in the operation of the facility, then both entities shall make joint application for the license.
- (e) The applicant for license shall disclose the name, address, and tax identification number of a person or entity who has the legal duties of filing employment tax returns and paying employment taxes with respect to staff required to meet the needs of facility residents, including but not limited to administrators, nurses, nurse aides, certified medication aides, dietitians, nutritionists, food service staff, qualified intellectual disability professional, and activities, social services, maintenance and housekeeping personnel.
- (f) An application is not considered to be filed unless it is accompanied by the application fee. The application fee, however, shall not be required from a receiver or temporary manager appointed by, or at the request of, the Department.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 11 Ok Reg 3193, eff 6-27-94 ; Amended at 13 Ok Reg 2511, eff 6-27-96 ; Amended at 21 Ok Reg 2805, eff 7-12-04 ; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07 ; Amended at 26 Ok Reg 2059, eff 6-25-09 ; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-3-2. Application for licensure/relicensure [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-2.1. Deadlines for filing

The license application shall be filed in accordance with the following deadlines.

- (1) The application for an initial license of a new facility shall be filed at least thirty days before beginning operations.

(2) The application for an initial license, following a transfer of ownership or operation, shall be filed at least thirty days before the final transfer. In the case of the appointment of a receiver as operator, this thirty day advance filing requirement may be waived if the Commissioner finds that an emergency exists which threatens the welfare of the facility residents. If an emergency is found to exist, the receiver shall file the license application before beginning operation of the facility.

(3) The application for renewal of license of an existing facility, with no transfer of ownership or operation, shall be filed by the renewal date specified on the existing license.

(4) An application for a suspended license, with no transfer of ownership or operation, shall be filed within thirty (30) days of relocation of all residents or the date the facility ceases operation.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 13 Ok Reg 2511, eff 6-27-96 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-3-3. Probationary and conditional licenses [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-3.1. Where to file

(a) Each initial, renewal or suspended license application, and each Notice of Change requesting an increase in beds, and the applicable license fee shall be delivered or sent to the Department at the address specified on the application or notice form. The effective date of filing shall be the date the application or notice and any required fee are received. No initial or renewal license or increase in licensed beds shall bear an effective date of issuance that is earlier than the effective date of filing.

(b) The completed application forms and the license fee shall not be given to Department personnel at the facility site.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-3-4. Denial of license

The Department's consideration of financial insufficiency as a reason for denial of a license pursuant to 63 O.S. Section 1-1906(C)(4), may include, but is not limited to, the following bases:

- (1) The applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e) is not current with filing and payment requirements for state and/or federal taxes;
- (2) The State of Oklahoma has filed a tax warrant or warrants against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e); or
- (3) The Internal Revenue Service has filed a notice of federal tax lien against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e).

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93 ; Added at 21 Ok Reg 2805, eff 7-12-04]

310:675-3-4.1. Forms

The applicant for a license shall file application forms as follows:

- (1) For an initial license of a new facility, or for an existing facility following a transfer of ownership or operation, the applicant shall file these forms: License Application; Disclosure Statement of Owner, Lessee and Manager, with Detail Attachment and Affirmation Attachment; the Staffing Projection and Professional Certification; and the Certification of Tax Liens and Timely Payment of Taxes.
- (2) For renewal or suspension of a current license, the applicant shall file the License Application form, and the Certification of Tax Liens and Timely Payment of Taxes. The application forms shall provide for the facility to file an abbreviated report if no change has been made since the time of the last application.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 21 Ok Reg 2805, eff 7-12-04 ; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07]

310:675-3-5. Suspension/revocation of license

- (a) The period for an extension granted pursuant to 63 O.S. Supp. 2002 Section 1-1906(H)(2) shall not exceed three (3) years.
- (b) During the period of suspension, the licensee shall file a Periodic Report for Suspended License that demonstrates the facility's progress towards reopening the facility or the extenuating or unusual circumstances for requesting the extension of the suspended license, in the form of, but not limited to: contract for sale, contract with real estate agent or builder, or a pending Certificate of Need application.
- (c) The facility shall file periodic reports at least once every six months. The Department shall send a notice to each facility's contact, at least thirty (30) days prior to the due date of the periodic report.
- (d) The Department's consideration of financial insufficiency as a reason for suspension or revocation of a license pursuant to 63 O.S. Section 1-1906(E)(4), may include, but is not limited to, the following bases:

- (1) The applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e) is not current with filing and payment requirements for state and/or federal taxes;
- (2) The State of Oklahoma has filed a tax warrant or warrants against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e); or
- (3) The Internal Revenue Service has filed a notice of federal tax lien against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e).

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 21 Ok Reg 2805, eff 7-12-04 ; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-3-5.1. Description of forms

- (a) The forms used to apply for a facility license are the following.
 - (1) The License Application for a Nursing or Specialized Facility (Form 953-A) requires: identification of the type of license; the name and address of the facility; the administrator's name; the number and type of beds; the applicant's name; confirmation of changes in the owner, lessee, manager or any person or entity disclosed pursuant to 310:675-3-1.1(e); a zoning statement for new facilities; and an oath affirming the truth, correctness and completeness of the information provided.
 - (2) The Disclosure Statement of Owner, Lessee and Manager for a Nursing or Specialized Facility (Form 953-B) requires: the names and types of legal entities for the owner, lessee and manager; name, address and tax identification number for any person or entity disclosed pursuant to 310:675-3-1.1(e); and an oath affirming the truth, correctness and completeness of the information provided.
 - (3) The Detail Attachment (Form 953-C) supplements the Disclosure Statement (Form 953-B) and requires the names and addresses for the following as applicable:
 - (A) All shareholders owning 5% or more of a corporate entity and all officers of a corporate entity;
 - (B) All partners of a general partnership;
 - (C) All general partners and all limited partners that own 5% or more of a limited partnership;
 - (D) All members that own 5% or more of a limited liability company and all managers of a limited liability company;
 - (E) All beneficiaries that hold a 5% or more beneficial interest in a trust and all trustees of the trust;
 - (F) All persons or entities that own a 5% or more interest in a joint venture;
 - (G) All persons or entities that own a 5% or more interest in an association;
 - (H) The owners holding a 5% or more interest of any other type of legal entity; and
 - (I) Any other person holding at least a five percent (5%) interest in any entity which owns, operates, or manages

the facility.

(J) As a substitute to submitting a Disclosure Statement and Detail Attachment, if the owner, lessee and/or manager is an entity that is publicly traded and is required to file periodic reports under the Securities and Exchange Act of 1934, or is a wholly owned subsidiary of such a publicly held company, the applicant may submit the applicable portions of the most recent annual and quarterly reports required by the Securities and Exchange Commission (SEC). The applicant shall include an index reflecting where each item of information required to be disclosed pursuant to the Disclosure Statement and Detail Attachment may be located in the SEC filings. Submission of the complete SEC filing is not required. Only those portions applicable to the Disclosure Statement and Detail Attachment are to be submitted.

(K) The required disclosure shall also be made by all persons or entities with an ownership interest in any entity required to be disclosed in paragraphs (A) through (I) of this section that is equal to a 5% or more indirect ownership interest in the owner, lessee and/or manager. The disclosure shall be made at each level of the organization to the extent required by this subsection.

(L) For purposes of subsection (K), the percentage of indirect ownership interest in the owner, lessee and/or manager is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10 % of the stock in a corporation that owns 80 % of the applicant for license, A's interest equates to an 8 % indirect ownership interest in the applicant and must be reported. Conversely, if B owns 80 percent of the stock of a corporation that owns a 5% interest of the stock of the applicant, B's interest equates to a 4% indirect ownership interest in the applicant and need not be reported.

(4) The Affirmation Attachment (Form 953-D) supplements the Disclosure Statement (Form 953-B) and requires the following: the names and addresses of individuals, members, officers and/or registered agents required to be disclosed for the applicant pursuant to 310:675-3-5.1(a)(3); and an affirmation from each of the above concerning their age, character and health.

(5) The Staffing Projection and Professional Certification for a Nursing or Specialized Facility (Form 953-E) requires: a projected staffing pattern; and a certification from the director of nursing, the physician on call for medical emergencies, and the pharmacist providing consultation and emergency pharmacy services.

(6) The Periodic Report for Suspended License (Form 953-F) requires: the name and address of the facility; the applicant's name and address, contact person and address; report of progress in reopening the facility; request for extension based on extenuating circumstances; and an oath affirming the truth, correctness and completeness of the information provided.

(b) The Notice of Change requests information on the name and address of the facility; the administrator; the number and type of beds; the applicant; confirmation of changes in the owner, lessee or manager; and any change in disclosure of persons or entities pursuant 310:675-3-1.1(e).

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 21 Ok Reg 2805, eff 7-12-04 ; Amended at 21 Ok Reg 2454, eff 7-11-05 ; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07 ; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-3-6. Transfer of ownership [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-7. Certificate of approval [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-8. Notice of change

(a) If changes occur so that information previously submitted in a facility's license application is no longer correct, the facility shall notify the Department. Notice is required of changes to the following information:

- (1) Facility identification including facility business name, mailing address, telephone number or facsimile number;
- (2) Changes in licensed bed capacity, including proposed increases;
- (3) The administrator;
- (4) Owner, lessee or manager disclosure or detail information that does not otherwise necessitate an initial license;
- (5) Disclosure of persons or entities required to be disclosed pursuant 310:675-3-1.1(e); and

(b) The facility shall file the Notice of Change form with the Department on or before the effective date of the change, with the following exceptions.

- (1) When a change is unexpected or beyond the control of the facility, the facility shall provide notice to the Department within five (5) working days after the change.
- (2) For an increase in licensed bed capacity, the facility shall file the notice of change prior to the requested license amendment date. The notice of change shall be accompanied by the \$10 per-bed license fee pursuant to 63 O.S. Section 1-1905(A), prorated by the number of beds to be added and the proportion of time remaining on the license until expiration. Prior to occupying additional beds, the facility shall obtain an amended license from the Department.

(c) Following receipt of information that an applicant or any person or entity disclosed pursuant 310:675-3-1.1(e) is not in compliance with the tax filing, payment or disclosure requirements of 310:675-3-1.1. or 63 O.S. Section 1-1930.1, the Department may require an applicant or

licensee to submit proof that the applicant or person or entity disclosed pursuant to 310:675-3-1.1(e) is in compliance with state or federal taxes. Such proof may include a letter from the taxing agency, a file-stamped copy of a return, a receipt for a tax payment, or a tax transcript or account.

[Source: Added at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 21 Ok Reg 2805, eff 7-12-04 ; Amended at 21 Ok Reg 2454, eff 7-11-05 ; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07 ; Amended at 26 Ok Reg 2059, eff 6-25-09]

SUBCHAPTER 5. PHYSICAL PLANT

310:675-5-1. Application

- (a) The requirements of this Subchapter shall be applicable to all new construction of, or modification to, long-term care facilities.
- (b) In the determination of compliance with fire safety regulations, the State Fire Marshal and the Department may utilize a system of value equivalents, such as the NFPA 101A Guide on Alternative Approaches to Life Safety, 2010 Edition, which provides alternative methods for achieving compliance with the regulations.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-5-2. General considerations

- (a) Facilities shall be available and accessible to the physically handicapped (public, staff, and patients).
- (b) Each facility shall have parking space to satisfy the minimum needs of residents, employees, staff, and visitors. Space shall be provided for emergency and delivery vehicles.

310:675-5-3. Nursing unit

Each nursing unit shall provide the following:

- (1) Resident room with a maximum capacity of four residents.
- (2) Resident room with a minimum room area exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules, shall be 100 sq. ft. in single bed rooms and 80 sq. ft. per bed in multi-bed rooms. Except that in specialized facilities serving only infants and/or children the minimum space per unit shall be 60 sq. ft. per crib. The maximum capacity of pediatric nurseries or rooms for infants or children utilizing cribs shall be twenty.
- (3) One lavatory shall be provided in each resident room. The lavatory may be omitted from a single-bed or a 2-bed room when a lavatory is located in an adjoining toilet room which serves that room only.
- (4) Each resident shall have access to a toilet room without entering the general corridor area. One toilet room shall serve no more than four (4) beds and no more than two (2) resident rooms. The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted from a toilet room which serves single-

bed and 2-bed rooms if each such resident's room contains a lavatory.

(5) Each resident shall have a wardrobe, locker, or closet with minimum clear dimensions of 1'10" (55.9cm.) by 1'8" (50.8 cm.). A clothes rod and adjustable shelf shall be provided.

(6) Visual privacy shall be provided each resident in multi-bed rooms. Design for privacy shall not restrict resident access to entry, lavatory, or toilet.

(7) No resident room shall be located more than 120 ft. (36.6 m.) from the soiled workroom or the soiled holding room.

310:675-5-4. Service areas

The following shall be located in or readily available to each nursing unit:

(1) Nurses' station with space for nurse's charting, doctor's charting, storage for administrative supplies, and handwashing facilities. (This handwashing facility could serve the drug distribution station, if conveniently located.)

(2) Toilet room(s) for nursing staff.

(3) Room for examination and treatment of residents may be omitted if all resident rooms are single-bed rooms. This room shall have a minimum floor area of 120 sq. ft. (11.15 sq. m.), excluding space for vestibule, toilet, closets and work counters (whether fixed or moveable). The minimum room dimension shall be 10'0" (3.05 m.) and shall contain a lavatory or sink equipped for handwashing, a work counter, storage facilities, and a desk, counter, or shelf space for writing.

(4) Clean workroom/clean holding room.

(A) The clean workroom shall contain a work counter, handwashing, and storage facilities.

(B) The clean holding room shall be part of a system for storage and distribution of clean and sterile supply materials and shall be similar to the clean workroom except that the work counter and handwashing facilities may be omitted.

(5) Soiled workroom/soiled holding room.

(A) The soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, sink equipped for handwashing, work counter, waste receptacle, and linen receptacle.

(B) A soiled holding room shall be part of a system for collection and disposal of soiled materials and shall be similar to the soiled workroom except that the clinical sink and work counter may be omitted.

(6) Drug distribution station. Provision shall be made for convenient and prompt 24 hour distribution of medicine to residents. This may be a medicine preparation room or unit, a self-contained medicine dispensing unit, or another approved system. If used, a medicine preparation room shall be under the nursing staff's visual control and contain a work counter,

refrigerator, and locked storage for biologicals and drugs and shall have a minimum area of 50 sq. ft. (4.65 sq. m.). A medicine dispensing unit may be located at the nurse's station, in the clean workroom, or in an alcove or other space under direct control of the nursing or pharmacy staff.

(7) Clean linen storage. Provide a separate closet or a designated area within the clean workroom. If a closed cart system is used, storage may be in an alcove.

(8) Equipment storage room. This shall be for equipment such as I.V. Stands, inhalators, air mattresses, and walkers. A parking for stretchers and wheelchairs shall be located out of path of normal traffic.

(9) Residents' bathing facilities. Bathtubs or showers shall be provided at the rate of at least one (1) for each twenty (20) beds which are not otherwise served by bathing facilities within residents' rooms. At least one bathtub shall be provided in each nursing unit. The Department may require more than one (1) bathtub or shower for each twenty (20) beds depending on the design of the facility and on the needs of any special population being served. Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture, for drying and dressing, and for a wheelchair and an attendant. Showers in central bathing facilities shall be at least 4'0" (1.22 m.) square, without curbs, and designed to permit use by a wheelchair resident with an assisting attendant.

(10) Resident's toilet facilities. The minimum dimensions of a room containing only a water closet shall be 3'0" (91 cm.) by 6'0" (1.83 m.). Additional space shall be provided if a lavatory is located within the same room. Water closets may be located to be usable by wheelchair residents. A toilet room shall be accessible to each central bathing area without going through the general corridor.

(11) Sterilizing facilities. A system for the sterilization of equipment and supplies shall be provided.

[Source: Amended at 13 Ok Reg 2511, eff 6-27-96]

310:675-5-5. Resident's dining and recreation areas

The total areas set aside for these purposes shall not be less than 30 sq. ft. (2.79 sq. m.) per bed for the first 100 beds with a minimum size of not less than 225 sq. ft. (20.9 sq. m.) and 27 sq. ft. (2.51 sq. m.) per bed for all beds in excess of 100. Additional space shall be provided for outpatients if they participate in a day care program or are regularly fed in the facility. Storage space shall be provided for recreation equipment and supplies.

310:675-5-6. Physical therapy facilities

The following elements shall be provided in skilled nursing facilities:

- (1) Treatment areas shall have space and equipment for all modalities to be utilized. Provision shall be made for cubicle curtains around each individual treatment area, handwashing facility(ies) (One lavatory or sink may serve more than one cubicle), and facilities for the collection of soiled linen and other material.
- (2) Exercise area.
- (3) Storage for clean linen, supplies, and equipment.
- (4) Resident's dressing areas, showers, lockers, and toilet rooms.
- (5) Service sink.

310:675-5-7. Occupational therapy facilities

The following elements shall be provided in skilled nursing facilities:

- (1) Activities area shall include sink or lavatory and facilities for collection of waste products prior to disposal.
- (2) Storage for supplies and equipment. (May be planned and arranged for shared use by physical therapy patients and staff.)
- (3) Resident's dressing areas, showers, lockers, and toilet rooms. (May be planned and arranged for shared use by physical therapy patients and staff.)

310:675-5-8. Personal care unit

Separate room and appropriate equipment shall be provided for hair care and grooming needs of residents.

310:675-5-9. Dietary facilities

Shall be provided in such size as required to implement the type of food service system selected:

- (1) Control station for receiving food supplies.
- (2) Storage space for four (4) days' supply including cold storage.
- (3) Food preparation facilities as required by program.
Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, individual packaged portions, or systems using contractual commissary services will require space and equipment for thawing, portioning, cooking, and/or baking.
- (4) Handwashing facility(ies) in the food preparation Area.
- (5) Resident meal service space including facilities for tray assembly and distribution.
- (6) Dining Area for ambulatory residents, staff, and visitors.
- (7) Warewashing in a room or an alcove separate from food preparation and serving areas. This shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using areas. A lavatory shall be conveniently available.
- (8) Potwashing facilities.
- (9) Sanitizing facilities and storage areas for cans, carts, and mobile tray conveyors.

- (10) Waste storage facilities in a separate room which is easily accessible to the outside for direct pickup or disposal.
- (11) Office or suitable work space for the dietitian or the dietary service manager.
- (12) Toilets for dietary staff with handwashing facility immediately available.
- (13) Janitor's closet located within the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.
- (14) Self-dispensing icemaking facilities. May be in area separate from food preparation area but must be easily cleanable and convenient to dietary facilities. Bulk ice dispensing units must be accessible only to authorized staff members.

310:675-5-10. Pharmacy unit

Provision shall be made for the procurement, storage, administration and accounting of drugs and other pharmacy products. This may be by arrangement with convenient off-site facility but must include provision for 24 hour emergency service.

310:675-5-11. Administration and public areas

The following elements shall be provided:

- (1) Entrance at grade level sheltered from the weather and able to accommodate wheelchairs.
- (2) Lobby. It shall include:
 - (A) Reception and information counter or desk.
 - (B) Waiting space(s).
 - (C) Public toilet facilities.
 - (D) Public telephone(s).
 - (E) Drinking fountain(s).
- (3) General or individual office(s) for business transactions, private interviews, medical and financial records, and administrative and professional staff
- (4) Multipurpose room for conferences, meetings, and health education purposes including facilities for showing visual aids.
- (5) Storage for office equipment and supplies.

310:675-5-12. Linen services

- (a) If linen is to be processed on the site, the following shall be provided:
 - (1) Laundry processing room with commercial type equipment which can process seven (7) days' needs within a regularly scheduled work week. Handwashing facilities shall be provided.
 - (2) Soiled linen receiving, holding, and sorting room with handwashing facilities.
 - (3) Storage for laundry supplies.
 - (4) Clean linen inspection and mending room or area.
 - (5) Clean linen storage, issuing, and holding room or area.
 - (6) Janitor's closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(7) Sanitizing facilities and storage area for carts. The sanitizing facilities may be combined with those required for dietary facilities.

(b) If linen is processed off the site, the following shall be provided:

- (1) Soiled linen holding room.
- (2) Clean linen receiving, holding, inspection and storage room(s).
- (3) Sanitizing facilities and storage area for carts.

310:675-5-13. General stores

(a) **Facility storage.** General storage room(s) shall have a total area of not less than ten (10) sq. ft. (.93 sq. m.) per bed and shall generally be concentrated in one area.

(b) **Resident storage.** Separate storage space with provisions for locking and security control shall be provided for resident's personal effects which are not kept in resident's room.

310:675-5-14. Employee's facilities

Employees facilities such as lounges and toilets, to accommodate the needs of all personnel and volunteers shall be provided.

310:675-5-15. Janitor's closets

Janitor's closets shall be provided throughout the facility to maintain a clean and sanitary environment. These shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

310:675-5-16. Engineering service and equipment area

The following shall be provided:

- (1) Equipment room(s) or separate building(s) for boilers, mechanical equipment, and electrical equipment.
- (2) Maintenance shop(s) of size and equipment to support functions described in narrative program.
- (3) Storage room(s) for building maintenance supplies (may be part of maintenance shop in nursing homes of less than 100 beds).
- (4) Yard equipment storage. A separate room or building for yard maintenance equipment and supplies, if applicable. Any fuel or oil for mowers or other yard implements must be stored under cover at least 30 ft. away from any building utilized by residents.

310:675-5-17. Waste processing services

310:675-5-17.¹ Waste processing services

Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal, or by a combination of these techniques.

Editor's Note: ¹*In the initial codification of this agency's rules on 12-31-91, this Section was misnumbered as 310:675-3-17. Upon discovery of this error on 9-12-94, the number was changed to 310:675-5-17.*

310:675-5-18. Design and construction

The requirements in applicable portions of the National Fire Protection Association (NFPA) 101: Life Safety Code, 2012 Edition and 2012 Life Safety Code Tentative Interim Amendments (TIA) 12-1, 12-2, 12-3, and 12-4; and NFPA 99 Health Care Facility Code (HCFC), 2012 edition, excluding chapters 7, 8, 12 and 13, and 2012 HCFC TIA 12-2, 12-3, 12-4, 12-5 and 12-6, adopted in 81 Federal Register 26871 by the Centers for Medicare and Medicaid Services on July 5, 2016, are incorporated by reference. For Medicare or Medicaid certified nursing or specialized facilities, the Life Safety Code adopted by the Centers for Medicare & Medicaid Services prevails if there is a conflict between the Life Safety Code and this Chapter. A high degree of safety for the occupants shall be provided to minimize the incidence of accidents with special consideration for residents who will be ambulatory to assist them in self care. Hazards such as sharp corners shall be avoided.

(1) **Existing facilities.** Nonconforming portions which because of financial hardship are not being totally modernized, shall comply with NFPA 101, 2012 Edition, Chapters 19 or 43.

(2) **New construction projects including additions and alterations.** Details and finishes shall comply with the following:

(A) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required minimum.

(B) All rooms containing bathtubs, sitz baths, showers, and water closets, subject to occupancy by residents, shall be equipped with doors and hardware which will permit access from the outside in any emergency. When such rooms have only one opening or are small, the doors shall be capable of opening outward or be otherwise designed to be opened without need to push against a resident who may have collapsed within the room.

(C) The minimum width of all doors to resident rooms and rooms needing access for beds shall be 3'8" (1.12 m.). Doors to rooms needing access for stretchers and to resident's toilet rooms and other rooms needing access for wheelchairs shall have a minimum width of 2'10" (86.3 cm.).

(D) Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing type. Openings to showers, baths, resident's toilets, and other small wet type areas not subject to fire hazard are exempt from this requirement.

(E) Windows and outer doors which may be frequently left in an open position shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open.

(F) Resident rooms intended for occupancy of 24 hours or more shall have windows operable without the use of tools

and shall have sills not more than 3'0" (91 cm.) above the floor. Windows in buildings designed with an engineered smoke control system in accordance with NFPA 90A are not required to be operable. However, attention is called to the fact that natural ventilation possible with operable windows may in some areas permit a reduction in energy requirements.

(G) Doors, except doors to spaces such as small closets which are not subject to occupancy, shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width. (Large walk-in type closets are considered as occupiable spaces.)

(H) Safety glazing shall be of materials and at locations required by the Oklahoma Safety Glazing Material Law.

(I) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts and shall be constructed to restrict the passage of smoke.

(J) Grab bars shall be provided at all residents' toilets, showers, tubs, and sitz baths. The bar shall have 1 1/2" (3.8 cm.) clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 250 lbs. (113.4 kg.).

(K) Recessed soap dishes shall be provided in showers and bathrooms.

(L) Handrails shall be provided on both sides of corridors used by residents. A clear distance of 1 1/2" (3.8 cm.) shall be provided between the handrail and the wall. Ends of handrails and grab bars shall be constructed to prevent snagging the clothes of residents.

(M) Location and arrangement of handwashing facilities shall permit their proper use and operation.

(N) Lavatories and handwashing facilities shall be securely anchored to withstand an applied vertical load of not less than 250 lbs. (113.4 kg.) on the front of the fixture.

(O) Mirrors shall be arranged for convenient use by residents in wheelchairs as well as by residents in a standing position. Mirrors shall not be installed at handwashing fixtures in food preparation areas.

(P) Provisions for hand drying shall be included at all handwashing facilities. These shall be single-use separate, individual paper or cloth units enclosed in such a way as to provide protection against the dust or soil and ensure single unit dispensing. Hot air dryers are permitted provided that installation is such to preclude possible contamination by recirculation of air.

(Q) The minimum ceiling height shall be 8'0" (2.44 m.) with the following exceptions:

- (i) Boiler rooms shall have ceiling clearances not less than 2'6" (76 cm.) above the main boiler header and connecting piping.

(ii) Rooms containing ceiling-mounted equipment shall have height required to accommodate the equipment.

(iii) Ceilings in corridors, storage rooms, toilet rooms, and other minor rooms shall be not less than 7'8" (2.34 m.).

(iv) Suspended tracks, rails and pipes located in path of normal traffic shall not be less than 6'8" (2.03 m.) above the floor.

(R) Recreation rooms, exercise rooms, and similar spaces where impact noise may be generated shall not be located directly over resident bed areas unless special provisions are made to minimize such noise.

(S) Rooms containing heat producing equipment (such as boiler or heater rooms and laundries) shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature 10° F. (6° C.) above the ambient room temperature.

(3) Finishes.

(A) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water-resistant and grease-proof. Joints in tile and similar material in such areas shall be resistant to food acids. In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet (such as shower and bath areas, kitchens, and similar work areas) shall have a non-slip surface.

(B) Wall bases in kitchens, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be made integral and covered with the floor, tightly sealed within the wall, and constructed without voids that can harbor insects.

(C) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish trim, and wall and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(D) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(E) Ceilings throughout shall be easily cleanable. Ceilings in the dietary and food preparation areas shall have a finished ceiling covering all overhead piping and duct work. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire-resistive purposes.

310:675-5-19. Elevators

All buildings having resident's facilities (such as bedrooms, dining rooms, or recreation areas) or resident services (such as diagnostic or therapy) located on other than the main entrance floor shall have electric or electrohydraulic elevators.

(1) Number of elevators.

(A) At least one (1) hospital-type elevator shall be installed where one (1) to fifty-nine (59) resident beds are located on any floor other than the main entrance floor.

(B) At least two (2), one of which shall be hospital-type, shall be installed where 60 to 200 resident beds are located on floors other than the main entrance floor, or where the major resident services are located on a floor other than those containing resident beds. (Elevator service may be reduced for those floors which provide only partial resident services).

(C) At least three (3), one of which shall be hospital-type, shall be installed where 201 to 350 resident beds are located on floors other than the main entrance floor, or where the major resident services are located on a floor other than those containing resident beds. (Elevator service may be reduced for those floors which provide only partial resident services.)

(D) For facilities with more than 350 resident beds, the number of elevators shall be determined from a study of the facility plan and the estimated vertical transportation requirements.

(2) **Cars and platforms.** Cars of hospital-type elevators shall have inside dimensions that will accommodate a resident bed and attendants, and shall be at least 5'10" (1.52 m.) wide by 7'6" (2.29 m.) deep. The car door shall have a clear opening of not less than 3'8" (1.12 m.).

(3) **Leveling.** Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type with an accuracy of 1/2" (1.3 cm.).

(4) **Operation.** Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

(5) **Elevator controls, alarm buttons, and telephones.** These shall be accessible to wheelchair occupants.

(6) **Elevator call buttons, controls, and door safety stop.** These shall be of a type that will not be activated by heat or smoke.

(7) **Control buttons and signals.** These shall be such as to be usable by the blind.

(8) **Field inspection and tests.** These shall be made and the owner shall be furnished written certification that the installation meets the requirements set forth in this Section and all applicable

safety regulations and codes. Installation shall comply with ANSI 17.1-1971.

310:675-5-20. Mechanical requirements

(a) Steam and hot water systems.

- (1) Boilers shall have the capacity, based upon the net ratings published by Hydronics Institute, to supply the normal requirements of all systems and equipment. The number and arrangement of boilers shall be such that when one boiler breaks down or routine maintenance requires that one boiler be temporarily taken out of service, the capacity of the remaining boiler(s) shall be at least 70% of the total required capacity, except that in areas with a design temperature of 20 ° F. (-7 ° C.) or more, based on the Median of Extremes in the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Handbook of Fundamentals, the remaining boiler(s) do not have to include boiler capacity for space heaters.
- (2) Boiler feed pumps, heating circulating pumps, condensate return pumps, and fuel oil pumps shall be connected and installed to provide normal and standby service.
- (3) Supply and return mains and risers of cooling, heating and process systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends, except that vacuum condensate return need not be valved at each piece of equipment.

(b) Heating and ventilating systems.

- (1) **Design.** The design of heating and ventilating systems shall comply with the requirements of ASHRAE 170, 2008 Edition, as referenced by NFPA99, 2012 Edition.
- (2) **Ventilation system details.** All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system.
 - (A) Outdoor air intakes shall be located as far as practical but not less than 25' 0" (7.62 m.) from exhaust outlets or ventilating systems, combustion equipment stacks, medical vacuum systems, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes (plumbing and vacuum vents that terminate above the level of the top of the air intakes may be located as close as 10' 0" (3.05 m.)). The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than 6' 0" (1.83 m.) above ground level, or if installed above the roof, 3' 0" (91 cm.) above roof level.
 - (B) The bottoms of ventilation openings shall not be less than 3" (7.6 cm.) above the floor of any room.
 - (C) All central ventilation or air conditioning systems shall be equipped with filters. the filter bed shall be located upstream of the air conditioning equipment, unless a prefilter is employed. In this case, the prefilter shall be

upstream of the equipment and the main filter bed may be located further downstream.

(D) Filter frames shall be durable and carefully dimensioned and shall provide an airtight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakage.

(c) **Plumbing and other piping systems.** These systems shall be designed and installed in accordance with the requirements of PHCC National Standard Plumbing Code, Chapter 14, "Medical Care Facility Plumbing Equipment."

(d) **Plumbing fixtures.** The material used for plumbing fixtures shall be of non-absorptive acid resistant material.

(1) The water supply spout for lavatories and sinks required in resident care areas of skilled nursing facilities only shall be mounted so that its discharge point is a minimum distance of 5" (12.7 cm.) above the rim of the fixture. In all facilities all fixtures used by medical and nursing staff, and all lavatories used by residents and food handlers shall be trimmed with valves which can be operated without the use of hands (single lever devices may be used subject to the above). Where blade handles are used for this purpose, they shall not exceed 4 1/2" (11.4 cm.) in length, except that handles on clinical sinks shall be not less than 6" (15.2 cm.) long.

(2) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(3) Shower bases and tubs shall provide non-slip surfaces for standing residents.

(e) **Water supply systems.**

(1) Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

(2) Each water service main, branch main, riser, and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

(3) Backflow preventers (vacuum breakers) shall be installed on hose bibbs, janitors' sinks, bedpan flushing attachments, and on all other fixtures to which hoses or tubing can be attached.

(4) Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers.

(f) **Hot water heaters and tanks.**

(1) The hot water heating equipment shall have sufficient capacity to supply water at the temperature and amounts indicated. (See Appendix A). Water temperatures to be taken at hot water points of use or inlet to processing equipment.

(2) Storage tank(s) shall be fabricated of corrosion-resistant metal lined with non-corrosive material.

(g) **Drainage systems.**

(1) Insofar as possible, drainage piping shall not be installed within the ceiling nor installed in an exposed location in food preparation centers, food serving facilities, food storage areas,

and other critical areas. Special precautions shall be taken to protect these areas from possible leakage or condensation from necessary overhead piping systems.

(2) Building sewers shall discharge into a community sewerage system. Where such a system is not available, a facility providing sewage treatment must conform to applicable local and State regulations.

(h) **Identification.** All piping in the HVAC service water systems shall be color coded or otherwise marked for easy identification.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-5-21. Electrical requirements

All material including equipment, conductors, control, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying with available standards of Underwriter's Laboratories, Inc., or other similarly established standards. All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified.

(1) **Panelboards.** Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement does not apply to emergency system circuits.

(2) **Lighting.** All spaces occupied by people, machinery, equipment within buildings, approaches to buildings, and parking lots shall have lighting.

(A) Residents' rooms shall have general lighting and night lighting. A reading light shall be provided for each resident. Flexible light arms shall be mechanically controlled to prevent the bulb from coming in contact with bed linen. At least one light fixture for night lighting shall be switched at the entrance to each resident room. All switches for control of lighting in resident areas shall be of quiet operating type.

(B) Nursing unit corridors shall have general illumination with provisions for reduction of light level at night.

(3) **Receptacles (convenience outlets).**

(A) Resident room shall have duplex grounding type receptacles as follows: One location each side of the head of each bed, one for television if used, and one on another wall.

(B) Duplex grounding receptacles for general use shall be installed in all corridors approximately 50'0" (15.24 m.) apart and within 25'0" (7.62 m.) of ends of corridors.

(4) **Notification system.**

(A) **Resident areas.** Each room, toilet and bathing area shall have a means for residents to directly contact nursing staff. This communication may be through audible

or visual signs, electronic systems and may include "wireless systems."

(B) **Wireless nurse call system.** Facilities may substitute a wireless nurse call system for wired call systems or operate both a wireless and a wired nurse call system in parallel.

(C) **Resident's emergency.** A nurse's call emergency button shall be provided for resident's use at each resident's toilet, bath, and shower room. Such button shall be usable by a collapsed resident lying on the floor (inclusion of a pull cord will satisfy this item.)

(5) **Emergency electric service.** Emergency electric service shall be provided in accordance with NFPA 99, 2012 Edition.

[Source: Amended at 28 Ok Reg 1371, eff 6-25-11 ; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-5-22. Exceptions and temporary waivers

(a) These standards are not intended to restrict innovations and improvements in design or construction techniques. Accordingly, the Department may approve plans and specifications which contain deviations if it is determined that the respective intent or objective of this Chapter has been met.

(b) A nursing facility may submit a request for exception or temporary waiver if the rules in this Chapter create an unreasonable hardship, or if the design and construction for the nursing facility property offers improved or compensating features with equivalent outcomes to this Chapter.

(c) The Department may permit exceptions and temporary waivers of this Chapter if the Department determines that such exceptions or temporary waivers comply with the requirements of 63 O.S. Section 1-1901 et seq., and the following:

(1) Any nursing facility requesting an exception or temporary waiver shall apply in writing on a form provided by the Department. The form shall include:

(A) The section(s) of this Chapter for which the exception or temporary waiver is requested;

(B) Reason(s) for requesting an exception or temporary waiver;

(C) The specific relief requested;

(D) Any supporting requirements in the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2014 Edition; and

(E) Any documentation which supports the application for exception.

(2) In consideration of a request for exception or temporary waiver, the Department shall consider the following:

(A) Compliance with 63 O.S. Section 1-1901 et seq.;

(B) The level of care provided;

(C) The impact of an exception on care provided;

- (D) Alternative policies or procedures proposed;
- (E) Compliance with the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2014 Edition; and
- (F) Compliance history with provisions of the Life Safety Code and this Chapter.

(3) The Department shall permit or disallow the exception or waiver in writing within forty-five (45) calendar days after receipt of the request.

(4) If the Department finds that a request is incomplete, the Department shall advise the nursing facility in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) calendar days after receipt of notification to submit additional or clarifying information in writing to the Department of Health, or the request shall be considered withdrawn.

(5) A nursing facility which disagrees with the Department's decision regarding the exception or temporary waiver may file a written petition requesting relief through an individual proceeding pursuant to OAC 310:2 (relating to Procedures of the State Department of Health).

(6) The Department may revoke an exception or temporary waiver through an administrative proceeding in accordance with OAC 310:2 and the Oklahoma Administrative Procedures Act upon finding the nursing facility is operating in violation of the exception or temporary waiver, or the exception or temporary waiver jeopardizes patient care and safety or constitutes a distinct hazard to life.

(7) The Department shall publish decisions on requests for exceptions and waivers and make them available to facilities and the public.

[Source: Added at 34 Ok Reg 1305, eff 10-1-17]

310:675-5-23. Submission of plans and specifications and related requests for services

(a) **Submission of plans.** Before construction is begun, plans and specifications, covering the construction of new buildings or major alterations to existing buildings shall be submitted to the Department for review as provided in OAC 310:675-5-24 or OAC 310:675-5-25.

(1) Plans and specifications are required for the following alterations:

- (A) Changes that affect path of egress;
- (B) Change of use or occupancy;
- (C) Repurposing of spaces;
- (D) Structural modifications;
- (E) Heating, ventilation and air conditioning (HVAC) modifications;
- (F) Electrical modifications that affect the essential electrical system;

- (G) Changes that require modification or relocation of fire alarm initiation or notification devices;
- (H) Changes that require modification or relocation of any portion of the automatic fire sprinkler system;
- (I) Replacement of fixed medical equipment if the alteration requires any work noted in (A) through (H) of this paragraph;
- (J) Replacement of or modifications to any required magnetic or radiation shielding;
- (K) Changes to or addition of any egress control devices or systems.

(2) Plans and specifications are not required for the following alterations:

- (A) Painting, papering tiling, carpeting, cabinets, counter tops and similar finish work provided that the new finishes shall meet the requirements of this Chapter;
- (B) Ordinary repairs and maintenance;
- (C) Modifications to nurse call or other signaling/communication/information technology systems provided the modifications meet the requirements of this Chapter; or
- (D) Replacement of fixed or moveable medical equipment that does not affect electrical, HVAC, or shielding requirements noted above.

(b) **Fees.** Each construction project submission shall be accompanied by the appropriate review fee based on the cost of design and construction of the project. Fees for plan and specification reviews and related Department services are as follows:

- (1) Design and construction plans and specifications fee: two one-hundredths percent (0.02%) of the cost of design and construction of the project, with a minimum fee of Fifty Dollars (\$50.00) and a maximum fee of One Thousand Dollars (\$1,000.00);
- (2) Request for exception or temporary waiver fee: Five Hundred Dollars (\$500.00);
- (3) Application for self-certification fee: Five Hundred Dollars (\$500.00);
- (4) Courtesy construction inspection fee: Five Hundred Dollars (\$500.00);
- (5) Professional consultation or technical assistance fee: Five Hundred Dollars (\$500.00) for each eight hours or major fraction thereof of staff time. For technical assistance requiring travel, the fee may be increased to include the Department's costs for travel.

(c) **Fees when greater than two (2) submittals required.** The fee for review of design and construction plans and specifications shall cover the cost of review for up to two (2) stage one and two (2) stage two submittals and one final inspection. If a stage one or stage two submittal is not approved after two (2) submissions, another review fee shall be required with the third submittal. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project shall be required with the third submittal of the package.

(d) **Review process.** Design and construction plans and specifications shall be reviewed in accordance with the following process.

(1) Unless otherwise provided in this Subchapter, the Department shall have ten (10) calendar days in which to initially determine if the filed application is administratively complete

(A) Upon determining that the application is not administratively complete, the Department shall immediately notify the applicant in writing and shall indicate with reasonable specificity the inadequacies and measures necessary to complete the application. Such notification shall not require nor preclude further review of the application and further requests for specific information. If the Department fails to notify the applicant as specified in this Paragraph, the period for technical review shall begin at the close of the administrative completeness review period. Upon submission of correction of inadequacies, the Department shall have an additional ten (10) calendar days to review the application for completeness.

(B) Upon determination that the application is administratively complete, the Department shall immediately notify the applicant in writing. The period for technical review begins.

(2) The Department shall have forty-five (45) calendar days from the date a completed application is filed to review each application for technical compliance with the relevant regulations and reach a final determination. The Department shall provide the results of the review, including a statement of any deficiencies, in writing. The written notice shall offer the applicant an opportunity to discuss the results of the review with the Department.

(A) The time period for technical review is tolled (the clock stops) when the Department has asked for supplemental information and advised the applicant that the time period is tolled pending receipt.

(B) To make up for time lost in reviewing inadequate materials, a request for supplemental information may specify that up to 30 additional calendar days may be added to the deadline for technical review, unless the request for supplemental information is a second or later request that identifies new deficiencies not previously identified

(C) An application shall be deemed withdrawn if the applicant fails to supplement an application within 90 calendar days after the Department's request, unless the time is extended by agreement for good cause.

(D) Extensions may be made as provided by law.

310:675-5-24. Preparation of plans and specifications

(a) **Stage one.** Preliminary plans and outline specifications shall be submitted and include sufficient information for approval by the Department of the following: scope of project; project location; required fire-safety and exiting criteria; building-construction type, compartmentation showing fire and smoke barriers, bed count and services; the assignment of all spaces, areas, and rooms for each floor level, including the basement. A nursing facility has the option, at its own risk, to bypass the stage one submittal and proceed directly to submittal of stage two documents. After the first review and before Department approval of stage one plans, the nursing facility at its own risk may choose to make a stage two submittal; a nursing facility electing this option would not be eligible for the fast track process.

(b) **Stage two.** A proposed construction document shall be submitted that includes final drawings and specifications adequate for approval by the Department. All final plans and specifications shall be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and shall be submitted timely.

(1) **Fast-track projects.** The fast track process applies only to stage two submittals. A stage one submittal and functional program must be approved before entering the fast track process.

(A) Equipment and built-in furnishings are to be identified in the stage one submittal.

(B) The nursing facility has the option to submit two packages: civil, landscaping and structural in stage one, and the balance of the components in stage two.

(C) Fast-track projects shall have prior approval and be submitted in no more than four (4) separate packages.

(i) Site work, foundation, structural, underslab mechanical, electrical, plumbing work, and related specifications.

(ii) Complete architectural plans and specifications.

(iii) All mechanical, electrical, and plumbing plans and specifications.

(iv) Equipment and furnishings.

(2) **Radiation protection.** Any project that includes radiology or special imaging equipment used in medical diagnosis, treatment, and therapy of residents, shall include plans, specifications, and shielding criteria, prepared by a qualified medical physicist.

These plans shall be submitted and approved by the Department prior to installation of the equipment.

(c) **Reserved.**

(d) **Floor plan scale.** Floor plans are to be submitted at a scale of one-eighth (1/8) inch equals one (1) foot, with additional clarifying documents as required.

(e) **Application form.** The submittal shall be made using a Department application form which requests information required by this Chapter and specifies the number of copies and format for document submittal.

310:675-5-25. Self-certification of plans

(a) The Department shall make available consultation and technical assistance services covering the requirements of this section to a nursing facility considering self-certification of plans. The consultation and technical assistance is subject to the fees specified in OAC 310:675-5-23. The consultation is optional and not a prerequisite for filing a request through the self-certification review process.

(b) The nursing facility and the project architect or engineer may elect to request approval of design and construction plans through a self-certification review process. The nursing facility and the project architect or engineer shall submit a self-certification request on a form provided by the Department, along with the review fee specified in OAC 310:675-5-23. The form shall be signed by the nursing facility and the project architect or engineer attesting that the plans and specifications are based upon and comply with the requirements of this Chapter. The form shall require information necessary to demonstrate compliance with OAC 310:675-5-25(c).

(c) To be eligible for self-certification, projects must comply with the following requirements:

- (1) The project involves any portion of the nursing facility where residents are intended to be examined or treated and the total cost of design and construction is two million and five hundred thousand dollars (\$2,500,000) or less; or
- (2) The project involves only portions of the nursing facility where residents are not intended to be examined or treated; and
- (3) The project architect or engineer attesting the application has held a license to practice architecture or engineering for at least five (5) years prior to the submittal of the application, is licensed to practice in Oklahoma; and
- (4) The nursing facility owner/operator acknowledges that the Department retains the authority to:
 - (A) Perform audits of the self-certification review program and select projects at random for review;
 - (B) Review final construction documents;
 - (C) Conduct on-site inspections of the project;
 - (D) Withdraw approval based on the failure of the nursing facility or project architect or engineer to comply with the requirements of this Chapter; and
- (5) The nursing facility agrees to make changes required by the Department to bring the construction project into compliance with this Chapter.

(d) Within twenty-one (21) days after receipt of a complete application, the Department shall approve or deny the application for self-certification and send notification to the nursing facility. If the application is denied, the nursing facility shall have thirty (30) calendar days to submit additional or supplemental information demonstrating that the application complies with the requirements for self-certification of plans

and specifications. The Department shall have fourteen (14) calendar days after receipt of supplemental information to reconsider the initial denial and issue a final approval or denial of the self-certification request. (e) After denial of the application for self-certification and prior to the start of construction, the nursing facility shall pay the applicable fee for plan review specified in OAC 310:667-47-1(b)(1) through (5). Upon receipt of the plan review fee, the Department shall review the nursing facility's plans in accordance with the process in OAC 310:675-5-23.

[Source: Added at 34 Ok Reg 1305, eff 10-1-17]

SUBCHAPTER 7. ADMINISTRATION

310:675-7-1. Governing authority [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-1.1. Administrator

(a) The administrator shall be a person who has the authority and responsibility for the total operation of the facility, subject only to the policies adopted by the governing authority and who is licensed by the Oklahoma State Board of Examiners for Nursing Home Administrators. (b) The administrator, or the owner, shall designate a person in the facility to act on behalf of the administrator during the administrator's absence from the facility. Authority shall be granted to the designated person to allow normal management responsibilities to be exercised.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-2. Administrator [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-2.1. Medical director

The facility shall designate a licensed physician to serve as medical director. The medical director is responsible for implementation of resident medical care policies and the coordination of medical care in the facility.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-3. Residents' rights and responsibilities

Each resident or resident's representative shall receive a copy of the resident statutory rights at the time of admission. A copy of the resident rights shall be posted in an easily accessible, conspicuous place in the facility. The facility shall ensure that its staff is familiar with, and observes, the resident rights. [63 O.S. 1991 § 1-1918.]

[Source: Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-4. Resident transfers or discharge

(a) **Reasons for transfer or discharge.** Involuntary transfer or discharge of a resident may be initiated by a facility only for one or more of the following:

- (1) Medical reasons, including needs that the facility is unable to meet, as documented by the attending physician, in consultation with the medical director if the medical director and attending physician are not the same person.
- (2) The resident's safety, or for the safety of other residents, as documented by the clinical record. The facility shall show through medical records that:
 - (A) the resident has had a comprehensive assessment by an interdisciplinary team and alternative measures have been attempted unsuccessfully; or
 - (B) the resident is a danger to himself, herself or other resident as documented by the medical record and the facility is not capable of managing that resident.
- (3) The non-payment of charges for the resident's care as documented by the facility's business records for services for more than 30 days.

(b) **Procedures.** Procedures for involuntary transfer or discharge by the facility are as follows:

- (1) Written notice shall be provided at least thirty (30) days in advance of the transfer or discharge date to the resident, resident's legal representative, person responsible for payment of charges for the resident's care, if different from any of the foregoing, and the Department.
- (2) The ten day requirement shall not apply when an emergency transfer is mandated by the resident's health care needs and is in accordance with the attending physician's written orders and medical justification; or the transfer or discharge is necessary for the physical safety of other residents as documented in the clinical record. The facility shall not use a discharge to a hospital as a reason for failing to re-admit a resident after release from the hospital to the first available bed in a semi-private room. Such action shall be considered to be an involuntary discharge subject to all the requirements of this section, unless the discharge was required by the Department.
- (3) The written notice shall include:
 - (A) A full explanation of the reasons for the transfer or discharge;
 - (B) The date of the notice;
 - (C) The date notice was given to the resident and the resident's representative;
 - (D) The date by which the resident must leave the facility;and

(E) Information that the resident's representative or person responsible for payment of the resident's care who is aggrieved by the facility's decision, may file within ten (10) days of notice a written request for a hearing with the Department by sending a letter to the Hearing Clerk, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, OK 73117.

(4) Failure of the facility to give the notice as substantially specified above shall result in an order without hearing from the Department denying the right of the facility to discharge the resident.

(5) If a written request for a hearing is properly filed by an eligible aggrieved party, the Department shall convene a hearing within ten working days of receipt of the request. The request may be in the form of a letter or a formal request for hearing from the resident or resident's representative. In the event that the resident is unable to write, a verbal request made to the hearing clerk shall be sufficient. The Department shall reduce the verbal request to writing and send a copy to the resident. The request should state the reason for the discharge and attach a copy of the letter from the facility.

(6) During the pendency of the hearing, the facility shall not discharge the resident unless the discharge was required by the Department or is an emergency situation. If the resident relocates from the facility but wants to be readmitted, the Department may proceed with the hearing and the facility shall be required to readmit the resident to the first available bed in a semi-private room if the discharge is found not to meet the requirements of the Nursing Home Care Act and OAC 310:675.

(7) The Department shall provide the Administrative Law Judge and the space for the hearing. The parties, including the resident and the facility, may be represented by counsel or may represent themselves.

(8) The hearing shall be conducted at the Oklahoma State Department of Health building unless there is a request for the hearing to be held at the facility or at another place. Providing the hearing room in such a case shall be the responsibility of the parties. The Department shall maintain a record on the case as it does for any other individual proceeding.

(9) The hearing shall be conducted in accordance with the Department's procedures, Chapter 2 of this Title. The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order as to whether or not the transfer or discharge was according to law. If a facility receives federal funds for services, it shall also comply with the certification standards. The more restrictive rule toward the facility shall be applied.

(10) If the Administrative Law Judge finds that the discharge was not according to law, the Department shall review, investigate and issue deficiencies as appropriate.

- (11) If the discharge is according to law, the order shall give the facility the right to discharge the resident.
- (12) The scope of the hearing may include:
 - (A) Inadequate notice;
 - (B) Discharge based on reason not stated in the law;
 - (C) Sufficiency of the evidence to support the involuntary discharge; or
 - (D) The finding of emergency.
- (13) The Administrative Law Judge shall render a written decision within ten working days of the close of the record.
- (14) If the Administrative Law Judge sustains the facility, the facility may proceed with the discharge. If the Administrative Law Judge finds in favor of the resident, the facility shall withdraw its notice of intent to transfer or discharge the resident. The decision of the Administrative Law Judge shall be final and binding on all parties unless appealed under the Administrative Procedures Act.

(c) Room relocation

- (1) If a facility wants to relocate a resident from one room to another, the facility shall give the resident at least forty-eight hours written notice. The notice shall include the cost of transferring the resident's telephone, if applicable.
- (2) If the resident or the resident's representative agrees in writing to the relocation, the relocation may take place in less than forty-eight hours.
- (3) No hearing is required if the resident requests or agrees to relocation from one room to another.

[Source: Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-7-4.1. Resident admission and continued residency based on administration of antipsychotic drugs

- (a) **Reasons for denial of admission or continued residency.** No long-term care facility shall deny admission or continued residency to a person on the basis of the person's or his or her representative's refusal to the administration of antipsychotic drugs, unless:
 - (1) The prescribing clinician or care facility can demonstrate that the resident's refusal would place the health and safety of the resident, the facility staff, other residents or visitors at risk.
 - (2) The alleged risk shall be documented in detail and presented to the resident or the representative of the resident, to the State Department of Health and to the Long-Term Care Ombudsman; and shall inform the resident or the representative of the resident of the resident's right to appeal.
- (b) **Procedures.** Procedures for resident appeal are as follows:
 - (1) Written documentation of the alleged risk associated with the administration of antipsychotic drugs shall be provided to the resident or representative of the resident, to the State Department of Health and to the Long-Term Care Ombudsman; and shall inform the resident or the representative of the resident of the resident's right to appeal the denial of admission or denial

of continued residency to the State Department of Health. The documentation of the alleged risk shall include:

- (A) A description of all nonpharmacological or alternative care options attempted; and
- (B) Why all nonpharmacological or alternative care options attempted were unsuccessful; and
- (C) Why the prescribing clinician determined alternative treatments were not medically appropriate for the condition following a physical examination.

(2) Procedures for antipsychotic drug refusal and the facility's notice of admission denial or continued residency are as follows:

(A) If a resident or a resident's representative is aggrieved by the facility's decision to deny admission or continued residency regarding the refusal of antipsychotic drugs at 63 O.S. 1-881(E)(2) the resident or resident's representative may file within ten (10) days of notice a written request for a hearing with the Department by sending a letter to the Hearing Clerk, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, OK 73117.

(B) The written notice shall include:

- (i) A full explanation of the reason for the denial of admission or residency or denial of continued residency;
- (ii) The date of the notice; and
- (iii) The date notice was given to the resident and the resident's representative.

(3) Failure of the facility to give the notice as substantially specified shall result in an order without hearing from the Department denying the right of the facility to discharge or deny admission to the resident.

(4) If a written request for a hearing is properly filed by an eligible aggrieved party, the Department shall convene a hearing within ten working days of receipt of the request. The request may be in the form of a letter or a formal request for hearing from the resident or resident's representative. In the event that the resident is unable to write, a verbal request made to the hearing clerk shall be sufficient. The Department shall reduce the verbal request to writing and send a copy to the resident. The request shall state the objection to the notice of denial of admission or residency or denial of continued residency and attach a copy of the notice from the facility.

(5) During the pendency of the hearing, the facility shall not discharge or deny admission or readmission for the resident unless the discharge or admission denial was required by the Department or is an emergency situation. If the resident relocates from the facility but wants to be admitted or readmitted, the Department may proceed with the hearing and the facility shall be required to admit or readmit the resident to the first available bed in a semi-private room if the discharge is found not to meet the requirements of the Nursing Home Care Act and OAC

310:675.

(6) The Department shall provide the Administrative Law Judge and the space for the hearing. The parties, including the resident and the facility, may be represented by counsel or may represent themselves.

(7) The hearing shall be conducted at the Oklahoma State Department of Health building unless there is a request for the hearing to be held at the facility or at another place. Providing the hearing room in such a case shall be the responsibility of the parties. The Department shall maintain a record on the case as it does for any other individual proceeding.

(8) The hearing shall be conducted in accordance with the Department's procedures, Chapter 2 of this Title. The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order as to whether or not the transfer or discharge was according to law. If a facility receives federal funds for services, it shall also comply with the certification standards. The more restrictive rule toward the facility shall be applied.

(9) If the Administrative Law Judge finds the notice of continued residency or denied admission was not according to law, the Department shall review, investigate and issue deficiencies as appropriate.

(10) If the notice of continued residency or denied admission is according to law, the order shall give the facility the right to discharge or deny admission to the resident.

(11) The scope of the hearing may include:

(A) Inadequate notice;

(B) Continued residency or admission denial based on reason not stated in the law;

(C) Sufficiency of the evidence to support the continued residency or admission denial; or

(D) The finding of emergency.

(12) The Administrative Law Judge shall render a written decision within ten working days of the close of the record.

(13) If the Administrative Law Judge sustains the facility, the facility may proceed with the discharge. If the Administrative Law Judge finds in favor of the resident, the facility shall withdraw its notice of intent to transfer, discharge or deny admission of the resident. The decision of the Administrative Law Judge shall be final and binding on all parties unless appealed under the Administrative Procedures Act.

[Source: Added at 37 Ok Reg 1448, eff 9-11-20]

310:675-7-5. Complaint procedures [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-5.1. Reports to state and federal agencies

(a) **Timeline for reporting.** All reports to the Department shall be made within twenty-four (24) hours of the reportable incident unless otherwise noted. A follow-up report of the incident shall be submitted to the Department within five (5) Department business days after the incident. The final report shall be filed with the Department within ten (10) Department business days after the incident.

(b) **Reporting abuse, neglect or misappropriation.** The facility shall report to the Department allegations and incidents of *resident abuse, neglect or misappropriation of residents' property* [63 O.S. §1-1939(A)(1)(e)]. This requirement does not supersede reporting requirements in Title 43A of the Oklahoma Statutes (relating to the Protective Services for the Elderly and for Incapacitated Adults Act).

(d) **Reporting to licensing boards.** The facility shall also report allegations and incidents of resident abuse, neglect, or misappropriation of residents' property by licensed personnel to the appropriate licensing board.

(d) **Reporting communicable diseases.** The facility shall report *communicable diseases* [63 O.S. §1-1939(A)(1)(a)] and injuries as specified by the Department in OAC 310:515 (relating to communicable disease and injury reporting).

(e) **Reporting certain deaths.** The facility shall report *deaths by unusual occurrence, such as accidental deaths or deaths other than by natural causes, and deaths that may be attributed to a medical device*, [63 O.S. §1-1939(A)(1)(b)] according to applicable state and federal laws. The facility shall also report such deaths to the Department.

(f) **Reporting missing residents.** The facility shall report *missing residents* to the Department after a search of the facility and facility grounds and a determination by the facility that the resident is missing. *In addition, the facility shall make a report to local law enforcement agencies within two (2) hours if the resident is still missing* [63 O.S. §1-1939(A)(1)(c)].

(g) **Reporting criminal acts.** The facility shall report *situations arising where a criminal intent is suspected. Such situations shall also be reported to local law enforcement* [63 O.S. §1-1939(A)(1)(d)]. Where physical harm has occurred to a resident as a result of a suspected criminal act, a report shall immediately be made to the municipal police department or to the sheriff's office in the county in which the harm occurred. A facility that is not clear whether the incident should be reported to local law enforcement should consult with local law enforcement.

(h) **Reporting utility failures.** The facility shall report to the Department utility failures of more than eight (8) hours.

(i) **Reporting certain injuries.** The facility shall report to the Department incidents that result in: fractures, injury requiring treatment at a hospital, a physician's diagnosis of closed head injury or concussion, or head injuries that require more than first aid.

(j) **Reporting storm damage.** The facility shall report to the Department storm damage resulting in relocation of a resident from a currently assigned room.

(k) **Reporting fires.** The facility shall report to the Department all accidental fires and fires not planned or supervised by facility staff

occurring on the licensed real estate.

(l) **Reports made following local emergency response.** In lieu of making incident reports during an emergency response to a natural or man-made disaster, the facility may coordinate its communications, status reports and assistance requests through the local emergency response coordinator, and file a final report with the Department within ten (10) days after conclusion of the emergency response.

(m) **Reporting nurse aides.** The facility shall report to the Department allegations and incidents of abuse, neglect, or misappropriation of resident property by a nurse aide by submitting a completed Nurse Aide Abuse, Neglect, Misappropriation of Resident Property Form (ODH Form 718), which requires the following:

- (1) facility name, address, and telephone;
- (2) facility type;
- (3) date;
- (4) reporting party name or administrator name;
- (5) employee name and address;
- (6) employee certification number;
- (7) employee social security number;
- (8) employee telephone number;
- (9) termination action and date;
- (10) other contact person name and address; and
- (11) facts of abuse, neglect, or misappropriation of resident property.

(n) **Content of reports to the department.** Reports to the Department made pursuant to this section shall contain the following:

- (1) The preliminary report shall, at the minimum, include:
 - (A) who, what, when, and where; and
 - (B) measures taken to protect the resident(s) during the investigation.
- (2) The follow-up report shall, at the minimum, include:
 - (A) preliminary information;
 - (B) the extent of the injury or damage if any; and
 - (C) preliminary findings of the investigation.
- (3) The final report shall, at the minimum, include preliminary and follow-up information and:
 - (A) a summary of investigative actions;
 - (B) investigative findings and conclusions based on findings; and
 - (C) corrective measures to prevent future occurrences.
 - (D) if items are omitted, why the items are omitted and when they will be provided.

(o) **Form for incident reports to the Department.** Facilities shall use the Incident Report Form, ODH Form 283, to report incidents required to be reported to the Department under OAC 310:675-7-5.1. The ODH Form 283 shall require: the facility name, address and identification number; the date, location and type of incident; parties notified in response to the incident; description of the incident; the relevant resident history; summary of the investigation; and name of person completing the report.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Amended at 25 Ok Reg 2482, eff 7-11-08 ; Amended at 34 Ok Reg 1305, eff 10-1-17]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

310:675-7-6. Resident's advisory council [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-6.1. Complaints

(a) **Complaints to the facility.** The facility shall make available to each resident or the resident's representative a copy of the facility's complaint procedure. The facility shall ensure that all employees comply with the facility's complaint procedure. The facility's complaint procedure shall include at least the following requirements.

(1) The facility shall list in its procedures and shall require to be posted in a conspicuous place outside the administrator's office area the following information:

(A) The names, addresses and telephone numbers of facility staff persons designated to receive complaints for the facility;

(B) Notice that a good faith complaint made against the facility shall not result in reprisal against the person making the complaint; and

(C) Notice that any person with a complaint is encouraged to attempt to resolve the complaint with the facility's designated complaint staff, but that the person may submit a complaint to the Department without prior notice to the facility.

(2) If a resident, resident's representative or facility employee submits to the administrator or designated complaint staff a written complaint concerning resident abuse, neglect or misappropriation of resident's property, the facility shall comply with the Protective Services for Vulnerable Adults Act, Title 43A O.S. Sections 10-101 through 10-110.

(b) **Complaints to the Department.** The following requirements apply to complaints filed with the Department.

(1) The Department shall provide to each facility a notice identifying the telephone number and location of the Department's central call center to which complaints may be submitted. The facility shall post such notice in a conspicuous place outside the administrator's office area.

(2) Any person may submit a complaint to the Department in writing, by phone, or personally. The Department shall reduce to writing a verbal complaint received by phone or in person.

(3) If the complainant is a facility resident, the resident's representative, or a current employee of the facility, the Department shall keep the complainant's identity confidential. For

other complainants the Department shall ask the complainant's preference regarding confidentiality.

(4) The Department shall receive and triage complaints at a central call center. The complaints shall be classified and investigated according to the following priorities:

(A) A complaint alleging a situation in which the facility's noncompliance with state or federal requirements relating to nursing facilities has caused or is likely to cause serious injury, harm, impairment or death to a resident shall be classified as immediate jeopardy and shall be investigated by the Department within two (2) working days;

(B) A complaint alleging minimal harm or more than minimal harm to a resident but less than an immediate jeopardy situation shall be classified as actual harm and shall be investigated by the Department within ten (10) working days; and

(C) A complaint alleging other than immediate jeopardy or actual harm shall be scheduled for an onsite survey and investigated during the next onsite survey or sooner if deemed necessary by the Department; and

(D) A complaint alleging a violation that caused no actual harm but the potential for more than minimal harm to a resident, that repeats a violation cited by the Department within the preceding twelve (12) months, and that is alleged to have occurred after the Department determined the facility corrected the previous violation, shall be classified as continuing and investigated the earlier of the next onsite survey or ninety (90) calendar days.

(5) In addition to scheduling investigations as provided in paragraph (4) of this subsection, the Department shall take necessary immediate action to remedy a situation that alleges a violation of the Nursing Home Care Act, any rules promulgated under authority of the Act, or any federal certification laws or rules, if that situation represents a serious threat to the health, safety and welfare of a resident.

(6) In investigating complaints, the Department shall:

(A) Protect the identity of the complainant if a current or past resident or resident's representative or designated guardian or a current or past employee of the facility by conforming to the following:

(i) The investigator shall select at least three (3) records for review, including the record of the resident identified in the complaint. The three records shall be selected based on residents with similar circumstances as detailed in the complaint if possible. All three (3) records shall be reviewed to determine whether the complaint is substantiated and if the alleged deficient practice exists; and

(ii) The investigator shall interview or observe at least three (3) residents during the facility

observation or tour, which will include the resident referenced in the complaint if identified. If no resident is identified, then the observations used of the three residents shall be used to assist in either substantiating or refuting the complaint;

(B) Review the facility's quality indicator profile using resident assessments filed pursuant to OAC 310:675-9-5.1 to determine whether the facility has been "flagged", if the complaint involves resident abuse, pressure ulcers, weight loss or hydration;

(C) Review surveys completed within the last survey cycle to identify tendencies or patterns of non-compliance by the facility;

(D) Attempt to contact the State or Local Ombudsman prior to the survey; and

(E) Interview the complainant, the resident, if possible, and any potential witness, collateral resource or affected resident.

(7) The Department shall limit the complaint report to the Health Care Financing Administration Form 2567 if applicable and the formal report of complaint investigation.

(A) The Form 2567 shall be issued to the facility within ten (10) business days after completion of the investigation.

(B) The formal report of complaint investigation shall be issued to the facility and the complainant, if requested, within ten (10) business days after completion of the investigation. The formal report of investigation shall include at least the following:

(i) Nature of the allegation(s);

(ii) Written findings;

(iii) Deficiencies, if any, related to the complaint investigation;

(iv) Warning notice, if any;

(v) Correction order, if any; and

(vi) Other relevant information.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 34 Ok Reg 1305, eff 10-1-17]

310:675-7-7. Administrative records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-7.1. Resident's advisory council

(a) Each facility shall establish a residents advisory council.

(b) Members of the residents advisory council shall consist of all current nursing facility residents or their designated representative. The administrator shall designate a member of the facility staff to coordinate the council and render assistance to the council, and respond to the requests from the council's meetings.

- (c) No employee or affiliate of the facility shall be a member of the council. The facility shall provide the council with private meeting space.
- (d) Minutes of the residents advisory council meetings shall be prepared by the facility staff and maintained in the facility. A copy of the meeting minutes shall be provided to those residents or representatives requesting them. Information identifying a resident shall not be included in the minutes.
- (e) The residents advisory council shall communicate to the administrator the residents' opinions and concerns known to the council.
- (f) The residents advisory council shall be a forum for:
 - (1) Early identification of problems and recommendations for orderly problem resolution.
 - (2) Soliciting and adopting recommendations for facility programs and improvements.
 - (3) Obtaining information from, and disseminating information to, the residents.
- (g) The residents advisory council may present complaints to the Department on behalf of a resident.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-8. Written administrative policies [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-8.1. Administrative records

- (a) The administrator shall be responsible for the preparation, supervision, and filing of records.
- (b) There shall be a separate, organized file in the business office for each resident. The file shall include current information about the resident and the resident's family. The file shall also include a written record of all financial arrangements and transactions involving the individual resident's funds. A written contract between the resident, or his representative, or, if the resident is a minor, his parent, or representative, and the facility or its agent or the waiver of same shall also be in this file.
 - (1) If the source of payment for the resident's care is, in full or in part, from public funds, there shall be a contract between the facility and the agency providing the funds. An individual contract between such resident and the nursing facility is not required.
 - (2) A resident may sign a waiver if the resident does not wish to have a contract with the facility.
- (c) Each facility shall provide safe storage for administrative records and all current records shall be readily available to the Department upon request.
- (d) Administrative records of the facility shall include the following information:
 - (1) A copy of the current statement of ownership.
 - (2) The current administrator's name, license number, and date of employment.

- (3) The name of the individual responsible for the facility's operation in the absence of the administrator.
- (4) Copies of credentials of all personnel and consultants working in the facility who are licensed, registered or certified.
- (5) Copies of criminal background checks on all required current employees.
- (6) A copy of all contracts with individuals or firms providing any services to the facility.
- (7) Written admission and discharge policies.
- (8) A description of the services provided by the facility and the rates charged for those services and services for which a resident may be charged separately; limitations of available services; causes for termination of services; and refund policies if services are terminated. Documentation shall show that each resident, and/or representative received this information prior to, or at, the time of admission.
- (9) Copies of affiliation agreements, contracts, or written arrangements for advice, consultation, services, training, or transportation with other organizations or individuals, and public or private agencies.
- (10) Written transfer agreements with other health facilities to make the services of such facilities readily accessible, and to facilitate the transfer of residents and essential resident information with the resident.
- (11) Records of residents advisory council meetings.
- (12) Copies of inspection reports from the local, county, and state agencies during the past three years.
- (13) All adverse actions instituted against the facility during the past three years, including warning letters, administrative penalties, notice of hearing, hearing officer's findings, final orders, and court proceedings.
- (14) Written disaster plan/emergency evacuation plan.
- (15) A record of all nurse aide competency and certification records and contacts to Oklahoma and other state's nurse aide registries.
- (16) Current resident census records.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-9. Personnel records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-9.1. Written administrative policies and procedures

- (a) The facility shall maintain written policies to govern the administration of the facility. These policies shall be reviewed annually and revised as necessary.
- (b) The facility shall not admit any person unless it has the personnel and resources to provide all services and care prescribed for that person.

(c) All persons seeking admission shall be evaluated as to their medical, nursing and social needs. The scope of care and service to be provided by the facility, or through contract, shall be included in the resident care plan following admission.

(d) All residents shall have accommodations that are as close to their normal living arrangements as possible. Special care and arrangements shall be provided to ensure, if possible, that the accommodations support the resident's physical, mental and psycho-social needs in terms of sanitary environment, aesthetics and associations.

(e) Residents shall be accepted and cared for without discrimination on the basis of race, sex, color, religion, ancestry, disability, or national origin.

(f) Emergency care shall be provided to residents in case of sudden illness or accident, including persons to be contacted in case of an emergency.

(g) Conflict resolution procedures shall be adopted for processing complaints received from residents and employees.

(h) Job descriptions shall be developed that detail the functions of each classification of employee.

(i) Procedures shall be adopted for handling residents' funds and providing access to the written records regarding a resident's funds by the resident or representative.

(j) The facility has the following responsibilities concerning physicians:

(1) The health care services for each resident shall be under a physician's supervision.

(2) All physician orders shall be written in ink or indelible pencil and signed by the physician.

(3) No medication or treatment shall be administered except on a physician's order.

(4) The facility shall have a written policy that provides for physician services to be available twenty-four hours per day.

(5) A list of physicians shall be posted at the nursing station for use if the resident's attending physician is not available.

(6) The facility shall arrange for one, or more, physicians to be available in an emergency and to advise the facility. The physician called at the time of any emergency shall be noted in the records. If unable to contact a physician, the resident shall be transferred to a hospital emergency room.

(k) The facility shall adopt a nursing policy and procedure manual, which shall detail all nursing procedures performed within the facility. All procedures shall be in accordance with accepted nursing practice standards, and shall include, but not be limited to, the following:

(1) Ambulation, body alignment and positioning, and routine range of motion unless contraindicated by the resident's physician.

(2) Elimination, including a bowel and bladder training program, or frequent toileting for incontinent residents, when applicable.

(3) Colostomy and ileostomy care.

(4) Nutrition and meal service.

(5) Oral suctioning and tracheotomy care.

(6) Treatments.

- (7) Nasogastric care.
- (8) Oral hygiene.
- (9) Isolation procedures.
- (10) Universal precautions.
- (11) Emergency procedures.
- (12) Medication Administration.
- (13) Pain assessment and treatment.

(l) Each nursing station shall have a copy of the nursing policy and procedure manual, isolation techniques, and emergency procedures for fire and natural disasters.

(m) The facility shall adopt policies and procedures for the administration of social services, activities, dietary, housekeeping, maintenance and personnel.

(n) The facility shall adopt a policy that any person working in the facility who shows signs or symptoms of a communicable disease, shall be excluded from work, and shall be permitted to return to work only after approval of the director of nursing or charge nurse.

(o) The facility shall adopt a procedure for taking inventory of and inconspicuously marking, for identification, the resident's personal effects (clothing and property) which shall be completed on admission of the resident and subsequently when new clothing or property is received by the resident. Identification marking shall be by a method that shall withstand repeated laundering or cleaning without loss of legibility. Jewelry, watches and similar articles of value shall not be subject to the marking requirement.

(p) The facility shall adopt a policy that requires reporting of the loss of personal effects to the administrator, the resident, and the resident's representative. The policy shall require the staff to assist the resident in attempting to locate the lost property and may, at the request of the resident, require the reporting of such losses to law enforcement authorities. The policy shall also indicate that a resident has the right to report losses directly to law enforcement authorities without fear of reprisal from the facility's administration or staff.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 13 Ok Reg 2511, eff 6-27-96 ; Amended at 16 Ok Reg 2521, eff 6-25-99 ; Amended at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 23 Ok Reg 156, eff 10-6-05 (emergency); Amended at 23 Ok Reg 2415, eff 6-25-06]

310:675-7-10. Resident's records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-10.1. Resident's clinical record

(a) There shall be an organized, accurate, clinical and personal record, either typewritten or legibly written with pen and ink, for each resident admitted or accepted for treatment. The resident's clinical record shall document all nursing services provided.

(b) The resident clinical record shall be retained for at least five years after the resident's discharge or death. A minor's record shall be retained for at least two years after the minor has reached the age of eighteen

but, in no case, less than five years.

(c) All required records, either original or microfilm copies, shall be maintained in such form as to be legible and readily available upon request of the attending physician, the facility, and any person authorized by law to make such a request.

(d) Information contained in the resident record shall be confidential and disclosed only to the resident, persons authorized by the resident, and persons authorized by law.

(e) Resident's records shall be filed and stored to protect against loss, destruction, or unauthorized use.

(f) The Department shall be informed in writing immediately whenever any resident's records are defaced, or destroyed, before the end of the required retention period.

(g) If a facility ceases operation, the Department shall be notified immediately of the arrangements for preserving the resident's record. The record shall be preserved for the required time and the information in the records shall be available to the health professionals or facilities assuming care of the resident so that continuity of care is available.

(h) If the ownership of the facility changes, the new licensee shall have custody of the residents records and the records shall be available to the former licensee and other authorized persons.

(i) A person employed by the owner shall be in charge of resident records and properly identifiable to others concerned.

(j) The resident clinical record shall include:

(1) An admission record sheet which shall include:

(A) Identification of the resident (name, sex, age, date of birth, marital status).

(B) Identification numbers as applicable: i. e., Medicare number, Medicaid number.

(C) Date and time of admission.

(D) Diagnosis and known allergies.

(E) Name, address, and telephone number of responsible party, next of kin, pharmacist, and funeral home.

(2) Physician's orders for medications, diet, treatment, and therapy.

(3) Orders dated and signed by the physician giving the order. Verbal or telephone orders shall be signed by the physician within five working days, excluding weekends and holidays.

(4) Initial orders given by the physician at the time of admission shall be signed by the physician and placed in the clinical record within five working days of admission, excluding weekends and holidays.

(5) The most recent medical history and physical examination signed and dated by the physician.

(6) Nurse's notes, dated and signed at the time of entry.

(7) Temperature, pulse, respirations, blood pressure and weight when indicated by physician's orders or by a change in the resident's condition.

(8) Progress notes generated by all health care professionals and allied health personnel.

(9) An assessment and care plan based on the assessment.

- (10) An inventory of personal effects including clothing and property on admission, and as necessary.
- (11) Written acknowledgement by the resident or legal representative of receipt of the resident's rights upon admission and as needed.
- (12) Discharge summary signed by the attending physician that shall include the diagnosis or reason for admission, summary of the course of treatment in the facility, final diagnosis with a follow-up plan, if appropriate, condition on discharge or transfer, or cause of death, date and time of discharge, and diagnosis on discharge.
- (13) A transfer or discharge form when a resident is transferred, or discharged, to the hospital, another facility or released from care. Transfer or discharge forms may be excluded when a resident is discharged to his/her home when the stay in the facility is for respite care only. The transfer form shall include, but not be limited to, the following information:
 - (A) Identification of the resident and his attending physician.
 - (B) Diagnosis, medications and medication administration schedule.
 - (C) Name of transferring facility.
 - (D) Name of receiving facility.
 - (E) Date of transfer.
 - (F) Family or legal representative.
 - (G) Condition on transfer.
 - (H) Reason for transfer.
 - (I) Known allergies.
 - (J) Pertinent medical history.
 - (K) Any advance directive for medical care.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-11. Physician records and reports [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-11.1. Medication records

- (a) The facility shall maintain written policies and procedures for safe and effective acquisition, storage, distribution, control, and use of medications and controlled drugs.
- (b) The facility shall establish a policy for providing information about administering prescribed medications to residents who are on leave from the facility.
- (c) The facility shall maintain records of consultation and services provided by the consultant registered pharmacist at the facility.
- (d) The facility shall maintain a system to account for controlled medications prescribed for each resident, and an individual inventory record on all Schedule II medications.

(e) The facility shall maintain a medication regimen review record on each resident.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 163, eff 6-1-93]

310:675-7-12. Pharmaceutical records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-12.1. Internal facility incident reports

(a) **Incident defined.** An incident is any accident or unusual occurrence where there is apparent injury or where injury may or may not have occurred. The incident report shall cover all unusual occurrences within the facility, or on the premises, affecting residents, and incidents within the facility or on the premises affecting visitors or employees.

(b) **Incident records.** Each facility shall maintain an incident report record and shall have incident report forms available.

(c) **Incident report format.** The incident report shall include, at a minimum: the date, location and type of incident; parties notified in response to the incident; description of the incident; the relevant resident history; summary of the investigation; and name of person completing the report.

(d) **Incident report preparation.** At the time of the incident, the administrator, or the person designated by the facility with authority to exercise normal management responsibilities in the administrator's absence, shall be notified of the incident and prepare the report. The report shall include the names of the persons witnessing the incident and their signatures where applicable.

(e) **Incident records on file.** A copy of each incident report shall be on file in the facility.

(f) **Incident in clinical record.** The resident's clinical record shall describe the incident and indicate the findings on evaluation of the resident for injury.

(g) **Incidents: reviewers.** All incident reports shall be reviewed by the director of nursing and the administrator and shall include corrective action taken where health and safety are affected.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Amended at 25 Ok Reg 2482, eff 7-11-08 ; Amended at 26 Ok Reg 2059, eff 6-25-09 ; Amended at 34 Ok Reg 1305, eff 10-1-17]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

310:675-7-13. Incident reports [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-13.1. Consultation reports

The facility shall maintain a report of all services rendered by health professionals and allied health personnel each consultation visit.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-14. In-service training classes [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-14.1. Facility maintenance

(a) Each facility shall have a maintenance program, which ensures continuing maintenance of the facility and equipment, promotes good housekeeping and sanitary practices throughout the facility.

(b) The maintenance records shall include:

- (1) A written orientation program for maintenance personnel.
- (2) A plan for reporting problems and responding to maintenance, housekeeping, or sanitation needs.
- (3) Response to major maintenance problems, if any, and plans for addressing any problem that cannot be corrected within three calendar days.
- (4) A copy of the service record from a sprinkler or fire alarm company that provides service for the automatic sprinkler and fire alarm system.
- (5) Verification that facility maintenance personnel are certified or licensed as required by state law.

(c) The facility shall be maintained free of infestations of insects, pests and rodents.

- (1) The facility shall have a pest control program provided by maintenance personnel, or by contract with a pest control company, using the least toxic, least flammable, and most effective pesticides. If maintenance employees are used, they shall be currently licensed as commercial pesticide applicators.
- (2) Pesticides shall be stored in locked storage areas and not be stored in resident or food areas,
- (3) In the absence of other effective controls, screens shall be provided on all building exterior openings except doors.

(d) All sewage shall be discharged into a public sewer system, or if such is not available, shall be disposed of in a manner approved by state and local health authorities.

- (1) When a private sewage disposal system is used, maintenance records and system design plans shall be at the facility.
- (2) No exposed sewer lines shall be located directly above working, storage, or eating surfaces in the kitchens, dining rooms, pantries, or food storage rooms, or where medical or surgical supplies are prepared, processed, or stored.

(e) All plumbing in the facility shall be installed and maintained in accordance with state and local plumbing codes. All plumbing shall be maintained free of the possibility of back-flow and back siphonage through the use of vacuum breakers and fixed air gaps.

- (f) If an incinerator is used, it shall comply with state and local air pollution regulations, and shall be constructed to prevent insect and rodent breeding and harborage.
- (g) Entrances, exits, steps and outside walkways shall be kept reasonably free from ice, snow, and other hazards.
- (h) Buildings, grounds, and parking areas shall be maintained in a clean, orderly condition, in good repair, and be monitored for possible hazards.
- (i) Storage areas, attics, roofs, and basements shall be kept safe and free from accumulations of extraneous materials such as refuse, discarded furniture, and old newspapers.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-15. Consultation reports [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-15.1. Housekeeping laundry, and general storage

(a) **Housekeeping.** Each facility shall have housekeeping services that are planned, operated, and maintained to provide a pleasant, safe and sanitary environment.

- (1) The facility shall employ housekeeping personnel suitable by training, experience, and in sufficient number.
- (2) Housekeeping personnel, using accepted practices and procedures, shall keep the facility free from offensive odors, accumulations of dirt, rubbish, dust and safety hazards.
- (3) Deodorizers shall not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.
- (4) Suitable equipment and supplies shall be provided for all cleaning activities and shall be maintained in a safe, sanitary condition.
- (5) Cleaning shall be performed in a manner that minimizes the spread of pathogenic organisms.
 - (A) Floors shall be cleaned regularly.
 - (B) Any polish used on floors shall provide a non-slip finish.
 - (C) Used mop water shall not be stored in mop buckets and the mop shall be stored properly.
- (6) Housekeeping personnel shall receive effective supervision, orientation and training. Housekeeping personnel shall be skilled in the six basic functions of sweeping, mopping, dusting, cleaning, waxing, and polishing.
- (7) Resident rooms, furniture, bedding and equipment shall be thoroughly cleaned and sanitized before use by another resident.
- (8) All garbage and rubbish not disposable as sewage shall be collected in impervious containers in such a manner as not to become a nuisance or a health hazard and shall be removed to an approved storage area at least once a day.
 - (A) The refuse and garbage storage area shall be kept clean and orderly.

(B) There shall be a sufficient number of impervious containers with tight fitting lids that are clean and in good repair.

(9) The containers used to transport refuse within the building shall be constructed of impervious materials, be lid or door enclosed, used solely for refuse, and maintained in a clean manner. All kitchen waste, contaminated refuse, and patient room trash shall be securely bagged before placed in these containers.

(10) Bathtubs, showers or lavatories shall not be used for laundering, cleaning of bedside utensils, mops, nursing utensils or equipment, nor for the dumping of waste water, nor for storage.

(11) Draperies and furniture shall be kept clean and in good repair.

(b) **Laundry.** Each facility shall have laundry services that are planned, operated, and maintained to provide sufficient, safe and sanitary laundering of linen, supplies, and clothing.

(1) If the facility does not provide laundry services it shall contract with a commercial laundry service that provides these standards.

(2) Laundry facilities shall be provided with the necessary washing and drying equipment.

(3) Laundry equipment shall be designed and installed that complies with applicable laws.

(4) Laundry processing and procedures shall render soiled linens and resident clothing clean, dry, soft and free of detergent, lint and soap.

(5) Soiled laundry shall be processed frequently to prevent the accumulations of soiled linens and resident's clothing.

(6) The facility's linen supply shall include at least two complete changes of linen for each resident bed. All linen shall be clean, sorted, and in good repair. When linen is not in use all shall be properly stored.

(7) Soiled linen, including blankets, shall be placed in bags or impervious linen hampers/carts with lids tightly closed and shall be removed to the laundry area from the resident care unit at least every eight hours.

(8) Sorting and pre-rinsing of all clothing shall be done in the soiled utility and laundry areas.

(9) All soiled linen shall be enclosed in bags before placing them in the laundry chute. Laundry chutes shall be cleaned as scheduled in the facility's policy and procedure manual.

(10) Carts and hampers used to transport soiled linen shall be constructed of, or lined with, impervious materials, which can be cleaned and disinfected after each use, and used only for transporting soiled linen. Tight fitting lids or covers shall be used.

(11) Soiled linen and clothing shall be stored in the utility rooms and not in the halls.

(12) All personnel shall wash their hands or use alcohol gel thoroughly after handling soiled linen.

(13) There shall be at least one storage area for clean linen.

(c) **General storage.** The facility shall provide general storage as follows:

- (1) Combustibles, such as cleaning rags and compounds, shall be in closed, metal containers.
- (2) Cleaning compounds and hazardous substances shall be labeled properly and stored in safe places. Food substances shall not be stored in the same cabinets, shelves, or in close proximity to prevent accidental selection of the hazardous substance in the place of the food substance.
- (3) Residents shall not have access to storage areas for cleaning agents, bleaches, insecticides or any other dangerous, poisonous or flammable substances.
- (4) Paper towels, tissues, and other supplies shall be stored in a manner to prevent their contamination prior to use.
- (5) Closed storage shall be provided for pillows, blankets, sheepskins, draw sheets, weight distribution pads, and pressure padding.
- (6) Equipment shall not be stored in a hallway or corridor.
- (7) No item shall be stored directly on the floor.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-16. Facility maintenance records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-16.1. Quality assessment and assurance

- (a) The facility shall maintain a quality assessment and assurance committee to address facility and resident's needs.
- (b) The committee shall include the director of nursing, a physician designated by the facility, and at least one other appropriate staff.
- (c) The quality assessment and assurance committee shall meet at least quarterly to identify quality assessment and assurance activities.
- (d) The committee shall develop and implement appropriate plans of action to correct identified quality deficiencies.
- (e) The Department shall not require disclosure of the records of the committee unless such disclosure is related to the committee's compliance with the requirements of this section.
- (f) Good faith attempts by the committee to identify and correct quality deficiencies shall not be used as a basis for sanctions.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-7-17. Housekeeping, general sanitation and infection control [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-17.1. Infection Control

(a) The facility shall have an infection control policy and procedures to provide a safe environment. The policy shall address the prevention and transmission of disease and infection. The facility, and its personnel, shall practice the universal precautions identified by the Centers for Disease Control. All personnel shall demonstrate their knowledge of universal precautions through performance of duties.

(b) The facility shall maintain a sanitary environment and prevent the development and transmission of infection in the following areas.

- (1) Food handling practices;
- (2) Laundry practices including linen handling.
- (3) Disposal of environmental and resident wastes.
- (4) Pest control measures.
- (5) Traffic control for high-risk areas.
- (6) Visiting rules for high-risk residents.
- (7) Sources of air-borne infections.
- (8) Health status of all employees and residents.
- (9) Isolation area for residents with communicable diseases.

(c) Infection control policies to prevent the transmission of infection shall include the following:

- (1) Excluding Personnel and visitors with communicable infections.
- (2) Limiting traffic in dietary and medication rooms.
- (3) Using aseptic and isolation techniques including hand washing techniques.
- (4) Bagging each resident's trash and refuse.
- (5) Issuing daily damp wipe cloths, treated dust cloths and clean wet mops, as needed.
- (6) Laundering the used wet mops and cleaning cloths every day.
- (7) Cleaning the equipment for resident use daily, and the proper disposal of infected materials.
- (8) Providing properly identifiable plastic bags for the proper disposal of infected materials.
- (9) **Tuberculosis risk assessment.** An annual facility tuberculosis risk assessment is to be performed by a licensed nurse or physician using a Department approved risk assessment tool.

(d) When scheduled to be cleaned, the toilet areas, utility rooms, and work closets, shall be cleaned with a disinfectant solution and fresh air shall be introduced to deodorize.

(e) **Test for tuberculosis and tuberculin skin test for residents.**

Within thirty (30) days from admission, all residents admitted to the facility after the adoption of this rule shall receive a test for tuberculosis. All tests and examinations shall be in conformance with the "Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019" guidelines for preventing the transmissions of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention.

- (1) Tests for tuberculosis shall be administered by a licensed nurse or physician.

(2) Where a skin test is contra-indicated, a chest radiograph, interpreted by a medical consultant in collaboration with the city, county or state health department, is acceptable.

(3) Residents claiming a prior positive tuberculin skin test shall have documentation in their medical record, obtained from a licensed health care professional, of their test results and interpretation; otherwise, a two-step tuberculin skin test shall be done.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Amended at 25 Ok Reg 2482, eff 7-11-08 ; Amended at 37 Ok Reg 1448, eff 9-11-20]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

310:675-7-18. Animals allowed to visit or reside [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-18.1. Personnel records

Each facility shall maintain a personnel record for each current employee containing:

(1) **Application for employment.** An application for employment which contains employee's full name, social security number, professional license or registration number, if any, employment classification, and information about past employment, including: place of employment, position held, length of employment, and reason for leaving.

(2) **Employee time records.** Copies of current employee time records, signed by the employee, shall be maintained by the facility for at least thirty-six (36) months.

(3) **Training, arrest check, and certification.** Documentation of orientation and training (may be kept in separate file), continuing education, a copy of the criminal arrest check, and appropriate certification and licensure.

(4) **Health examination on hire.** Record of health examination conducted within thirty days of employment which shall include, but not be limited to, a complete medical history, physical examination by body system and, a test for tuberculosis. All tests and examinations shall be in conformance with the "Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019" guidelines for preventing the transmission of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention.

(A) Tests for tuberculosis shall be administered by a licensed nurse or physician.

(B) Where a skin test is contra-indicated, a chest radiograph, interpreted by a medical consultant in

collaboration with the city, county or state health department, is acceptable.

(C) Employees claiming a prior positive tuberculin skin test shall have documentation in their file, obtained from a licensed health care professional, of their test results and interpretation, otherwise, a two-step tuberculin skin test shall be done.

(5) **Tests for tuberculosis.** Results of subsequent tests for tuberculosis performed based on facility TB risk classification established in OAC 310:675-7-17(c)(9) (relating to annual facility tuberculosis risk assessment) or results of a physician's examination for signs and symptoms of tuberculosis for those employees who react significantly to a tuberculin skin test.. All tests and examinations shall be in conformance with the "Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019" guidelines for preventing the transmissions of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Amended at 25 Ok Reg 2482, eff 7-11-08 ; Amended at 37 Ok Reg 1448, eff 9-11-20]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:675-7-19. Residential and visiting pets

(a) Each facility that allows residential or visiting animals shall adopt and comply with policies that meet or exceed 310:675-7-19(a) and 310:675-7-19(b). The facility's policies shall describe the schedule of animal care and zoonotic infection control for the respective facility. The facility shall not allow any animal to reside in the facility until all of the following requirements are met:

(1) The animal is a dog, cat, fish, bird, rabbit, or guinea pig. If a facility desires to include other types of animals in their program, the facility shall submit a supplemental request accompanied by its policies, procedures, and guidelines to the Department and receive written approval from the Department prior to implementation.

(2) For residential pets, excluding fish, the number of animals in a facility shall be limited to no more than one dog per 50 residents; 1 cat, rabbit, or guinea pig per 30 residents; or 1 bird per 20 residents, unless the facility has received the Department's prior approval of a greater number of pets through a supplemental request pursuant to 310:675-7-19(a)(1).

(3) The facility adopts policies ensuring non-disruption of the facility.

(4) All pets are housed and controlled in a manner that ensures that neither the pet nor the residents are in danger. A pet cage or

container must not obstruct an exit or encroach on the required corridor width.

(5) The following veterinary medical services are obtained for each pet, when applicable to species, and a record of service is maintained on file at the facility:

(A) A health certificate from a veterinarian licensed to practice in Oklahoma stating the animal is healthy on physical exam and of acceptable temperament to be placed in the facility;

(B) Proof of evaluation by a veterinarian licensed to practice in Oklahoma for presence of internal parasites on a semi-annual basis and for the presence of external parasites as needed;

(C) Proof of current rabies immunization for dogs and cats, and leptospirosis immunization for dogs administered by a licensed veterinarian;

(D) Proof of spaying/neutering for dogs and cats over six months of age; and

(E) Statement from a licensed veterinarian certifying that each bird tested negative for *Chlamydia psittaci* infection (psittacosis) within 30 days prior to placement in the facility. Birds equal in size to or larger than a parakeet shall receive a serologic test. Culture from fresh droppings or cloacal swab will be acceptable test in smaller birds, such as canaries and finches.

(6) The pet's skin appears normal, and its coat or feathers are free of ectoparasites, matted hair, feces, and other debris.

(7) Residential pets shall be the responsibility of the administrator, who shall designate at least one attendant to supervise the care and maintenance of resident animals. The administrator and the designated attendants shall at least annually review the facility's policy on residential and visiting pets, and shall document that they have read and understood the policy.

(8) The facility provides for the cleaning and disinfecting of any areas contaminated by urine or excrement, and for the regular cleaning of aviaries, aquariums, and animal cages. Water in aquariums and fish bowls shall be appropriately maintained to prevent bacterial growth in the water.

(9) Residential dogs and cats shall not be allowed to remain in the resident areas after visiting hours. No animal shall be allowed in an area used for food storage or preparation, dining, medication preparation or administration, or clean or sterile supply storage.

(10) If there is more than one resident per room, permission shall be obtained from each resident in the room before allowing animal visitation.

(b) The facility may allow other animals to visit the facility. Visiting animals shall be under the control of the person bringing the pet into the facility. The attendant of visiting animals shall adhere to the facility's policies and procedures for residential pets. Proof of current rabies immunization must be provided to the administrator before any dog, cat

or ferret can be allowed as a visiting pet in the facility.

(c) The Department shall publish and distribute to facilities recommended husbandry and veterinary care guidelines for residential pets. The guidelines shall include but not be limited to recommendations for housing, cleaning needs, exercise, diet, fecal examinations, grooming, attendant training on animal care and nutrition, and preventive health care. The guidelines shall be used for the information and education of facilities.

(d) Section 310:675-7-19 does not supersede any local or state rules that regulate animals.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01]

310:675-7-20. Financial solvency and reports

(a) The facility shall maintain financial solvency sufficient to ensure its operation as evidenced by the timely payment of obligations including but not limited to:

- (1) Employee payrolls;
- (2) Amounts owed to consultants, medical directors, vendors, suppliers, and utility service providers;
- (3) Taxes and provider fees; and
- (4) Leases, rents and mortgages.

(b) The owner shall report to the Department the occurrence of financial events as required in 63 O.S. Section 1-1930.1.

(1) The owner shall:

- (A) File a written report within 24 hours of the reportable event; or
- (B) Make an oral report by telephone within 24 hours of the reportable event, and file written confirmation within five days of the reportable event.

(2) Notice of a judgment against the facility or any of the assets of the facility or the licensee shall be required from the date the judgment becomes final.

(3) The owner shall include information in the written notification to accurately identify the event, including but not limited to:

- (A) The date of each action or event;
- (B) The name of each person involved in the event, including each legal entity, governmental agency, financial institution or trustee, and each employee whose regular payroll check has not been honored;
- (C) The amount of each judgement, lien, payroll, or tax payment related to the event; and
- (D) The style of the case and index or docket numbers as applicable.
- (E) Bankruptcy or appointment of trustee by the bankruptcy court.

(4) Notification provided by the owner pursuant to 63:1-1930.1 does not relieve the owner of the obligation to provide *ninety (90) days' notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing*

such part will require the transfer or discharge of more than ten percent (10%) of the residents [63:1-1930].

[Source: Added at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-7-21. Sex or violent offender status

(a) **Determination of status.** A facility subject to the provisions of this Chapter shall determine whether the following individuals have registered pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act:

- (1) An applicant for admission or participation,
- (2) A resident, client or participant of a facility subject to the provisions of this Chapter, and
- (3) All employees of facilities subject to the provisions of this Chapter, in addition to the required criminal arrest check in 63 O.S. §1-1950.1 and 63 O.S. §1-1950.8 (relating to criminal arrest checks).

(b) Procedures for determination of status. Prior to admission or employment but no later than three (3) business days from acceptance of any resident or participant, the employing or receiving facility subject to the provisions of this Chapter shall determine from local law enforcement, the Department of Corrections, or the Department of Corrections' Sex Offender and Mary Rippy Violent Crime Offender registries, whether the prospective employee or accepted resident or participant is registered or qualifies for registration on either registry.

(c) **Recommended registry search strategy.** A facility subject to the provisions of this Chapter may utilize the first three letters of the last name and an asterisk, and the first letter of the first name and asterisk, any known alias, and appearance criteria as provided for search within the Department of Correction's Internet based sex and violent crime offender registries.

(d) **Change in status after employment or admission.** A facility subject to the provisions of this Chapter shall repeat the screening in OAC 310:675-7-21(b) (regarding procedures for determination of status) subsequent to the receipt of any information that an employee, resident or participant's registration status may have been altered or updated after the initial screening.

(e) **Posting of offender status.** Pursuant to 63 O.S. §1-1909(4), a facility subject to the provisions of this Chapter shall conspicuously post for display in an area of its offices accessible to residents, employees and visitors a copy of any notification from the local law enforcement authority regarding the registration status of any person residing in the facility who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act.

(f) **Notice to Department of sex or violent offender's presence.** When a facility subject to the provisions of this Chapter is notified, or has determined, that an individual who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act is residing or participating at such facility, *the*

facility shall immediately, in writing, notify the State Department of Health.[63 O.S. §1-1946(A)(3)]

(g) **Content of notice of sex or violent offender's presence.** Notice provided to the Department shall include the name, and identifying information used to make the determination in 310:675-7-21(b) (regarding determination of status).

(h) **Notification through other means.** Where a facility subject to the provisions of this Chapter determines through other means, excepting written notification by the Department, of an employee, resident or participant required to register pursuant to the Sex Offenders Registration Act or the Mary Rippey Violent Crime Offenders Registration Act, the facility shall notify the Department and shall be subject to all other requirements within this section.

[**Source:** Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Added at 25 Ok Reg 2482, eff 7-11-08]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

SUBCHAPTER 9. RESIDENT CARE SERVICES

310:675-9-1. Activities [REVOKED]

[**Source:** Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-1.1. Nursing and personal care services

(a) The facility shall ensure that resident rights are respected in the provision of care.

(b) Basic nursing and personal care shall be provided for residents as needed.

(1) Nursing care shall include, but not be limited to:

(A) Encouraging residents to be active and out of bed for reasonable time periods.

(B) Measuring resident temperature, blood pressure, pulse and respirations at least once every thirty days and more frequently if warranted by the resident's condition, with the results recorded in the clinical record.

(i) Measuring resident weight at least once every thirty days and more frequently if warranted by the resident's condition, with the results recorded in the clinical record.

(ii) Measuring resident pain whenever vital signs are taken and more frequently if warranted by the resident's condition, with the results recorded in the clinical record.

(C) Offering fluids, and making fluids available, to maintain proper hydration.

(D) Following proper nutritional practices for diets, enteral and parenteral feedings and assistance in eating.

- (E) Providing proper skin care to prevent skin breakdown.
 - (F) Providing proper body alignment.
 - (G) Providing supportive devices to promote proper alignment and positioning.
 - (H) Turning bed residents every two hours or as needed, to prevent pressure areas, contractures, and decubitus.
 - (I) Performing range of motion exercises in accordance with individual assessment and care plans.
 - (J) Ensuring that residents positions are changed every two hours or as needed when in a chair and are toileted as needed.
 - (K) Establishing and implementing bowel and bladder programs to promote independence, or developing toileting schedules to promote continence.
 - (L) Performing catheter care with proper positioning of bag and tubing at all times.
 - (M) Recording accurate intake and output records for residents with tube feedings or catheters.
 - (N) Assessing the general mental and physical condition of the resident on admission.
 - (O) Updating the assessment and individual care plan when there is a significant change in the resident's physical, mental, or psychosocial functioning.
 - (P) Recognizing and recording signs and symptoms of illness or injury with action taken to treat the illness or injury, and the response to treatments and medications.
- (2) Personal care shall include, but not be limited to:
- (A) Keeping residents clean and free of odor.
 - (B) Keeping bed linens clean and dry.
 - (C) Keeping resident's personal clothing clean and neat.
 - (D) Ensuring that residents are dressed appropriately for activities in which they participate; bedfast/chairfast residents shall be appropriately dressed and provided adequate cover for comfort and privacy.
 - (E) Ensuring that the resident's hair is clean and groomed.
 - (F) Providing oral hygiene assistance at least twice daily with readily available dental floss, toothbrush and dentifrice. A denture cleaning/soaking device and brush shall be available and maintained for each resident as needed.
 - (G) Keeping toenails and fingernails clean and trimmed.
- (c) The facility shall assist the resident in securing other services recommended by a physician such as, but not limited to, optometry or ophthalmology, audiology or otology, podiatry, laboratory, radiology or hospital services. The administration shall, through social services or other means, assist each resident desiring or needing medical related services.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 23 Ok Reg 156, eff 10-6-05 (emergency); Amended at 23 Ok Reg 2415, eff 6-25-06]

310:675-9-2. Social services [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-2.1. Dental and oral hygiene services

- (a) A dental history shall be obtained as part of the medical history on admission. The dental history shall include past dental problems, description of any prosthetic appliance used, current assessment and the resident's current dentist.
- (b) The facility shall have all dental prosthetic appliances such as dentures and partial dentures, marked and identified as belonging to that resident at the time of admission. A resident shall be promptly referred to a dentist when prosthetics are lost or damaged.
- (c) The facility shall arrange for one or more dentists to be available in an emergency and to act in an advisory capacity to the facility. The dentist notified for any emergency shall be recorded in the clinical record. If unable to contact the resident's dentist, the emergency physician or dentist shall be notified.
- (d) The facility shall maintain a list of referral dentists.
- (e) The facility shall assist the resident with, or make arrangements for the resident's transportation to and from the dentist's office.
- (f) All residents shall have oral hygiene procedures provided at least daily, and as needed. Oral hygiene procedures shall include, but not be limited to, the resident's teeth being brushed and dentures and partial dentures being cleaned. Any exception shall be ordered by the resident's dentist or physician.
- (g) Oral hygiene supplies and equipment shall be available in sufficient quantities to meet the residents needs including but not limited to, toothbrushes, toothpaste, dental floss, lemon glycerin swabs or equivalent products, denture cleaners, denture adhesives, and containers for dental prosthetic appliances, such as dentures and partial dentures.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-3. Religion [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-3.1. Rehabilitative or restorative nursing services

- (a) Rehabilitative services promote restoration of the resident's maximum potential. Rehabilitative services shall be provided or obtained by the facility or an outside source according to the resident assessment. An evaluation shall address the residents rehabilitative needs, on admission, annually, and as the resident's condition indicates. Rehabilitative services shall be ordered by the physician, and provided under the direction of licensed or qualified staff. These services shall include, but not be limited to, the following:
 - (1) Physical therapy.
 - (2) Speech therapy.

- (3) Audiology.
 - (4) Occupational therapy.
 - (5) Psychological or psychiatric counseling/therapy.
 - (6) Nutritional counseling.
- (b) Restorative nursing services may be provided by the nursing staff according to the care plan. These services shall include, but not be limited to, the following:
- (1) Range of motion to prevent contracture.
 - (2) Bowel and bladder training to restore continence.
 - (3) Self-help skill training.
 - (4) Behavioral modification under the direction of a qualified consultant.
 - (5) Ambulation.
 - (6) Remotivation.
 - (7) Reality orientation.
 - (8) Reminiscent therapy.
- (c) There shall be an ongoing in-service education program for all restorative nursing staff.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-4. Recreation areas [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-4.1. Supplies and equipment

- (a) There shall be a sufficient quantity of supplies and, equipment in working condition, to meet the residents' medical, nursing, nutritional, social and activity needs.
- (b) The minimum level of supplies including but not limited to food and other perishables is a three (3) day supply.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-9-5. Community involvement [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-5.1. Assessment and care plans

- (a) A resident assessment and an individual care plan shall be completed and implemented for each resident. The care plan shall indicate the resident's current status and accurately identify the resident's needs.
- (b) The written resident assessment and care plan shall be reviewed and updated, at least quarterly, and as needed when the resident's condition indicates.
- (c) Efforts shall be made to include the resident and resident's representative in development and implementation of the care planning process.
- (1) **Resident assessment.**

- (A) The facility shall conduct, initially and periodically, a comprehensive, accurate, standardized, reproducible assessment for each resident's functional capacity.
- (B) Each resident shall have an assessment coordinated or conducted by a registered nurse.
- (C) Each individual completing a portion of the assessment shall sign, date, and certify the accuracy of that portion.
- (D) An assessment shall be completed within fourteen days after admission of the resident.
- (E) The resident assessment shall include a minimum data set (MDS) in the form required under 42 CFR 483.20. Each facility, with the exception of Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID), accurately shall complete the MDS for each resident in the facility, regardless of age, diagnosis, length of stay or payment category.
- (F) The MDS form shall require the following, as applicable:
 - (i) Admission assessment;
 - (ii) Annual assessment;
 - (iii) Significant change in status assessment;
 - (iv) Significant correction of prior full assessment;
 - (v) Significant correction of prior quarterly assessment;
 - (vi) Quarterly review; and
 - (vii) A subset of items upon a resident's transfer, reentry, discharge, and death.

(2) Resident pain assessment.

- (A) Residents shall be screened for the presence of pain at least once every 30 days and whenever vital signs are taken.
 - (i) Licensed nursing staff shall perform the screening at least once every 30 days. Certified nurse aides may perform the screening more frequently as needed.
 - (ii) The screening instrument shall grade the intensity and severity of pain using a resident-specific pain scale;
- (B) An individualized pain assessment shall be conducted by a registered nurse for each resident:
 - (i) In conjunction with the admission, quarterly and annual assessments required at OAC 310:675-9-5.1.(c)(1)(F); and
 - (ii) With onset of pain not previously addressed in a care plan or physician's orders.
- (C) The goal is to alleviate or minimize pain while assisting the resident to maintain as high a level of functioning as possible. The pain assessment shall include, but not be limited to:
 - (i) A statement of how the resident describes the pain;

- (ii) Intensity and severity of pain graded using a resident-specific pain scale;
- (iii) Recent changes in pain;
- (iv) Location(s);
- (v) Onset and duration of pain, such as new pain within the last 3 days, recent pain within the last 3 months, or more distant pain greater than 3 months;
- (vi) Type of pain reported or represented by resident, such as constant or intermittent, and duration or frequency of pain;
- (vii) Current pain measured at its least and greatest levels;
- (viii) Aggravating and relieving factors;
- (ix) Treatment including a review of all therapies, including medication, and the regimen used to minimize pain;
- (x) Effects of pain and effectiveness of therapy on physical and social functions;
- (xi) Resident's treatment preferences and emotional responses to pain, including resident's expectations and how resident coped with pain; and
- (xii) If applicable, refer to pain assessment tool for the cognitively impaired.

(D) Results shall be recorded in the resident's clinical record showing changes in pain scale and changes in level of functioning. The physician shall be contacted as necessary.

(E) Pain shall be treated promptly, effectively and for as long as necessary.

(3) Individual care plan.

(A) An individual care plan shall be developed and implemented for each resident to reflect the resident's needs.

(B) The care plan shall be developed by an interdisciplinary team that includes a registered nurse with responsibility for the resident, and other appropriate staff in disciplines determined by the resident's needs.

(C) The care plan shall include measurable objectives and timetables to meet the resident's medical, nursing, mental and psychosocial needs identified in the assessment.

(D) The care plan shall be available to appropriate personnel providing care for the resident.

(E) An initial care plan shall be completed at the time of admission. The individualized care plan shall be completed within twenty-one days after admission.

(F) A care plan shall be completed within seven calendar days after the completion of the assessment.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 16 Ok Reg 3493, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2072, eff 6-12-00 ; Amended at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 23 Ok Reg 156, eff 10-6-05 (emergency); Amended at 23 Ok Reg 2415, eff 6-25-06 ; Amended at 27 Ok Reg 2545, eff 7-25-10 ; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-9-6. Physical plant [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-6.1. Restraints

(a) The resident has the right to be free from any physical or chemical restraints imposed for discipline or convenience. Restraints may be used in emergency situations, or for the purpose of treating a resident's medical condition. All physical restraints shall allow for quick release. Locked restraints shall not be used.

(b) In an emergency situation, physical restraints may be used only to ensure the physical safety of the resident, staff, or other residents. When restraints are used in an emergency, the facility shall comply with the following process:

(1) A licensed nurse may use physical restraints, without a physician's order, if necessary to prevent injury to the resident, or to other residents, when alternative measures are not effective. The licensed nurse shall document in the clinical record the application of the physical restraint and the alternative measures that were not effective. A licensed nurse shall contact the physician for physical restraint orders within six hours after application.

(2) The facility staff shall continually monitor the resident during the restraint period. An interdisciplinary team shall evaluate alternative placement if the resident requires physical restraints for longer than forty-eight consecutive hours.

(3) Circumstances requiring the physical restraints shall be re-evaluated every thirty minutes and documented in the clinical record.

(4) A resident who is physically restrained shall have the restraints released for at least ten minutes every two hours. Such residents shall also be repositioned, exercised and toileted as needed.

(c) In an emergency situation, chemical restraints may be used only to ensure the physical safety of the resident, staff, or other residents. When chemical restraints are used, the facility shall comply with the following process:

(1) The written order for the use of a chemical restraint shall be signed by a physician who specifies the duration and circumstances under which the chemical restraint is to be used.

(2) The physician's orders may be oral when an emergency necessitates parenteral administration of the chemical restraint but is valid only until a written order can be obtained within forty-eight hours.

(3) An emergency order for chemical restraints shall not be in effect for more than twelve hours and may be administered only if the resident is continually monitored for the first thirty minutes after administration and every fifteen minutes until such time as the resident appears stable to ensure that any adverse side effects are noticed and appropriate action taken as soon as possible. The clinical record shall accurately reflect monitoring.

(4) A licensed nurse shall document in the resident's clinical record any alternative measures that were not effective and precipitated the use of the chemical restraint.

(5) An interdisciplinary evaluation shall be made to consider alternative placement if the resident requires chemical restraints for longer than twelve continuous hours.

(d) When restraints are required for the resident's medical symptoms, the nursing staff shall ensure that physical and chemical restraints are administered only in accordance with the resident's care plan and under the following circumstances.

(1) When restraints are used to prevent falling, or for the purpose of positioning the resident, the resident and resident's representative shall be informed of the risk and benefits, and written consent shall be obtained.

(2) Restraints may be applied only on a physician's written order and shall identify the type and reason for the restraint. The physician shall also specify the period of time, and the circumstances under which the restraint may be applied.

(3) Alternative measures to the use of restraints shall be evaluated prior to their use. Circumstances requiring the restraints, and alternative measures, shall be re-evaluated and documented in the clinical record every thirty days.

(4) A restrained resident shall have the restraints released every two hours for at least ten minutes; and the resident shall be repositioned, exercised, or provided range of motion and toileted as necessary.

(e) Antipsychotic drug administration shall be consistent with 63 O.S. 1-881.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 37 Ok Reg 1448, eff 9-11-20]

310:675-9-7. Diets [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-7.1. Physician services

Each resident shall be under the care of a licensed physician, who shall be responsible for the resident's overall medical care. The physician's duties shall include but not be limited to:

(1) Completing an admission history and physical that includes chief complaints, course of present illness, past medical history, and examination findings by body systems and diagnosis within two weeks of admission unless a physical was conducted within

the previous sixty days.

(2) Prescribing diet, treatments and medications.

(3) Noting the resident's specific advance directives, if known.

(4) Continuing supervision, as required by the resident's care including, but not limited to:

(A) Writing progress notes at each visit.

(B) Visiting as needed.

(C) Participating in developing, and reviewing, the resident's care plan.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-8. Food storage and sanitation [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-8.1. Clinical laboratory

(a) The facility shall provide, or obtain, clinical laboratory services to meet the resident's needs. The facility shall be responsible for the quality and timeliness of the services. If the facility provides clinical laboratory services, the services shall meet the applicable conditions of the services furnished by independent laboratories. If the facility provides blood bank and transfusion services, it shall meet the applicable conditions for independent laboratories and hospitals.

(b) If the laboratory refers specimens for testing to another laboratory, the receiving laboratory shall meet applicable conditions as an independent laboratory.

(c) If the facility does not provide laboratory services on site, it shall have an agreement to obtain such services only from a laboratory that meets applicable conditions as an independent laboratory, either as a hospital or an independent laboratory.

(d) The facility shall:

(1) Provide or obtain laboratory services only when ordered by the physician.

(2) Promptly notify the physician of the findings.

(3) Assist the resident in arranging transportation to and from the source of service, if the resident needs assistance.

(4) File signed and dated reports of clinical laboratory services in the resident's clinical record.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-9. Refrigeration [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-9.1. Medication services

(a) **Storage.**

(1) Medications shall be stored in a medication room, a locked cabinet, or a locked medication cart, used exclusively for

medication storage.

(2) The medication storage area temperature shall be maintained between 60° F. (15.5° C.) to 80° F. (26.6° C.)

(3) The medication room, the medication storage cabinet, and medication cart shall be locked when not in use.

(4) The key to the medication storage areas shall be in the possession of the person responsible for administering medications.

(5) Scheduled medications shall be in a locked box within the locked medication area or cart.

(6) Medications for external use shall be stored separately from medications for internal use.

(7) Medications requiring refrigeration shall be kept within a temperature range of 36° F. (2.2° C.) to 48° F. (8.8° C.) and separated from food and other items. There shall be a method for locking these medications.

(8) The medication areas shall be well lighted, clean and organized.

(9) Running water shall be in close proximity to the medication area.

(10) Powdered over-the-counter medication for topical use may be kept in the resident's room for administration by a nurse aide if:

(A) The facility develops and implements policies and procedures for safe storage and application of the powder; and

(B) Each aide who applies the over-the-counter topical medication is trained in accordance with the established policies and procedures of the facility.

(b) **Emergency medications.** Emergency medication, policies and equipment shall include but not be limited to:

(1) An electric suction machine with necessary aseptic aspirator tips.

(2) An emergency tray or cart with the following items labeled and accessible to licensed personnel only: resuscitation bag; tongue depressors; and assorted airways; sterile hypodermic syringes in 2 cc, 5 cc, and 20 cc or larger sizes and appropriate needles. The content shall be limited to emergency medications and contain no scheduled medications. Only two single dose vials of the following medications may be on the tray or cart: 50% Dextrose, respiratory stimulant, a cardiac stimulant, injectable lasix, injectable dilantin and injectable benadryl.

(3) A certified medication aide shall not administer injectable medications from any emergency tray or cart, but shall have access to resuscitation bags, tongue depressors, and assorted sizes of airways.

(c) **Medication accountability.**

(1) Medications shall be administered only on a physician's order.

(2) The person responsible for administering medications shall personally prepare the dose, observe the swallowing of oral medication, and record the medication. Medications shall be prepared within one hour of administration.

(3) An accurate written record of medications administered shall be maintained. The medication record shall include:

(A) The identity and signature of the person administering the medication.

(B) The medication administered within one hour of the scheduled time.

(C) Medications administered as the resident's condition may require (p.r.n.) are recorded immediately, including the date, time, dose, medication, and administration method.

(D) Adverse reactions or results.

(E) Injection sites.

(F) An individual inventory record shall be maintained for each Schedule II medication prescribed for a resident.

(G) Medication error incident reports.

(4) A resident's adverse reactions shall be reported at once to the attending physician.

(d) Medication labels and handling.

(1) All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of medication, dosage, directions for use, date of issue and expiration, and name, address and telephone number of pharmacy or physician issuing the medication, and the quantity. If a unit dose system is used, medications shall indicate, at least, the resident's full name, physician's name and strength of medication, and directions for use.

(2) When over-the-counter medications are prescribed and obtained in the original manufacturers container, the package directions shall be considered part of the label. The resident's name shall be on the package.

(3) Each resident's medications shall be kept or stored in the originally received containers. Paper envelopes shall not be considered containers.

(4) Medication containers having soiled, damaged, illegible or makeshift labels shall be relabeled by the issuing pharmacy or physician. Labels on containers shall be clearly legible and firmly affixed. No label shall be superimposed on another label on a medication container except for over-the-counter medication containers.

(5) No person shall change labels on medication containers. If the attending physician orders a change of directions, there shall be a procedure to mark the container indicating a label change is needed at the next prescription refill.

(6) A pharmacist shall dilute, reconstitute and label medications, whenever possible. If not possible, a registered nurse may reconstitute, dilute and label medications. A distinctive, indelible, supplementary label shall be affixed to the medication container when diluted or reconstituted for other than immediate use. A licensed practical nurse may reconstitute oral medications only. The label shall include the following: resident's name, dosage and strength per unit/volume, nurse's initials, expiration date, and

date and time of dilution or reconstitution.

(7) When a resident is discharged, or is on therapeutic leave, the unused medication shall be sent with the resident, or with the resident's representative, unless there is a written physician's order to the contrary, or the medication has been discontinued, or unless the resident or the resident's representative donates unused prescription medications for dispensation to medically indigent persons in accordance with the Utilization of Unused Prescription Medications Act. The clinical record shall document the quantity of medication sent, and returned or donated, and the signature of the person receiving or transferring the medications.

(8) All medication orders shall be automatically stopped after a given time period, unless the order indicates the number of doses to be administered, or the length of time the medication is to be administered. The automatic stop order may vary for different types of medications. The facility shall develop policies and procedures, in consultation with the medical director and pharmacist, to review automatic stop orders on medications. The policy shall be available to personnel administering medications.

(9) No resident shall be allowed to keep any medications unless the attending physician or interdisciplinary team has indicated on the resident's clinical record that the resident is mentally and physically capable of self-administering medications.

(10) A resident who has been determined by the physician or interdisciplinary team as capable of self-administering medication may retain the medications in a safe location in the resident's room. The facility shall develop policies for accountability. Scheduled medications shall not be authorized for self-administration, except when delivered by a patient controlled analgesia pump.

(11) A physician's telephone orders shall be conveyed to, recorded in the clinical record, and initialed by the licensed nurse receiving the orders.

(12) Medications shall be administered only by a physician, registered nurse, a licensed practical nurse, or a certified medication aide. The only injectables which a certified medication aide may administer are insulin and vitamin B-12 and then only when specifically trained to do so.

(13) A pharmacy, operating in connection with a facility, shall comply with the State pharmacy law and the rules of the Oklahoma State Board of Pharmacy.

(14) Powdered over-the-counter medication for topical use may be administered by a trained nurse aide when designated in writing by the attending physician and delegated by a licensed nurse. The licensed nurse shall ensure that the aide demonstrates competency in reporting skin changes, storage, application and documentation policies and procedures. The licensed nurse or the attending physician shall document in the resident's record a skin assessment at least twice each week and more often if required by the facility's approved policy.

(e) **Medication destruction.**

(1) Non-controlled medications prescribed for residents who have died and non-controlled medications which have been discontinued shall be destroyed by both the director of nursing and a licensed pharmacist or another licensed nurse. Controlled medication shall be destroyed by a licensed pharmacist and the Director of Nursing. The facility may transfer unused prescription drugs to city-county health department pharmacies or county pharmacies in compliance with the Utilization of Unused Prescription Medications Act and all rules promulgated thereunder. Prescription only medications including controlled medications shall not be returned to the family or resident representatives. The destruction and the method used shall be noted on the clinical record.

(2) Medications prescribed for one resident may not be administered to, or allowed in the possession of, another resident.

(3) There shall be policies and procedures for the destruction of discontinued or other unused medications within a reasonable time. The policy shall provide that medications pending destruction shall not be retained with the resident's current medications. The destruction of medication shall be carried out in the facility and a signed record of destruction shall be retained in the facility.

(f) **Medication regimen review.** The facility shall ensure that each resident's medications are reviewed monthly, by a registered nurse or a licensed pharmacist. The reviewer shall notify the physician and director of nursing, in writing, when irregularities are evident.

(g) **Consultant pharmacist.** The facility shall have a consultant licensed pharmacist to assist with the medication regimen review and medication destruction. The consultant pharmacist shall discuss policies and procedures for the administration, storage, and destruction of medications with the administrator, director of nursing and other appropriate staff.

(h) **Emergency pharmacy.** The facility shall have a contract, or letter of agreement, with a licensed pharmacy that agrees to serve as the emergency pharmacy. The emergency pharmacy shall be available twenty-four hours a day.

(i) **Bulk nonprescription drugs.** A facility may maintain nonprescription drugs for dispensing from a common or bulk supply as *ordered or otherwise authorized by a physician currently licensed to practice medicine in this state* [63:1-1950(B)] if all of the following are accomplished.

(1) **Policy of facility.** The facility must have and follow a written policy and procedure to assure safety in dispensing and documentation of medications given to each resident.

(2) **Acquisition.** The facility shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for all medications maintained in bulk.

(3) **Dispensing.** Only licensed nurses, physicians, pharmacists or certified medication aides (CMA) may dispense these medications.

- (4) **Storage.** Bulk medications shall be stored in the medication area and not in resident rooms.
- (5) **Records.** The facility shall maintain records of all bulk medications which are dispensed on an individual signed medication administration record (MAR).
- (6) **Labeling.** The original labels shall be maintained on the container as it comes from the manufacturer or on the unit-of-use (blister packs) package.
- (7) **Package size.** The maximum size of packaging shall be established by the facility in its policy and procedures and shall insure that each resident receives the correct dosage; provided however, that no liquid medications shall be acquired nor maintained in a package size which exceeds 16 fluid ounces.
- (8) **Allowed nonprescription drugs.** Facilities may have only oral analgesics, antacids, and laxatives for bulk dispensing and/or drugs listed in a facility formulary developed or approved by the consultant pharmacist, medical director and director of nurses. Non formulary over the counter medications may be prescribed if the resident has therapeutic failure, drug allergy, drug interaction or contraindications to the formulary over the counter medication.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 11 Ok Reg 907, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2645, eff 6-25-94 ; Amended Ok Reg 2521, eff 6-25-99 ; Amended at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02 ; Amended at 28 Ok Reg 1371, eff 6-25-11 ; Amended at 31 Ok Reg 1622, eff 9-12-14 ; Amended at 33 Ok Reg 1530, eff 9-11-16]

310:675-9-10. Ice supply [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-10.1. Activity services

- (a) **Activities program.** The facility shall provide an ongoing activities service designed to meet the resident's interests and physical, mental, and psycho-social needs based on a comprehensive assessment and care plan.
- (b) **Activities director.** There shall be a designated staff member, qualified by experience or training, responsible for the direction and supervision of the activities service. The activities director shall develop appropriate activities for each resident with identified needs. Activities staff hours shall be sufficient to meet the resident's needs.
- (c) **Clinical record.** The activities rendered shall be recorded in the clinical record. Progress notes shall be written at least monthly or when a significant change in the resident's condition occurs.
- (d) **Program requirements.**
- (1) All activities shall be resident related.
 - (2) The program shall be designed to encourage rehabilitation and restoration to self care and normal activity.
 - (3) There shall be at least two organized group activities, daily, Monday through Friday and at least one organized group activity on Saturday and Sunday provided or coordinated by staff.

(4) The activities program shall recognize the resident's right to choose to participate in social, community and religious activities, as long as that choice does not interfere with other facility residents.

(5) Varied and specific programs shall be developed for all residents, including those that are room bound, comatose or who demonstrate symptoms of dementia, mental illness or developmental disabilities.

(6) Socialization and self-help skills shall be addressed in the care plan based on resident's needs.

(7) Provisions shall be made to address each resident's spiritual needs.

(8) The program shall provide remotivation, reality orientation or sensory stimulation programs to orient and stimulate residents.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-11. Milk supply [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-11.1. Social services

(a) **Service.** The facility shall provide medically related social services to identify and meet the resident's social and emotional needs, and assist each resident and family in adjusting to the effects of the illness, treatment, and stay in the facility.

(b) **Director.** There shall be a designated staff member, qualified by training or experience, responsible for directing and supervising the social services. The social services director shall develop appropriate social services for each resident with identified needs.

(c) **Clinical record.** The social services rendered shall be recorded in the resident's record. Progress notes shall be written at least monthly, or when a significant change in a resident's condition occurs.

(d) **Program requirements.**

(1) Assist the resident in identifying issues and conditions related to admission to the facility.

(2) Assist the resident in obtaining needed services within the facility or the community.

(3) Assist the resident in obtaining needed transportation.

(4) Assist the resident in maintaining and developing relationships with family and other significant persons.

(5) Assist the staff in understanding the resident's actions and behavior.

(6) Assist the staff in treating the residents with respect, and promote resident independence.

(7) Counsel with the resident and his family in securing and enhancing participation in the resident's care.

(8) Engage in related activities as determined by the resident's individual needs.

(9) Encourage the resident to express his/her rights as United States citizens.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-12. Food supply [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-12.1. Dietary services

(a) **Services.** The facility shall provide dietary services to meet the resident's nutritional needs. There shall be a designated staff person qualified by experience or training, responsible for directing or supervising the dietary services. The food service supervisor, in conjunction with a qualified nutritionist or registered/licensed dietitian, shall develop a dietary care plan for each resident. There shall be sufficient dietary staff to meet the needs of all residents.

(b) **Clinical record.** The dietary services provided to residents needing dietary intervention shall be recorded in the clinical record. Progress notes for these residents shall be written at least monthly, or when a significant change in the resident's condition occurs.

(c) **Nutritional assessment.** A nutritional assessment shall be completed for each resident that addresses all pertinent dietary problems such as chewing or swallowing, elimination, appetite or eating habits, pertinent lab results, weight and height, diet and medication interactions, food preferences and assistive devices. The dietary staff shall have input into the resident's individual care plan.

(d) **Diet.** The facility shall provide a nourishing, palatable, well-balanced diet that meets the resident's daily nutritional and special dietary needs.

(1) Meals.

(A) The facility shall serve at least three regularly scheduled meals, or their equivalent daily. There shall be at least four hours between each meal.

(B) Diets shall be prescribed by the resident's physician and shall be planned, in writing, reviewed, approved and dated by a qualified nutritionist or registered/licensed dietitian. A therapeutic diet shall be served with skillful attention to the diet control system. Portioning of menu servings shall be accomplished with portioned control serving utensils.

(C) Substitutes of similar nutritive value shall be offered when a resident refuses served menu items.

(D) Residents at nutritional risk shall have timely and appropriate nutrition intervention.

(E) Nourishments shall be available and may be offered at any time in accordance with approved diet orders and resident preference. Bedtime nourishment shall be offered to all residents.

(F) There shall be an identification system established and updated, as needed, to ensure that each resident receives

the prescribed diet.

(G) The percentages of consumed meals, supplements and meal replacements ingested shall be observed and recorded in the clinical record at the time of observation.

(2) Menus.

(A) Menus shall be posted, planned, and followed to meet the resident's nutritional needs in accordance with the physician's orders.

(B) The menus shall, to the extent medically possible, be in accordance with the daily recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

(C) Menus covering all prescribed diets shall be approved, dated, and periodically reviewed by a qualified nutritionist or registered/licensed dietitian. The facility shall maintain a thirty day record of past menus.

(D) The facility shall maintain a file of tested recipes that includes therapeutic alterations for quantity food preparation for menu items.

(e) **Tube feeding.** Tube feeding orders shall be evaluated for nutritional adequacy. The requirements for caloric intake, protein, fluid and percentage of the daily recommended dietary allowances shall be calculated to determine nutritional adequacy.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-13. Dishwashing [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-13.1. Food storage, supply and sanitation

(a) Food shall be stored, prepared and served in accordance with Chapter 257 of this Title (relating to food service establishments) with the following additional requirements.

(b) Ice machines available to the residents, or the public, shall be a dispenser type, or have a locking enclosure.

(c) A whole, intact, fruit or vegetable is an approved food source. The food supply shall be sufficient in quantity and variety to prepare menus for three (3) days. Leftovers that are potentially hazardous foods shall be used, or disposed of, within twenty-four (24) hours. Non-potentially hazardous leftovers that have been heated or cooked may be refrigerated for up to forty-eight (48) hours.

(d) Milk, milk products and eggs.

(1) Only grade A pasteurized fluid milk, as defined by the Oklahoma Grade A Milk and Milk Products Act, Title 2 O.S. §7-401 through 2 O.S. §7-421, shall be used for beverage and shall be served directly into a glass from a milk dispenser or container.

(2) Powdered or evaporated milk products approved under the U.S. Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance (2003 Revision), may be used only as

additives in cooked foods. This does not include the addition of powdered or evaporated milk products to milk or water as a milk for drinking purposes. Powdered or evaporated milk products may be used in instant desserts and whipped products, or for cooking. When foods, in which powdered or evaporated milk has been added, are not cooked, the foods shall be consumed within twenty-four (24) hours.

(3) Milk for drinking shall be stored at a temperature of 41° or below and shall not be stored in a frozen state.

(4) Only clean, whole eggs with shell intact, pasteurized liquid, frozen, dry eggs, egg products and commercially prepared and packaged hard boiled eggs may be used. All eggs shall be thoroughly cooked except pasteurized egg products or pasteurized in-shell eggs may be used in place of pooled eggs or raw or undercooked eggs.

(e) **Applicability.** This section shall only apply to food prepared or served by the facility, within the licensed facility.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Amended at 25 Ok Reg 2482, eff 7-11-08]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

310:675-9-14. Physical responsibilities [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-15. Reports to state agencies [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-16. Specialized services [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-17. Medical findings and physician's orders [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-18. Resident supervision by physician [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-19. Availability of physicians for emergency resident care [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-20. Fulfilling resident's needs [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-21. Dental care [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-22. Medications: storage, preparation and handling [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-23. Nursing service [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-24. Nursing and personal care of residents [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-25. Nursing services: policy and procedure [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-26. Rehabilitative and/or restorative nursing [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-27. Health care plan [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-28. Transfer forms [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-29. Nursing service personnel minimum staffing requirements [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-30. Nursing in-service [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-31. Influenza and pneumococcal vaccinations

(a) Each facility shall document evidence of the offering of annual vaccination against influenza for each resident and for each employee, in accordance with the Recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention most recent to the time of vaccination.

(b) Each facility shall document evidence of the offering of vaccination against pneumococcal disease for each resident, in accordance with the Recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention most recent to the time of vaccination.

(c) The immunizations provided for in this section may be waived because of medical contraindication or may be refused. Documentation of the vaccination, medical contraindication or refusal shall be recorded in the resident's medical or care record. If the resident is not vaccinated, the documentation in the resident record shall include a statement signed by the resident, the resident's representative, or the resident's physician as appropriate.

(d) Attending physicians may establish standing orders for the administration of influenza and pneumococcal immunizations in accordance with the Recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention most recent to the time of vaccination.

[Source: Added at 16 Ok Reg 3493, eff 7-30-99 (emergency); Added at 17 Ok Reg 2072, eff 6-12-00 ; Amended at 18 Ok Reg 2533, eff 6-25-01]

SUBCHAPTER 11. INTERMEDIATE CARE FACILITIES OF 16 BEDS AND LESS FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES (ICF/IID-16)

310:675-11-1. Scope

This Subchapter is applicable to small facilities serving individuals with intellectual disabilities which provide residential accommodations and transitional living training to aid residents in adapting to live in the general society. Resident accommodations are limited to not more than 16 residents, plus any required "live-in" staff. Facilities qualifying under this subsection shall be exempt from other subsections of this Chapter, except for the definitions provided in 310:675-1-2 and as may be specifically referenced in this subsection. In addition to these requirements, all facilities must meet the provisions of the Nursing Home Care Act.

[Source: Amended at 26 Ok Reg 2059, eff 6-25-09 ; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-2. Active Treatment

In institutions for individuals with intellectual disabilities, active treatment requires the following:

- (1) The individual's regular participation, in accordance with an individual plan of care, in professionally developed and

supervised activities, experience or therapies.

(2) An individual written plan of care that sets forth measurable goals or objectives stated in terms of desirable behavior and that prescribes an integrated program of activities, experience or therapies necessary for the individual to reach those goals or objectives. The overall purpose of the plan is to help the individual function at the greatest physical, intellectual, social or vocational level he can presently or potentially achieve.

(3) An interdisciplinary professional evaluation that consists of complete medical, social and psychological diagnosis and evaluations and an evaluation of the individual's need for institutional care; and is made by a physician, a social worker and other professionals, at least one of whom is a qualified intellectual disability professional.

(4) Reevaluation medically, socially and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. This must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual plan of care, assessment of the resident's continuing need for institutional care, and consideration of alternate methods of care.

(5) An individual postinstitutionalization plan, as part of the individual plan of care, developed before discharge by a qualified intellectual disability professional and other appropriate professionals. This must include provision for appropriate services, protective supervision, and other follow-up services in the resident's new environment.

(6) Individuals assigned for specific purpose of direct personal care to residents, including those conducting a training program to develop the resident's self-help and socialization skills. Does not include professionals performing duties related to their profession.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19 ; Amended at 39 Ok Reg 1394, eff 9-11-22]

310:675-11-3. Qualified intellectual disability professional

A person who has specialized training or one (1) year of experience in treating or working with individuals with intellectual disabilities and is one of the following:

(1) A psychologist.

(2) A licensed doctor of medicine or osteopathy.

(3) An educator with a degree in education from an accredited program.

(4) A social worker with a bachelor's degree in:

(A) Social work from an accredited program; or

(B) A field other than social work and at least three (3) years of social work experience under the supervision of a qualified social worker.

(5) A physical or occupational therapist.

(6) A speech pathologist or audiologist.

- (7) A registered nurse.
- (8) A therapeutic recreation specialist who:
 - (A) Is a graduate of an accredited program; and
 - (B) If the State has a licensing or registration procedure, is licensed or registered in the State.
- (9) A rehabilitation counselor who is certified by the Committee of Rehabilitation Counselor Certification.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-4. Occupancy

Residents selected for ICF/IID-16 occupancy shall receive active treatment, and be capable of direction and emergency evacuation from the facility, as determined by a physician or nurse or qualified intellectual disability professional.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19 ; Amended at 39 Ok Reg 1394, eff 9-11-22]

310:675-11-5. Physical plant

(a) ICF/IID-16 facilities shall be of one hour (minimum) fire resistant construction as approved by the Department and the State Fire Marshal, or shall be fully protected by an automatic sprinkler system approved by the Department and the State Fire Marshal. In addition, ICF/IID-16 facilities shall comply with the requirements of the National Fire Protection Association (NFPA) 101: Life Safety Code, 2012 Edition, adopted in 81 Federal Register 26871 by the Centers for Medicare & Medicaid Services on July 5, 2016 applicable to residential board and care occupancies for small facilities are incorporated by reference. For Medicare or Medicaid certified ICF/IID-16s, the Life Safety Code adopted by the Centers for Medicare & Medicaid Services prevails if there is a conflict between the Life Safety Code and this Chapter.

(b) Prior to issuance of license, the essential operation functions of the physical plant shall be submitted to licensing agency for review and approval. This submittal shall be in such detail as will depict compliance with applicable codes, including emergency evacuation and day to day living accommodations.

(c) Each facility must have a license. Any facility licensed under this part shall consist of contiguous construction.

(1) **Resident rooms.** The following requirements shall be provided:

- (A) Capacity shall be a maximum of four (4) residents.
- (B) Minimum area shall be 80 square feet per occupant in multi-bed rooms and 100 square feet in single bed rooms.
- (C) Each resident shall have a minimum of three square feet of closet or locker space which shall contain at least a clothes rod and one adjustable shelf.

(2) **Service areas.** The following shall be provided:

- (A) Toilet and bathing facilities shall be provided in an arrangement similar to general domestic residential facilities, except that bathrooms combining toilet, lavatory,

tub and/or shower shall be no less than 60 square feet in size.

(B) Bathing and toilet facilities shall be provided on a ratio of one facility for each five residents.

(C) Resident staff offices shall be provided at the facility in sufficient size and number to permit the safe storage and handling of prescription medications used by the individual residents, space for private counseling of residents, space for the business affairs of the ICF/IID-16 to be conducted in private, and space for the maintenance of records pertaining to resident care.

(D) Linen and supply areas shall be provided in a manner which permits the separation of the clean and soiled materials. Clean linen and supplies shall be stored separately from the area in which the soiled materials are collected.

(E) Meal service space shall be provided as follows:

(i) Kitchen. Space for conventional food preparation and baking with sufficient storage for maintaining at least a four day supply of all foods required for a general diet, including cold storage.

(ii) Dining. There shall be 15 square feet per person allocated to permit residents and on-duty staff to dine at the same time.

(iii) Warewashing shall be in accordance with the requirements of the care facilities as stated in Chapter 257 (relating to Food Service Establishments) of this Title.

(F) Housekeeping materials and supplies shall be maintained in a designated area which is apart from the food service and sleeping areas.

(3) **Recreation, lounge and public areas.** Each ICF/IID-16 shall provide interior lounge and recreation space at a rate of no less than 20 square feet per bed. If public visitation areas are included, the lounge and recreation space shall be no less than 25 square feet per bed. Outside recreation lounge areas shall be provided. These areas shall have sufficient lighting to permit utilization after sundown.

(4) **Natural lighting and ventilation of rooms.** All habitable and occupiable rooms or spaces shall contain windows, skylights, monitors, glazed doors, transoms, glass block panels or other light transmitting media opening to the sky or on a public street, yard or court. The light transmitting properties and the area of the devices used shall be adequate to meet the minimum day lighting and ventilating requirements specified herein.

(5) **Window size.** Windows and exterior doors may be used as a natural means of light and ventilation, and when so used their aggregate glass area shall amount to not less than eight percent of the floor area served, and with not less than one half of this required area available for unobstructed ventilation.

[Source: Amended at 26 Ok Reg 2059, eff 6-25-09 ; Amended at 34 Ok Reg 1305, eff 10-1-17 ; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-5.1. Plans and specifications requirements applicable to ICF/IID-16

The following sections of this Chapter shall apply to ICF/IID-16 facilities: 310:675-5-22 (relating to exceptions and temporary waivers), 310:675-5-23 (relating to submission of plans and specifications and related requests for services), 310:675-5-24 (relating to preparation of plans and specifications) and 310:675-5-25 (relating to self-certification of plans).

[Source: Added at 34 Ok Reg 1305, eff 10-1-17]

310:675-11-6. Institutional and operational relationships

The ICF/IID-16 may be free standing in a community or may be on campus with a parent institution. The ICF/IID-16 may be an independent ownership and operation or may be part of a larger institutional ownership and operation. In any case, however, the ICF/IID-16 may have an effective, continuous relationship with a full scope ICF/IID which allows all necessary support and professional services as well as the expeditious transfer of residents if and when necessary.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-7. Staffing

(a) The ICF/IID-16 shall have available enough qualified staff and support personnel to carry out the residential living, professional and special programs and services for residents as required by their individual needs, and of sufficient size that the facility does not depend on residents or volunteers for services.

(b) Each ICF/IID-16 shall maintain at least the minimum direct-care-staff ratios specified in OAC 310:675-13-12(a).

(c) In living units for the severely impaired client, the present and on duty direct care staff ratio would be:

(1) 1 to 4 from 7:00 a.m. to 3:00 p.m.;

(2) 1 to 4 from 3:00 p.m. to 11:00 p.m.; and

(3) 1 to 8 from 11:00 p.m. to 7:00 a.m.

(d) There should be sufficient dietary, nursing, housekeeping and administrative staff to serve the needs of the facility.

[Source: Amended at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 18 Ok Reg 3599, eff 8-22-01 through 7-14-02 (emergency)¹; Amended at 36 Ok Reg 1748, eff 9-13-19]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), the text of 310:675-11-7 reverted back to the permanent text that*

became effective 6-25-01, as was last published in the 2001 Edition of the OAC and republished in the 2006, 2011 and 2016 Editions of the OAC, and remained as such until amended again by permanent action on 9-13-19.

310:675-11-8. Administration

All sections of Subchapter 7 of this Chapter shall be applicable to the ICF/IID-16 facilities and operations.

[Source: Amended at 26 Ok Reg 2059, eff 6-25-09 ; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-9. Resident care services

In accordance with the needs of the residents, Subchapter 9 of this Chapter shall be applicable to the 16 ICF/IID-16 .

[Source: Amended at 26 Ok Reg 2059, eff 6-25-09 ; Amended at 36 Ok Reg 1748, eff 9-13-19]

SUBCHAPTER 13. STAFF REQUIREMENTS

310:675-13-1. Required staff

Sufficient, adequately trained staff shall be on duty, twenty-four hours a day, to meet the needs of all residents residing in the facility without regard to the direct staff ratios.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-2. Staff orientation

All staff shall complete orientation, and specific training, for their respective responsibilities before working without supervision. Staff shall immediately be oriented to the use and location of fire extinguishers, procedures to be followed in the event of a fire and resident rights.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-3. Administrator

- (a) The administrator shall be licensed by the State Board of Examiners for Nursing Home Administrators and has the authority and responsibility for the total operation of the facility, subject only to the policies adopted by the governing authority.
- (b) The facility shall designate a person to act for the administrator during his/her absence. The designated person shall have the authority to exercise normal management responsibilities.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-4. Medical director

- (a) The facility shall designate an Oklahoma licensed medical doctor or osteopathic physician to serve as its medical director.

(b) The medical director shall coordinate the medical services within the facility.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-5. Nursing service

(a) **General.** The nursing facility shall be organized, staffed, and equipped to provide nursing and health related services to all residents on a continuous basis.

(b) **Licenses.** All licensed nurses shall hold a current license issued by the Oklahoma Board of Nursing.

(c) **Director of nursing**

(1) A registered nurse or licensed practical nurse shall be designated as the director of nursing.

(2) The director of nursing shall be on duty on the day shift and be responsible for all resident care including, but not limited to, the physical, mental, and psycho-social needs. The director of nursing or designee shall be available by telephone when needed by facility staff.

(3) When necessary, the director of nursing may work other than the day shift but for no more than three shifts a week. This exception shall not exceed three consecutive weeks in a three month period.

(d) **Licensed nurses**

(1) The facility shall employ licensed nurses for a sufficient number of hours to meet the residents' needs.

(2) A licensed nurse shall supervise direct care staff and shall direct nursing care for the residents.

(3) The facility shall use licensed practical nurses only for the medical procedures for which they are trained.

(e) **Consultant registered nurse**

(1) If the director of nurses is a licensed practical nurse, a registered nurse shall be employed for at least eight hours per week as a consultant.

(2) A consultant registered nurse shall evaluate and consult with the director of nursing concerning residents' needs and shall coordinate the assessment and care plan of each resident.

(3) A consultant registered nurse's visit shall document the date and the hours spent in consultation. The documentation shall be signed and reviewed by the director of nursing.

(f) **Certified medication aide**

(1) Each medication aide shall be a certified nurse aide who has passed a Department approved medication administration program.

(2) A graduate nurse or a graduate practical nurse, who has not yet been licensed, may administer medications if the nurse has passed an approved competency test for medication administration.

(3) A certified medication aide may administer physician ordered medications and treatments under the direction of a licensed

nurse.

(4) The facility shall have a licensed nurse or physician on-call to handle medical emergencies. The charge person shall notify the designated person when a medical emergency arises.

(5) A certified medication aide shall complete eight hours of continuing education a year that is approved by the Department.

(g) Nurse aide

(1) No facility shall use, on a full-time basis, any person as a nurse aide for more than 120 days unless that person is enrolled in a training program.

(2) No facility shall use, on a temporary, per diem, or other basis, any person as a nurse aide unless the individual is listed on the Department's nurse aide registry.

(3) The facility shall contact the Department's nurse aide registry prior to employing a nurse aide to determine if the person is listed on the registry, and if there is any record of abuse, neglect, or misappropriation of resident property.

(h) Nursing students. Facilities participating in a state approved nursing education program may allow nursing students to administer medications to residents. The facility shall have a written agreement with the nursing education program. The agreement shall specify the scope of activities, education level, and required supervision. The facility shall maintain a current roster of nursing students in the program. Details about the program and its operation within the facility shall be included in the facility's policy and procedure manual.

(i) Inservice. The facility shall provide all direct care staff with two hours of inservice training specific to their job assignment per month. This training shall include, at least, the following:

(1) Fire safety and first aid classes semi-annually.

(2) Resident rights and resident adjustment to institutional life annually.

(3) Cardiopulmonary resuscitation and Heimlich maneuver procedures annually.

(4) All supervisory staff shall receive training in regards to applicable local, state, and federal regulations governing the facility.

(5) Each staff person shall be provided training in pain recognition at the time of orientation and at least once a year thereafter.

(6) Each certified nurse aide shall be provided training in pain screening at the time of orientation and at least once every year thereafter.

(7) Each licensed practical nurse shall be provided training in pain screening and pain management at the time of orientation and at least once every year thereafter.

(8) Each registered nurse shall be provided training in pain assessment and pain management at the time of orientation and at least once every year thereafter.

310:675-13-6. Registered/licensed dietician or qualified nutritionist

(a) The facility shall have a registered/licensed dietician or qualified nutritionist to sufficiently meet the needs of all residents. The registered/licensed dietician or qualified nutritionist shall consult with the food service supervisor, director of nursing, administrator and physicians.

(b) The registered/licensed dietician or qualified nutritionist shall supervise and direct the residents' nutritional care, advise and consult with appropriate staff, and provide inservice training for food service personnel and direct care staff.

(c) A qualified nutritionist shall complete eight hours of continuing education a year approved by the Department.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-7. Food service staff

(a) Food service supervisor.

(1) The food service supervisor shall be responsible for all aspects of food service preparation and delivery. The food service supervisor may serve only one facility. The food service supervisor hours shall be sufficient to meet the residents' needs.

(2) The food service supervisor shall complete certification as a dietary manager within three (3) years of beginning employment.

(3) The food service supervisor shall complete, and maintain continuous, ServeSafe food safety certification, or a Department approved alternative, within ninety (90) days of beginning employment.

(b) Food service staff.

(1) The facility shall have food service staff on duty sufficient to meet the residents' needs. There shall be at least one (1) hour of food service staff per three (3) residents, a day based on the daily census.

(2) The food service staff shall complete a basic orientation program before working in the food service area. This orientation shall include, but not be limited to: fire and safety precautions, infection control, and sanitary food handling practices.

(3) Each food service staff member shall successfully complete a food service training program offered or approved by the Department within ninety (90) days of beginning employment. Food service training shall be renewed as required by the authorized training program.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Amended at 25 Ok Reg 2482, eff 7-11-08]

Editor's Note: ¹ See Editor's Note at beginning of this Chapter.

310:675-13-8. Activities personnel

(a) The facility shall have sufficient, trained activities program staff, on duty, to meet the resident's needs. There shall be at least twenty hours per week of designated activity staff.

(b) The activities director shall be qualified by training, or experience, under one of the following:

- (1) An associate degree or a baccalaureate from an accredited university or college in art, music, physical education, recreational therapy, education, or similar program.
- (2) A licensed occupational therapist or an occupational therapy assistant.
- (3) Successful completion of a Department approved training course.
- (4) One year experience in a recreational activity or long term care environment, and is enrolled within 180 days of employment, in a Department approved course for activities directors.

(c) **Department approval of activities director course.** Any person or entity seeking to conduct an approved activities director-qualifying course pursuant to 310:675-13-8(b)(3) (pertaining to successful completion of a department approved course) shall make application to the Department.

(1) **Application Content.** Applications shall include the following information:

- (A) Name and address of the individual or entity applying to sponsor the course;
- (B) Contact person and his or her address, telephone number and fax number;
- (C) Course outlines, which list the summarized topics covered in the course and the time allotted for each topic and, upon request, a copy of any course materials;
- (D) Information as to how the proposed course meets the course content standard provided in Section 310:675-13-8(c)(9);
- (E) A sample certificate of completion;
- (F) Procedures for monitoring attendance; and
- (G) Procedures for evaluating successful course completion.

(2) **Application Review.** The Department shall complete review of the application within thirty (30) calendar days. If the Department finds the application has not addressed all requirements in 310:675-13-8(c)(1) (relating to application content) written notice shall be provided detailing the requirements not met and providing opportunity for amendment to the application.

(3) **Program affiliation.** Training shall be provided through a program sponsored or approved by a nationally affiliated association of providers subject to this chapter, regionally accredited institution of higher learning, Oklahoma career technology center, or nationally recognized professional accrediting body for activity professionals.

(4) **Loss of approval.** The Department may, upon notice and right to hearing, withhold or withdraw approval of any course for violation of or non-compliance with any provision of this section.

(5) **Advertisement.** No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Department. Nor shall any person or entity sponsoring or conducting a course advertise or advise program participants that completion of the program grants a certification. Such person or entity may indicate that the Department has approved the course to qualify for employment as an activities director.

(6) **Failure to prepare.** The Department may, upon notice and right to hearing, decline to renew, or revoke the approval of, any previously approved course upon a showing or demonstration that the course, instructor or entity has substantially failed to adequately prepare its attendees or participants as activity directors.

(7) **Instructor requirements.** Instructors shall have a degree or substantial recent experience in the subject matter being taught, or other educational, teaching, or professional qualifications determined by the course provider.

(8) **Course content.** The course shall address the following content:

(A) The guidance and regulations for activities as detailed in the Centers for Medicare and Medicaid Services, State Operations Manual, Appendix PP - Guidance to Surveyors for Long Term Care Facilities and the Code of Federal Regulations at CFR § 483.15(f);

(B) Oklahoma regulation for activity services as specified at OAC 310:675-9-10.1;

(C) Resident rights as detailed in state and federal statute and regulation;

(D) State and federal statute and regulation for resident protection from abuse, neglect and misappropriation;

(E) Working with volunteers and the community to enhance activity options;

(F) Specialized programming for Alzheimer's and related dementias;

(G) Role play or actual experience in leading group and one-on-one activities programming;

(H) Issues in aging; and,

(I) Infection Control.

(J) Where course content is delivered through Internet or other self-directed media, course content shall include not less than twelve (12) hours of role play or actual experience in leading group and one-on-one activities programming.

(9) **Duration.** The approved course will consist of not less than twenty-four (24) hours of instruction. A course taught in combination with social services director training may share eight (8) hours of programming.

(10) **Certificate.** Participants shall be issued a certificate of attendance indicating the name of the sponsoring entity; participant name; course name; course dates; printed name and signature of official representing the sponsoring entity.

(11) **Course approval expires.** Course approval shall be for a period of three (3) years from the date of approval issuance. In the interest of updated curriculum, reflecting the latest best practice, a new application, and curriculum review are required triennially. Currently approved training programs shall apply under this section within twelve (12) months of the effective date of this rule.

(12) **Continuing education.** This section creates no obligation for continuing education beyond requirements specified otherwise in this Chapter. The Department will not approve continuing education or update courses for activity directors.

(13) **Records retention.** The course sponsor shall maintain course records for at least five (5) years. The Department may order an examination of the records for good cause shown.

(14) **Fee.** A non-refundable application fee of one hundred dollars (\$100) shall be included with each application for course approval.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-13-9. Social services personnel

(a) The facility shall provide sufficient, trained social services staff to meet the resident's needs. There shall be at least thirty (30) minutes per resident a week of designated social service staff based on the daily census. The facility shall have at least twenty (20) hours per week, of designated social service staff, regardless of the number of residents.

(b) The social services director shall be qualified by training, or experience, under one of the following:

(1) A baccalaureate, from an accredited college or university, in social work or in a human services field including, but not limited to, sociology, special education, rehabilitation, counseling or psychology.

(2) Successful completion of the Department approved training course.

(3) One year experience in social work or long term care environment, and is enrolled within 180 days of employment, in a course approved by the Department.

(c) **Department approval of social services director course.** Any person or entity seeking to conduct an approved social services director-qualifying course pursuant to 310:675-13-9(b)(2) (pertaining to successful completion of a department approved course) shall make application to the Department.

(1) **Application Content.** Applications shall include the following information:

(A) Name and address of the individual or entity applying to sponsor the course;

- (B) Contact person and his or her address, telephone number and fax number;
- (C) Course outlines, which list the summarized topics covered in the course and the time allotted for each topic and, upon request, a copy of any course materials;
- (D) Information as to how the proposed course meets the course content standard provided in Section 310:675-13-(c)(9);
- (E) A sample certificate of completion;
- (F) Procedures for monitoring attendance; and
- (G) Procedures for evaluating successful course completion.

(2) **Application Review.** The Department shall complete review of the application within thirty (30) calendar days. If the Department finds the application has not addressed all requirements in 310:675-13-9(c)(1) (relating to application content) written notice shall be provided detailing the requirements not met and providing opportunity for amendment to the application.

(3) **Program affiliation.** Training shall be provided through a program sponsored or approved by a nationally affiliated association of providers subject to this chapter, regionally accredited institution of higher learning, Oklahoma career technology center, or nationally recognized professional accrediting body for activity professionals.

(4) **Loss of approval.** The Department may, upon notice and right to hearing, withhold or withdraw approval of any course for violation of or non-compliance with any provision of this section.

(5) **Advertisement.** No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Department. Nor shall any person or entity sponsoring or conducting a course advertise or advise program participants that completion of the program grants a certification. Such person or entity may indicate that the Department has approved the course to qualify for employment as a social services director.

(6) **Failure to prepare.** The Department may, upon notice and right to hearing, decline to renew, or revoke the approval of, any previously approved course upon a showing or demonstration that the course, instructor or entity has substantially failed to adequately prepare its attendees or participants as activity directors.

(7) **Instructor requirements.** Instructors shall have a degree or substantial recent experience in the subject matter being taught, or other educational, teaching, or professional qualifications determined by the course provider.

(8) **Course content.** The course shall address the following content:

- (A) The guidance and regulations for social services as detailed in the Centers for Medicare and Medicaid Services, State Operations Manual, Appendix PP -

Guidance to Surveyors for Long Term Care Facilities and the Code of Federal Regulations at CFR § 483.15(g);
(B) Oklahoma regulation for social services as specified at OAC 310:675-9-11.1;
(C) Resident rights as detailed in state and federal statute and regulation;
(D) State and federal statute and regulation for resident protection from abuse, neglect and misappropriation;
(E) Alzheimer's and social services;
(F) Issues in Aging; and
(E) Ombudsman services.

(9) **Duration.** The approved course will consist of not less than twenty-four (24) hours of instruction. A course taught in combination with activity director training may share eight (8) hours of programming.

(10) **Certificate.** Participants shall be issued a certificate of attendance indicating the name of the sponsoring entity; participant name; course name; course dates; printed name and signature of official representing the sponsoring entity.

(11) **Course approval expires.** Course approval shall be for a period of three (3) years from the date of approval issuance. In the interest of updated curriculum, reflecting the latest best practice, a new application, and curriculum review are required triennially. Currently approved training programs shall apply under this section within twelve (12) months of the effective date of this rule.

(12) **Continuing education.** This section creates no obligation for continuing education beyond requirements specified otherwise in this Chapter. The Department will not approve continuing education or update courses.

(13) **Records retention.** The course sponsor shall maintain course records for at least five (5) years. The Department may order an examination of the records for good cause shown.

(14) **Fee.** A non-refundable application fee of one hundred dollars (\$100) shall be included with each application for course approval.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-13-10. Maintenance personnel

- (a) The facility shall employ maintenance staff to maintain the facility and equipment in safe working condition.
- (b) Maintenance services may be provided by staff or by a contract. If services are provided by a contract, the facility shall designate an employee to coordinate the maintenance services.
- (c) Each person who provides maintenance services shall have a current license from the state or political subdivision if required to provide such service.
- (d) The maintenance staff shall complete one hour of inservice each quarter relevant to maintenance services.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-11. Housekeeping personnel

- (a) The facility shall employ housekeeping staff in sufficient numbers to maintain the facility in a safe and sanitary manner.
- (b) Housekeeping personnel shall receive effective supervision, orientation and training.
- (c) Housekeeping personnel shall be skilled in the six basic functions of sweeping, mopping, dusting, cleaning, waxing, and polishing.
- (d) The housekeeping staff shall complete one hour of inservice per quarter about housekeeping practices.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-12. Direct care staffing

- (a) Each facility shall maintain at least the minimum direct-care-staff-to-resident ratios specified in the Act at 63:1-1925.2.
- (b) A licensed nurse shall be on duty eight hours a day, seven days a week on the day shift.
- (c) If the director of nursing is a licensed practical nurse, a registered nurse shall be employed for at least eight hours per week as a consultant.
- (d) There shall be a licensed nurse on duty twenty-four hours per day; provided however, that a facility licensed as a specialized facility for individuals with intellectual disabilities shall only be required to provide 24 hour nursing when it has a resident who has a medical care plan. The department may waive this requirement when the facility demonstrates it has been unable, despite diligent effort, to recruit licensed nurses. The Department shall determine that a waiver of this requirement will not endanger the health or safety of the residents.
- (e) There shall be at least one certified medication aide on duty when any shift is not covered by a licensed nurse.
- (f) At least two direct care staff persons shall be on duty and awake at all times regardless of the number of residents.
- (g) Willful violation of the requirements regarding direct-care staff shall be determined based on a review of facility staffing records and interviews with staff, residents, resident family members and/or guardians, and other parties which may have information relevant to the investigation. The determination by the Department of Health will

include, but will not be limited to, the following factors:

- (1) The nature, circumstances and gravity of the violations;
- (2) The repetitive nature of the violations at the facility or others operated by the same or related entities;
- (3) The previous degree of difficulty in obtaining compliance with the rules at the facility or others operated by the same or related entities; and
- (4) Any substantial showing of good faith in attempting to achieve continuing compliance with the provisions of the Nursing Home Care Act.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Amended at 10 Ok Reg 4227, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3851, eff 7-11-94 ; Amended at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 18 Ok Reg 3599, eff 8-22-01 through 7-14-02 (emergency)¹; Amended at 20 Ok Reg 2399, eff 7-11-03 ; Amended at 36 Ok Reg 1748, eff 9-13-19]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), the text of 310:675-13-12 reverted back to the permanent text that became effective 6-25-01, as was last published in the 2001 Edition of the OAC, and remained as such until amended by permanent action on 7-11-03.*

310:675-13-13. Assignment of deficiency to staff shortages [EXPIRED]

[Source: Added at 18 Ok Reg 3599, eff 8-22-01 through 7-14-02 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), Section 310:675-13-13 was no longer effective. For the official text of the emergency rule that was in effect from 8-22-01 through 7-14-02, see 18 Ok Reg 3599.*

310:675-13-14. Twenty-four-hour-based staff-scheduling and eligibility requirements

(a) **Implementing twenty-four-hour-based staff scheduling.** Nursing facilities subject to the Nursing Home Care Act and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) with seventeen or more beds may implement twenty-four-hour-based staff scheduling consistent with the requirements established by law at 63 O.S. 1-1925.2(B)(5).

(b) **Loss of twenty-four-hour-based staffing privileges.** The Department shall require a facility to maintain the shift based staff-to-resident ratios provided in 63 O.S. 1-1925(B)(3), if the facility has been determined by the Department to meet the disqualifying criteria in 63

O.S. 1-1925.2(B)(6), relating to staffing levels, fraudulent Quality of Care reports, or findings of substandard quality of care as a result of insufficient staffing. For intermediate care facilities for individuals with intellectual disabilities, loss of eligibility shall include findings of non-compliance with the Condition of Participation at 42 CFR 483.430 (2011), Facility Staffing.

(c) **Eligibility requirements following loss of twenty-four-hour-based staffing.** Prior to a facility resuming eligibility for twenty-four-hour-based staffing privileges, the Department shall require that the facility maintain the shift-based, staff-to-resident ratios in 63 O.S. 1-1925.2(B)(3) for at least three (3) months and has corrected any deficiency described in (b) of this section.

(d) **Right to Appeal.** *Facilities shall have the right to appeal and to the informal dispute resolution process with regard to penalties and sanctions imposed due to staffing noncompliance.* [63:1-1925.2(E)].

(e) **Quality of Care Report Requirement.** Staffing hours reported to the Oklahoma Health Care Authority shall be submitted electronically through OHCA's Quality of Care (QOC) portal.

(f) **Twenty-four-hour-based staffing in intermediate care facilities for individuals with intellectual disabilities (ICFs/IIDs) with sixteen or less beds.** ICFs/IIDs with sixteen or less beds shall be authorized to use the twenty-four-hour-based staffing requirements specified in (c) and (d) of 42 CFR 483.430 (2011).

(g)

Shift-based ratios for noncompliant facilities. This paragraph implements 63:1-1925.2(F)(4).

(1) When the provisions of 63:1-1925.2(F)(1) are in effect, pursuant to 63:1-1925.2(B)(7), the following minimum direct-care-staff-to-resident ratios for non-compliant facilities shall apply in addition to other state and federal requirements related to the staffing of nursing facilities:

(A) From 7:00 a.m. to 3:00 p.m., one direct-care staff to every five residents,

(B) From 3:00 p.m. to 11:00 p.m., one direct-care staff to every seven residents, and

(C) From 11:00 p.m. to 7:00 a.m., one direct-care staff to every thirteen residents.

(2) When the provisions of 63:1-1925.2(F)(2) are in effect, pursuant to 63:1-1925.2(B)(7), the following minimum direct-care-staff-to-resident ratios for non-compliant facilities shall apply in addition to other state and federal requirements related to the staffing of nursing facilities:

(A) From 7:00 a.m. to 3:00 p.m., one direct-care staff to every five residents,

(B) From 3:00 p.m. to 11:00 p.m., one direct-care staff to every six residents, and

(C) From 11:00 p.m. to 7:00 a.m., one direct-care staff to every eleven residents.

(3) When the provisions of 63:1-1925.2(F)(3) are in effect, pursuant to 63:1-1925.2(B)(7), the following minimum direct-care-staff-to-resident ratios for non-compliant facilities shall apply in

addition to other state and federal requirements related to the staffing of nursing facilities:

- (A) From 7:00 a.m. to 3:00 p.m., one direct-care staff to every four residents,
- (B) From 3:00 p.m. to 11:00 p.m., one direct-care staff to every six residents, and
- (C) From 11:00 p.m. to 7:00 a.m., one direct-care staff to every eleven residents.

[Source: Added at 21 Ok Reg 987, eff 3-30-04 (emergency); Added at 21 Ok Reg 1317, eff 5-27-04 ; Amended at 36 Ok Reg 1748, eff 9-13-19 ; Amended at 37 Ok Reg 1453, eff 9-11-20]

SUBCHAPTER 15. TEMPORARY MANAGER OR RECEIVER

310:675-15-1. Qualifications

To be qualified as a temporary manager, any individual involved shall:

- (1) be at least twenty-one (21) years of age;
- (2) Meet the requirements for certificate of need as specified in 63 O.S. § 1-853 and in OAC 310:4-1-7.1;
- (3) have never been convicted of a felony that would have a bearing on the operation of a facility or any offense involving dishonesty or any crime as listed in 63 O.S. §1-1950.1;
- (4) have never been disciplined for misconduct by any licensing board or professional society in any state;
- (5) have no financial interest, either direct or through an immediate family member as detailed in OAC 310:675-15-2(a)(6), in the facility proposed to be managed;
- (6) have not served within the past two (2) years as a member of the staff or as an owner of the facility proposed to be managed, or as an employee of the owner of the facility proposed to be managed; and
- (7) be an Oklahoma licensed nursing home administrator or employ an Oklahoma licensed nursing home administrator.

[Source: Added at 13 Ok Reg 2511, eff 6-27-96 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-2. Temporary manager list

(a) Any person may apply to be a qualified temporary manager by filing a written request with the Department. The request shall be made on a form published by the Department that shall require information sufficient to establish the person's or corporation's qualifications, including:

- (1) age of each person with a controlling interest;
- (2) education of each person with a controlling interest;
- (3) names and locations of facilities with which the person or corporation has been involved, dates of involvement and

descriptions of responsibilities and duties and specific deficiencies which required significant corrections in a timely or emergency manner;

(4) disclosure of any felony conviction of each person to work in the facility or be responsible for resident or facility funds, regardless of whether or not the person believes the conviction bears on the operation of a facility and submission of the results of a check, conducted no more than thirty (30) days prior to application, of criminal arrest records maintained by the Oklahoma State Bureau of Investigation;

(5) disclosure of any disciplinary action against any person who will provide services to the facility by any licensing board or professional society in any state;

(6) disclosure of any financial interest in any facility in Oklahoma on the part of the proposed manager or the manager's immediate family, including the manager's husband or wife, child or sibling, stepparent, stepchild, stepbrother or stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent or grandchild or of any other person who will provide services to the facility;

(7) the Oklahoma nursing home administrator's license number of the manager or the nursing home administrator to be employed;

(8) a list of any person who will work at the facility along with their qualifications and information as listed above;

(9) a statement of the expected involvement in the operation of the facility of each principal, including an estimate of the amount of time that will be spent by each principal at the facility and the services to be provided by you or your company as part of the temporary manager fee or as additional costs to the facility;

(10) the basis on which the amount of the fee will be calculated;

(11) an attestation to the truthfulness of the information submitted; and

(12) the address, telephone number, fax number, and email address for contacting the temporary manager at all times.

(b) Within thirty (30) days after receipt of the complete request, the Commissioner shall approve or deny the person's request to be included on the temporary manager list. The criteria for approval to serve as a temporary manager shall be:

(1) Evaluation of the information submitted and the requirements of the temporary manager program as specified in OAC 310:675-15-1;

(2) If the applicant has operated a facility, the operational history of the applicant;

(3) If the applicant has served as a temporary manager anywhere in the United States, the operational history of any managership;

(4) The history of the applicant in complying with orders of the Department or Commissioner or those of other states or the federal government or a final order of a court of record.

(c) The approval or denial of inclusion on the list of temporary managers is a discretionary function and does not create any rights to due process for the applicant.

- (d) The Commissioner shall specify the reasons the applicant is disqualified from managing any facility.
- (e) No former employee of the Department shall be eligible to serve as a temporary manager or be employed by a temporary manager until at least twelve (12) months has passed since the termination of that employment. The circumstances of that termination shall be considered in the review of the application.
- (f) No person who has been convicted of any crime listed in 63 O.S. §1-1950.1 shall be appointed as a temporary manager nor shall any such person be an employee of a temporary manager or work for the temporary manager in the service of the facility.
- (g) Placement of a person or corporation on the temporary manager list does not ensure that that entity will ever be appointed. Placement on the list of temporary managers does not create a right to appointment.

[Source: Added at 13 Ok Reg 2511, eff 6-27-96 ; Amended at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-3. Power and duties of temporary manager

- (a) The temporary manager shall have the power and duty to:
 - (1) be oriented to the facility's conditions, including uncorrected deficiencies;
 - (2) hire, terminate, or reassign staff;
 - (3) obligate facility funds;
 - (4) alter facility procedures;
 - (5) manage the facility in order to correct deficiencies in the facility's operation;
 - (6) assure health and safety of the facility's residents while corrections are being made;
 - (7) oversee the facility's orderly closure, if necessary;
 - (8) maintain confidentiality of facility information; and
 - (9) Pay all usual and customary operating expenses incurred during the managership in an orderly business fashion.
- (b) A temporary manager shall not:
 - (1) Commingle the funds of one facility with the funds of another;
 - (2) Loan the funds derived from the operation of the facility;
 - (3) Contract with any entity in which he has any ownership interest or in which he serves as an officer or director or in which a person related to him by blood or marriage has an ownership interest or in which the family member serves as an officer or director unless the Commissioner reviews and approves the contract as on common terms within the industry; or
 - (4) Use a method of accounting other than the accrual method unless approved in advance in writing by the Commissioner. The temporary manager's use of any other accounting method not approved by the Commissioner is a material breach of the temporary manager's fiduciary duty.
- (c) The temporary manager shall report to the Commissioner on a monthly basis as specified in OAC 310:675-15-12. The report shall include at least the following:

- (1) Resident census and staffing levels at the facility during the last month;
 - (2) A statement of income and expenses during the last month using the accrual method of accounting, unless the Commissioner approves the use of another accounting method;
 - (3) A financial statement of the residents' trust funds;
 - (4) A list of all persons provided to the facility by the temporary manager and, if any were not included in the original application, current information as required in OAC 310:675-15-1;
 - (5) Any changes needed in the approved work plan; and
 - (6) The specific number of hours the temporary manager and each person employed by the temporary manager was in the facility and a list of the services provided to the facility.
- (d) The temporary manager shall provide a preliminary work plan to the Department within 5 business days of assuming control of the facility and a final plan within 14 days. The Department shall review the plan and make any recommended changes at the first status conference.
- (e) The temporary manager shall contract with the owner of the building and the licensee in which the facility is being operated. Those contract(s) shall be presented at the first status conference. The Department shall have the opportunity to evaluate the contract and make suggestions. The Commissioner must approve or reject the contract by the second status conference.
- (f) If immediate jeopardy exists in the facility, the first status conference shall be conducted on or before the fourteenth day of control by the temporary manager.
- (g) In using the accrual method of accounting, the temporary manager shall recognize revenue in the period earned whether actually received or not. Additionally, the temporary manager shall recognize expenses when incurred and matched with the related revenue of the period, whether such expenses are actually paid or not.

[Source: Added at 13 Ok Reg 2511, eff 6-27-96 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-3.1. Advance of funds to temporary manager

- (a) A temporary manager appointed by the Commissioner may request an advance of funds from the Department pursuant to 63 O.S. Supp. 2005 Section 1-1914.2(G) to assist in the continuation of care to facility residents if sufficient funds are not available from other sources. Continuation of care to facility residents may include closure of the facility and transfer of residents to another facility.
- (b) The temporary manager shall submit the request for an advance of funds to the Department on the form described in (c) of this section. The request shall include a demonstration to the Commissioner's satisfaction that funds are needed but not available from sources including but not limited to:
- (1) The facility's owner;
 - (2) Revenues due from residents and third-party payers, including Medicare and Medicaid revenues; and
 - (3) The facility's operating accounts.

- (c) The application form for request of funds shall require the following:
- (1) Documentation that the temporary manager has attempted to secure funds from other sources, including documentation showing that the temporary manager has made a funding request to the facility's owner;
 - (2) Projections of the funds needed to support the facility's operations based on information reasonably available to the temporary manager such as the facility's financial records and/or cost reports filed with third-party payers;
 - (3) An affidavit to be completed by the temporary manager if the owner fails to provide funds to the temporary manager as required by order of the Commissioner; and
 - (4) A statement to be signed under oath by the temporary manager that the information provided in the application is true and complete.
- (d) Upon receipt of a completed application that demonstrates to the Commissioner's satisfaction the unavailability of sufficient funds from other sources, the Commissioner shall issue a written order with the following provisions:
- (1) Direction to the facility owner to respond to the Department in writing and to make funds available to the temporary manager within 48 hours of issuance of the order;
 - (2) Notice to the facility owner that the owner's failure to provide sufficient funds shall result in action against the owner under the Nursing Home Care Act to suspend, revoke, and/or refuse to issue or renew the facility's license, and to impose an administrative penalty;
 - (3) Notice to the facility owner of the provision in 63 O.S. Supp. Section 1-1914.2(G) that such advances by the Department if not repaid in full shall constitute a lien against any and all assets of the owner; and
 - (4) Direction to the temporary manager to advise the Department immediately if funds are provided as required by the facility owner, and/or to submit to the Department the completed and sworn form confirming that funds were not provided to the temporary manager as ordered in (f)(1) of this section.
- (e) If the Commissioner determines that the Department will advance funds to the temporary manager, the amount of funds advanced by the Department shall not exceed one month of projected operating expenses for the facility.
- (f) The temporary manager shall notify the Department within 24 hours after a change in the information presented in the application, including changes in the operating budget or in the availability of funds from other sources.
- (g) The advance of funds pursuant to this section is solely at the discretion of the Commissioner. The request may be denied for reasons including but not limited to the Commissioner's assessment that the Department does not have discretionary funds adequate to support the request, that other funding sources are available to the temporary manager, or that the funds are not needed to support operation of the facility. The temporary manager has no right to funds from the

Department.

[Source: Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-15-4. Conditions for a temporary manager

(a) The owner of the building and the licensee of a facility which is placed under a temporary manager shall:

- (1) relinquish control of the facility and the building, equipment, food and supplies to the temporary manager which makes the temporary manager an agent of the licensee;
- (2) not attempt to retain final authority to approve personnel changes or expenditures of facility funds; and
- (3) give the temporary manager access to all facility financial accounts, including access to Medicare and Medicaid receipts and resident trust funds.

(b) The owner of the building and the licensee shall contract with the temporary manager subject to the approval of the Department. The contract(s) shall include the method by which the temporary manager shall be paid for particular services, the use of facility funds by the temporary manager for the cost incurred for operation of the facility and payment to the building owner for use of the building as a usual cost of operation of a facility.

(c) Should an existing lease be cancelled by the owner of the building, the owner shall contract with the temporary manager for use of the facility on terms not to exceed the original lease.

(d) Should a licensee be unable to contract with the temporary manager, the owner of the building will be asked to contract with the temporary manager for operations of the facility. The licensee and any individual owners of the licensee remain responsible for any liability incurred in the operation of the facility. If the temporary manager cannot contract with the licensee or owner of the facility, the temporary manager shall move to close the facility following the procedures established otherwise in this Chapter.

[Source: Added at 13 Ok Reg 2511, eff 6-27-96 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-5. Notice of placing a temporary manager

(a) Before placing a temporary manager in a facility, the Department shall give the owner of the building and the licensee, if different, advance written notice of intent as follows:

- (1) fifteen (15) days notice if residents have experienced widespread actual harm but are not in immediate jeopardy; or
- (2) two (2) days notice if residents are in immediate jeopardy; or
- (3) two (2) days notice if the facility is operating without a license.

(b) If the Commissioner determines that conditions at a facility represent immediate jeopardy to residents and that the notice required in (a) of this section is likely to result in irreparable harm to residents, the Commissioner shall declare an emergency and appoint a temporary manager without prior notice to the owner of the building or the licensee. Upon appointing a temporary manager without prior notice, the

Commissioner shall notify the owner of the building and the licensee of the right to a hearing as provided in 63 O.S. Section 1-1914.2(B) and (C).
(c) Written notice shall also be given to the Oklahoma Health Care Authority.

[Source: Added at 13 Ok Reg 2511, eff 6-27-96 ; Amended at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-6. Procedures for appointing qualified temporary managers

(a) Prior to appointing a temporary manager, the Commissioner shall serve a written notice and request for information to be sent by facsimile or electronic mail to each qualified temporary manager, to include:

- (1) A statement of the size, location and current occupancy of the facility, and a general statement of the anticipated justification for appointing a temporary manager;
- (2) A request for confirmation of the temporary manager's current availability to accept appointment;
- (3) A request for confirmation of the temporary manager's lack of financial interest in the facility, in other facilities operated by the same entity that operated the facility to be managed, or in any entity related to the entity that operated the facility to be managed; and
- (4) A deadline for reply from each potential temporary manager.

(b) The potential temporary manager shall reply by the date and time specified on the notice and shall include all information requested in the notice. The Department may give short notice in the case of an emergency and the temporary manager may be required to take over a facility in less than 24 hours. This information shall be included in the notice of pending appointment.

(c) The decision of the Commissioner and Department to appoint a specific temporary manager is a discretionary decision and does not create any individual rights including the right to an administrative hearing or appeal of that decision.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-7. Criteria for appointment

The Commissioner shall not appoint a temporary manager to a facility unless the Commissioner determines in writing that:

- (1) The temporary manager has submitted a complete application as required in OAC 310:675-15-2;
- (2) The temporary manager meets all qualifications required in OAC 310:675-15-1;
- (3) The temporary manager has the requisite resources to provide for the continued protection of the health and safety of all residents of the facility;
- (4) The temporary manager has not been given undue preference in the appointment, taking into consideration the length of time since the qualified temporary manager was last appointed relative

- to the appointments of other temporary managers; and
- (5) If the temporary manager is a corporation it has:
- (A) Disclosed for all the persons with a controlling interest, officers and directors of the corporation in the application along with the information required for each individual in 310:15-1-1;
 - (B) Disclosed a list of all persons who will serve in the facility as part of the services provided by or through the temporary manager along with attestation that each person serving in the facility meets the qualification in 310:675-15-1(a)(1), (3), (4), (5) & (7) above; and
 - (C) Provided evidence of the experience of the corporation and the team in providing services to a facility in danger of decertification or loss of license.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-8. Procedures for appointment

- (a) Prior to appointing a temporary manager the Department shall contact the Office of the Long Term Care Ombudsman to advise of the likely appointment, and to request information from that office concerning the temporary manager's record of involvement with the Ombudsman.
- (b) Failure of the Office of the Long Term Care Ombudsman to respond by the deadline shall not prohibit the Commissioner from appointing the temporary manager.
- (c) The Department shall comply with applicable requirements in 42 CFR Sections 488.410, 488.415 and 488.424 when appointing a temporary manager to correct deficiencies or remove an immediate jeopardy to resident health or safety in a facility pursuant to Title XVIII or XIX of the Social Security Act.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-9. Required findings

- The Commissioner shall not appoint a temporary manager to a facility unless the Commissioner determines in writing that:
- (1) The temporary manager has submitted a complete application as required in OAC 310:675-15-2;
 - (2) The temporary manager meets all qualifications required in OAC 310:675-15-1 and 15-7; and
 - (3) The temporary manager has the requisite resources to provide for the continued protection of the health and safety of all residents of the facility.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-10. Periodic review

A potential temporary manager's qualification shall be effective for one year from the date of approval of the application to be listed as a qualified temporary manager. In order to be renewed for qualification, the potential temporary manager shall submit a new application for review and approval pursuant to OAC 310:675-15-2.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01 ; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-11. Bond

(a) A temporary manager may be required to obtain a bond in the amount of up to \$100,000.00 or 150% of the average revenue of the facility for the last three full months before placement of the temporary manager, whichever is greater, as necessary to ensure that the assets relinquished by the facility to the temporary manager are used for the benefit of residents.

(b) A bond shall be posted upon appointment and payable to the Department.

(c) The requirement for the amount of the bond may be established and modified from time to time by the Commissioner based on the amount of revenue and other financial assets relinquished by the facility to the temporary manager.

[Source: Reserved at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-12. Monthly status conference

(a) Whenever a temporary manager is appointed, the Commissioner shall establish a schedule for the submission and review of monthly reports. Each monthly report shall be filed in the Department by the temporary manager not later than 25 days following the end of each month. The temporary manager shall send a copy of each report to the licensee and owner of the facility.

(b) The temporary manager shall provide:

(1) All information to be submitted as specified in OAC 310:675-15-3.

(2) Progress report or amendments to a plan of correction for outstanding deficiencies or violations of the law;

(3) Any desired amendments to the management plan and reasons therefore;

(c) The Department shall present to the Commissioner, the temporary manager, and the licensee and owner:

(1) An independent report on the status of the facility based on a visit to the facility by a team sufficient to evaluate the current status.

(2) Recommendations on any changes to the management plan;

(d) The Commissioner may schedule hearings for presentations and decisions on differences between the Department and the Temporary Manager.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-13. Removal of the temporary manager

- (a) A temporary manager may be removed at the discretion of the Commissioner.
- (b) A temporary manager shall be removed in the following situations:
 - (1) A conflict of interest arises which would have prohibited the initial appointment;
 - (2) Another facility owned or operated by the temporary manager has been given notice of potential termination or other enforcement action taken by the Department;
 - (3) The temporary manager has filed for bankruptcy protection for any business or personal operation during the pendency of the managership;
 - (4) Conviction of a crime as specified in 63 O.S. § 1-1950.1;
 - (5) Failure to comply with requirements of this subchapter; or
 - (6) *The facility is and will continue to be in substantial compliance with the Nursing Home Care Act* [63:1-1914.2(L)(1)] and OAC 310:675.
- (c) A temporary manager shall be removed when the Department approves a new owner or operator.
- (d) The temporary managership continues and the temporary manager remains responsible for facility funds until released by the Department after distribution of all assets held by the temporary manager.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-14. Administrative penalties

The Department may assess administrative penalties against a temporary manager for failure to follow the Nursing Home Care Act or this Chapter under the procedure used for all licensees unless the responsibility was that of the former operator.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-15. License

Upon the temporary manager's appointment, compliance with the bonding provisions of section 15-11 above, and submittal of a license application, the Department shall issue a license to the facility identifying the temporary manager. Such license shall not create any property rights with the temporary manager and shall terminate with termination of the managership.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-16. Final accounting

(a) Within 30 days of the end of a temporary managership for any reason, the temporary manager shall file a written final accounting with the Department. The temporary manager shall use the accrual method of accounting, unless the Commissioner finds good cause for the temporary manager to use another method of accounting. The accounting shall include all documents specified in the "Administrative Order Removing the Temporary Manager and Revoking the Conditional License" which is issued by the Commissioner of Health.

(b) No funds shall be paid to the former licensee, the owner of the building or the new licensee without the express consent of the Commissioner. The Commissioner shall issue an order for distribution of any excess operating revenue over expenses at the close of the managership.

(c) The temporary manager shall continue to report to the Department until released by the Commissioner.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02 ; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-17. Receiver

(a) The Department may petition the court to place a facility under control of a receiver pursuant to 63:1-1930.2, instead of or in addition to appointing a temporary manager.

(b) Any person may submit a written request to the Department to be included as a receiver on the list maintained by the Department pursuant to 63 O.S. Section 1-1930.3. A person's inclusion on the receiver list shall not be represented as an approval or qualification by the Department to operate a facility. The list provided by the Department to the court may include information on the requirements for a facility license.

[Source: Added at 20 Ok Reg 2399, eff 7-11-03]

SUBCHAPTER 17. INSPECTION PROTOCOLS

310:675-17-1. Duties of quality assurance officer

The department shall employ a Quality Assurance Officer to perform the following tasks:

- (1) review statistical reports of survey finding frequency by surveyor and survey team;
- (2) review statistical reports of survey team time spent on survey;
- and
- (3) review written deficiencies to compare findings by surveyor and survey team.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01]

310:675-17-2. Quality assurance observations and reviews

The Quality Assurance Officer shall observe individual surveyor and survey team performance for adherence to survey protocol no less than

once every 6 months. The results of these observations and reviews in conjunction with the Federal Oversight and Support Survey findings will be used by the Quality Assurance Officer to identify and implement necessary training interventions.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01]

310:675-17-3. Acceptable Plan of Correction

(a) All facilities having deficiencies must submit an acceptable plan of correction within *ten (10) working days after receipt of notice of violation* [63:1-1914.A.]. An acceptable plan of correction must:

- (1) Address how corrective action will be accomplished for those residents and/or clients found to have been affected by the deficient practice.
- (2) Address how the facility will identify other residents and/or clients having the potential to be affected by the same deficient practice. Plans of correction specific to residents identified on the deficiency statement are acceptable only where the deficiency is determined to be unique to that resident and not indicative of a possible systemic problem.
- (3) Address what measures will be put into place or systemic changes made to ensure that the deficient practice will not recur.
- (4) Indicate how the facility plans to monitor its performance to make sure that solutions are sustained. The facility shall develop a plan for ensuring that correction is achieved and sustained. This plan must be implemented, and the corrective action evaluated for its effectiveness. The plan of correction shall be incorporated into the quality assurance system. At the revisit, the quality assurance plan shall be reviewed to determine the earliest date of compliance. If there is no evidence of quality assurance being implemented, the earliest correction date will be the date of the revisit.
- (5) Include dates when corrective action will be completed for each violation. The corrective action completion dates shall not *exceed sixty (60) days* [63:1-1914.A.] from receipt of notice of violation.
- (6) Be signed by the administrator.

(b) Upon written request from the facility, the Department may extend the time period within which the violations are to be corrected *where correction involves substantial structural improvement* [63:1-1914.A.].

(c) The department shall provide written notice of the acceptance or rejection of a plan of correction. If the Department finds that the plan of correction does not meet the requirements for an acceptable plan of correction as specified in OAC 310:675-17-3(a) the Department shall provide *notice of the rejection and the reason for the rejection to the facility. The facility shall have ten (10) working days after receipt of the notice of rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the Department shall impose a plan of correction, which the facility shall follow* [63:1-1914.A.].

- (d) Acceptance of the plan of correction by the Department does not absolve the facility of the responsibility for compliance should the implementation not result in correction and compliance. Acceptance indicates the Department's acknowledgment that the facility indicated a willingness and ability to make corrections adequately and timely.
- (e) *If the violation has been corrected prior to submission and approval of a plan of correction, the facility may submit a report of correction in place of a plan of correction* [63:1-1914.B.]. The report of correction shall address those requirements specified in OAC 310:675-17-3(a).
- (f) As specified in 63 O.S. § 1-1914.C., facilities may request an extended correction time.
- (g) As specified in 63 O.S. § 1-1914.D., facilities may contest any Department action under this section.

[Source: Added at 20 Ok Reg 2399, eff 7-11-03]

SUBCHAPTER 19. FEEDING ASSISTANTS

310:675-19-1. Purpose

This Subchapter establishes standards for training and registration of feeding assistants in Oklahoma in accordance with 42 Code of Federal Regulations Parts 483 and 488. The intent is to give nursing, specialized nursing, and skilled nursing facilities the option to use paid feeding assistants, allowing them to provide more residents with help in eating and drinking and reduce the incidence of unplanned weight loss and dehydration.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-2. Definitions

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

"Feeding assistant" *means an individual who is paid to feed residents by a facility or who is used under an arrangement with another agency or organization and meets the requirements cited in 42 CFR Parts 483 and 488* [63:1-1951(F)(1)].

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-3. Training course

(a) The following training curricula are approved as training courses and meet the requirements specified in 42 CFR 483.160(a):

- (1) Eating Matters: A Training Manual for Feeding Assistants, published by the American Dietetic Association, 2003 edition; and Eating Matters: Feeding Assistants Manual, published by the American Dietetic Association, 2003 edition; or
- (2) Assisted Dining: The Role and Skills of Feeding Assistants, published by the American Health Care Association, 2003 edition.

- (b) A feeding assistant training course must consist of at least eight (8) hours of training in the required areas of instruction.
- (c) A feeding assistant training course instructor must hold a current valid license as:
 - (1) A registered nurse;
 - (2) A licensed practical nurse;
 - (3) A registered dietitian;
 - (4) A speech-language pathologist or speech therapist; or
 - (5) An occupational therapist.
- (d) Successful completion of a training course is based upon the instructor's assessment using a staff competency checklist that conforms to OAC 310:675-19-8.
- (e) The training course must provide a certificate of completion within 30 days of course completion to each individual who successfully completed the course. The certificate shall conform to OAC 310:675-19-8.
- (f) The Department will not restrict an individual from repeating a training course. The training course may establish limits on the number of times an individual may repeat the course after unsuccessful attempts.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-4. Facility requirements

- (a) The nursing facility, specialized nursing facility, or skilled nursing facility must maintain a record of each individual who has successfully completed the approved training course. For each individual feeding assistant employed by the facility, the facility must maintain:
 - (1) A copy of a staff competency checklist completed and signed by the instructor on the form specified in OAC 310:675-19-8;
 - (2) A copy of a certificate of completion signed by the instructor on the form specified in OAC 310:675-19-8;
 - (3) Verification that the facility checked with the Feeding Assistant Registry to ensure the individual is eligible for employment; and
 - (4) Verification of compliance with the Criminal History Background Check in 63 O.S. Supp. 2004, Section 1-1950.1.
- (b) Each feeding assistant must work under the supervision of a registered nurse or licensed practical nurse. In an emergency, the feeding assistant must call a supervisory nurse for help using the resident call system if the nurse is not present during the feeding of a resident.
- (c) The facility must ensure that a feeding assistant only assists residents who have no complicated feeding problems. The facility must base resident selection on the charge nurse's assessment and the resident's latest assessment and plan of care. Complicated feeding problems include but are not limited to:
 - (1) Difficulty swallowing;
 - (2) Recurrent lung aspirations; or
 - (3) Tube or parenteral/IV feedings.
- (d) Instructor time shall not count toward minimum staffing requirements.

(e) The facility shall check the Feeding Assistant Registry before hiring a person to work as a feeding assistant. If the registry indicates that the individual has been found to be personally responsible for abuse, neglect, exploitation, or misappropriation of resident property, that individual shall not be hired by the facility.

(f) The facility must maintain proof of compliance with this subchapter at all times at the facility site.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-5. Feeding assistant registry

The Department shall maintain a feeding assistant registry consistent with the registry operation described in OAC 310:677-5-2(c). The registry shall contain information consistent with that described in 63 O.S. Supp. 2004, Section 1-1951(D)(3).

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-6. Feeding assistant registration

(a) An individual may perform the services of a feeding assistant upon successful completion of an approved training course and shall submit a Feeding Assistant Registration Application to the Department on the form specified in 310:675-19-8.

(b) Each registered feeding assistant shall renew individual registration once every twenty-four (24) months. The individual shall submit a Feeding Assistant Renewal Application with proof that within the past twenty-four (24) months they have:

(1) Worked at least eight (8) hours for compensation as a feeding assistant; or

(2) Completed another eight (8) hour training course that complies with OAC 310:675-19-3.

(c) A non-refundable application fee of ten dollars (\$10) shall be included with an application for initial or renewal registration.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06 ; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-19-7. Revocation, suspension and denial

(a) The State Health Department's procedure afforded a feeding assistant for purposes of investigating, hearing, and making findings on allegations of abuse, neglect, exploitation, or misappropriation of resident property, shall be not less than the process afforded nurse aides pursuant to Title 63 O.S. Supp. 2004 Section 1-1951(D)(4) through (12).

(b) A feeding assistant's registration may be revoked, suspended or denied if the Department determines with clear and convincing evidence that an individual has been responsible for any of the following:

- (1) Abuse;
- (2) Neglect;
- (3) Exploitation; or
- (4) Misappropriation of resident or client property.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-8. Feeding assistant forms

The forms used for this subchapter are the following.

(1) **Staff competency checklist.** A training course using the curriculum specified in 310:675-19-3(a)(1) may use the checklist provided with that curriculum or the checklist provided by the Department. Other training courses shall use the checklist provided by the Department. The competency checklist provided by the Department requires the following:

- (A) The name of the person being trained;
- (B) Evaluation of skills task performances including:
 - (i) Safety and emergency procedures including the Heimlich maneuver;
 - (ii) Sanitation and washing hands;
 - (iii) Serving a meal tray;
 - (iv) Assistance with resident requiring total feeding;
 - (v) Serving supplemental nourishments; and
 - (vi) Serving fresh drinking water;
- (C) The date of the evaluation; and
- (D) Name and signature of the instructor.

(2) **Certificate of completion.** A training course using the curriculum specified in 310:675-19-3(a)(1) may use the certificate of completion provided with that curriculum or the certificate provided by the Department. Other training courses shall use the certificate provided by the Department. The certificate of completion provided by the Department requires the following:

- (A) Name of the person being trained;
- (B) Name of the curriculum;
- (C) Location where the training occurred;
- (D) Date training was completed;
- (E) A statement that the person successfully completed eight hours of training to become a feeding assistant; and
- (F) Name and signature of the instructor.

(3) **Feeding assistant registration application.** The application form requires the following for each individual:

- (A) Name;
- (B) Date of birth;
- (C) Contact information;
- (D) Information sufficient to identify the individual including social security number;
- (E) A copy of the certificate of completion from a training course that meets the requirements of OAC 310:675-19-3; and
- (F) Applicant's signature affirming the truthfulness and completeness of the application.

(4) **Feeding assistant renewal application.** The application form requires the following for each individual:

- (A) Name;
- (B) Date of birth;
- (C) Contact information;
- (D) Information sufficient to identify the individual including social security number;
- (E) Proof of work experience or retraining as required in OAC 310:675-19-6(c); and
- (F) Applicant's signature affirming the truthfulness and completeness of the application.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

SUBCHAPTER 21. ENFORCEMENT AND REGISTRY HEARINGS FOR NONTECHNICAL SERVICES WORKERS

310:675-21-1. Purpose

The purpose of this Subchapter is to implement the Nontechnical Services Workers Abuse Registry, 63 O.S. Section 1-1950.6 through 1-1950.9. For the purposes of this subchapter, abuse, verbal abuse, and exploitation, shall have the meaning assigned in Section 10-103 of Title 43A of the Oklahoma Statutes.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07 ¹; Added at 25 Ok Reg 2482, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:675-21-2. Complaint investigation

(a) Process. Upon receipt of a complaint against a non-technical service worker alleging abuse, verbal abuse, or exploitation of a resident within a nursing facility, or upon completion of a survey of a nursing facility by the Department with a finding that a non-technical service worker abused, verbally abused, or exploited a resident, the Department shall conduct an investigation. Upon completion of the investigation, a written report will

be prepared. If sufficient evidence exists to initiate an individual proceeding, notice of the investigative findings and an opportunity for hearing will be prepared and served upon the nontechnical services worker.

(b) **Timeline for reporting.** The facility shall report to the Department allegations and incidents of abuse, verbal abuse, or exploitation by a non-technical service worker within twenty-four (24) hours.

(c) **Reporting non-technical service workers.** The facility shall report to the Department allegations and incidents of abuse, verbal abuse, or exploitation by a non-technical service worker by submitting the following:

- (1) facility name, address, and telephone;
- (2) facility type;
- (3) date;
- (4) reporting party name or administrator name;
- (5) employee name and address;
- (6) employee certification number;
- (7) employee social security number;
- (8) employee telephone number;
- (9) termination action and date, if any;
- (10) other contact person name and address; and
- (11) facts of resident abuse, verbal abuse, or exploitation.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07 ¹; Added at 25 Ok Reg 2482, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:675-21-3. Right to a hearing

Before the registry is notified that a finding of resident abuse, verbal abuse, or exploitation of a resident in a nursing facility has been made against a nontechnical services worker, the Department shall offer the nontechnical services worker an opportunity for a hearing. If the nontechnical services worker fails to request a hearing in writing within thirty (30) days from the date of the notice, the Department shall include on the registry a finding of resident abuse, verbal abuse, or exploitation of a resident in a nursing facility against the nontechnical services worker.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07 ¹; Added at 25 Ok Reg 2482, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:675-21-4. Petition and hearing

(a) **Petition.** If the nontechnical services worker requests a hearing, the Department shall commence an individual proceeding by filing a petition against the nontechnical services worker that states the facts supporting the allegation.

(b) **Notice of hearing.** All parties shall be given notice of the date, time and place of the hearing. The notice of hearing served upon the non-

technical service worker shall include a copy of the petition.

(c) **Time.** The hearing shall be scheduled at least fifteen (15) working days after the nontechnical services worker has received notice of the hearing.

(d) The hearing shall be conducted in accord with the Oklahoma Administrative Procedures Act and Chapter 2 of this Title.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07 ¹; Added at 25 Ok Reg 2482, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

310:675-21-5. Orders

(a) **Authority.** The Administrative Law Judge shall issue a decision within fifteen (15) working days following the close of the hearing record. The decision shall include Findings of Fact and Conclusions of Law separately stated.

(b) **Delegation.** The Commissioner of Health may delegate the authority to issue a final decision in these matters as specified in 75 O.S. Section 311.1 and OAC 310:002.

(c) **Registry notification.** The decision shall direct the nontechnical services worker registry to include the findings as they relate to the nontechnical services worker. The decision shall direct the nontechnical services worker registry to include a statement by the nontechnical services worker disputing the decision if the nontechnical services worker chooses to submit such statement. If such a statement is submitted the statement of the nontechnical services worker shall be submitted to the nontechnical services worker registry within thirty (30) days after the decision is issued.

(d) **Notice.** Each party and attorney of record shall be mailed a copy of the Final Order. The Department shall transmit a copy of the Final Order to the nontechnical services worker registry when the Order is mailed.

(e) **Appeal.** An appeal of the Final Order shall be perfected pursuant to 75 O.S. Section 318 of the Administrative Procedures Act.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07 ¹; Added at 25 Ok Reg 2482, eff 7-11-08]

Editor's Note: ¹ See *Editor's Note at beginning of this Chapter.*

APPENDIX A. HOT WATER USE

Figure 1

	<u>Resident Use</u>		<u>Laundry</u>
	<u>Bathing</u>	<u>Dietary</u>	
Gallons (per hr. & bed)	6 1/2	4	4 1/2
Temperature	115° F. (46° C.)	*120° F. (49° C.)	**160° F. (7° C.)

* Rinse water temperature at automatic warewashing equipment shall be 180° (82.1° C.).

** Required temperature of 160°F (70° C.) in the laundry area is that measured in the washing machine and shall be supplied so that temperature may be maintained over the entire wash and rinse period. Attention is called to the fact that control of bacteria in laundry processing is dependent upon a number of inter-related factors such as detergent, bleach, number of rinses and temperature. In most instances, maximum overall economies with acceptable results can be achieved with the use of 160° F. (70° C.) water. Lesser temperature may require excessive bleaching or other chemical treatment that would be damaging to fabrics.

APPENDIX B. REFERENCE LIST FOR STANDARDS OF PRACTICE

Figure 1

(Referring to OAC 310:675-1-2. Definitions: Standards of care)

"Physical Examination and Health Assessment" - Third Edition - Carolyn Jarvis

"Medical-Surgical Nursing Assessment and Management of Clinical Problems" - Fifth Edition - Lewis, Heitkemper and Dirksen (Mosby)

"Handbook of Geriatric Nursing" - Second Edition - Lippincott, Williams and Wilkins

"Clinical Nursing Skills - Basic To Advanced Skills" - Fifth Edition - Smith, Duell and Martin

Oklahoma Board of Nursing Guidelines and Position Statements:

"A Decision-Making Model for Determining RN/LPN Scope of Practice Model - Model for Scope of Nursing Practice Decisions"

"Abandonment Statement"

"Advanced Practice Nurses with Prescriptive Authority Exclusionary Formulary"

"Delegation of Nursing Functions to Unlicensed Persons"

"Guidelines for Employment of Individuals Enrolled in or Non-Licensed Graduates of Nursing Education Programs"

"Guidelines for the Registered Nurse in Administering, Managing and Monitoring Patients Receiving Analgesia/Anesthesia by Catheter Techniques"

"Issuance of Temporary Licenses for RNs and LPNs"

"Licensure Verification and Photocopying of Nursing Licenses"

"Patient Assessment Guidelines"

"Refresher Course Policy"

"Wound Debridement by Licensed Nurses Guideline"

Standards of the American Nurses Association and Specialty Nursing Organizations:

"Nursing: Scope and Standards of Practice" Pub# 03SSNP - 2004

"Scope and Standards for Nurse Administrators" (Second Edition); Pub#03SSNA - 2004

Figure 2

"Scope and Standards of Diabetes Nursing Practice" (2nd Edition); Pub# DNP23 - 2003

"Scope and Standards of Forensic Nursing Practice" Pub# ST-4 - 1997

"Scope and Standards of Gerontological Nursing Practice" 2nd Edition; Pub# GNP21 - 2001

"Scope and Standards of Hospice and Palliative Nursing Practice" Pub# HPN22 - 2002

"Scope and Standards of Neuroscience Nursing Practice" Pub# NNS22 - 2002

"Scope and Standards of Nursing Informatics Practice" Pub# NIP21 - 2001

"Scope and Standards of Psychiatric-Mental Health Nursing Practice" Pub# PMH-20 - 2000

"Statement on the Scope and Standards for the Nurse Who Specializes in Developmental Disabilities and/or Mental Retardation" Pub# 9802ST - 1998

"Statement on the Scope and Standards of Oncology Nursing Practice" Pub# MS-23 - 1996

Editor's Note: ¹*See Editor's Note at beginning of this Chapter.*

[**Source:** Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93 ; Revoked and reenacted at 24 Ok Reg 2030, eff 6-25-07 ¹; Revoked and reenacted at 25 Ok Reg 2482, eff 7-11-08]

Editor's Note: ¹*See Editor's Note at beginning of this Chapter.*

CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION

[**Authority:** 63 O.S., §§ 1-104, 1-819 et seq., 1-890.1 et seq., 1-1901 et seq., 1-1950.1 through 1-1950.4, 1-1951, and 1-1960 et seq.]

[**Source:** Codified 7-27-95]

SUBCHAPTER 1. GENERAL PROVISIONS

310:677-1-1. Purpose

The purpose of this Chapter is to implement the nurse aide registry and certification program for nurse aides who work in nursing facilities, specialized facilities, residential care homes, home health or home care agencies, adult day care centers, and assisted living centers.

[**Source:** Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02]

310:677-1-2. Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. The singular includes the plural as necessary.

"Abuse" means *the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish.* [63 O.S. § 1-1902(15)]

"Certified medication aide" means a certified nurse aide who has passed a Department approved program for administering medications.

"Client" means an individual receiving services from a home care agency or employer.

"Clinical skills observer" means a registered nurse, qualified intellectual disability professional, licensed practical nurse, registered pharmacist or other qualified professional who has at least one (1) year experience and has successfully completed a Department approved clinical skills observer training program.

"Commissioner" or **"Commissioner of Health"** means the Oklahoma State Commissioner of Health, the chief executive officer of the Department.

"Deemed" means meeting specified requirements to qualify for other categories of nurse aide certification.

"Department" means the *State Department of Health.* [63 O.S. § 1-1902(8)]

"Direct supervision" means a licensed nurse or other qualified individual actually observes a trainee performing tasks.

"Educational based program" means a nurse aide training and competency examination program sponsored by a State approved educational entity including, but not limited to, vocational technical schools, schools of higher learning or State certified educational facilities.

"Employer" means any of the following entities: facilities, agencies or programs including, but not limited to, nursing facilities, specialized facilities, residential care homes, adult day care centers, assisted living

centers, or a nurse registry or a home care agency.

"Employer based program" means a nurse aide training and competency examination program sponsored by, or offered in, a nursing facility, a residential care home, an adult day care center, a home care agency, or a specialized facility.

"Entity" means the provider of a Department-approved nurse aide training and competency evaluation program including but not limited to an employer based or an educational based program provider.

"Examination" means a competency examination that includes a written or oral portion and a clinical skills portion.

"Health related services" means those services provided to patients, clients, or residents that include but are not limited to the following: personal hygiene, transferring, range of motion, supervision or assistance in activities of daily living, basic nursing care such as taking temperature, pulse or respiration, positioning, incontinent care, identification of signs and symptoms of disease, and behavior management.

"ICF/IID" means an Intermediate Care Facility for Individuals with Intellectual Disabilities.

"Inservice education" means activities intended to assist the nurse aide to acquire, maintain, and/or increase competence in fulfilling the assigned responsibilities specific to the employer's expectations.

"Instructor" means a qualified professional who teaches in an approved training program.

"Licensed health professional" means a physician, dentist, podiatrist, chiropractor, physician assistant, nurse practitioner, pharmacist, physical, speech, or occupational therapist, registered nurse, licensed practical nurse, licensed social worker or licensed registered dietitian.

"Licensed nurse" means a registered nurse or a licensed practical nurse that is currently licensed by the Oklahoma Board of Nursing.

"Misappropriation of property" means the taking, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal control of a resident or client without the effective consent of the resident or client or other appropriate legal authority, or the taking of any action contrary to any duty imposed by federal or state law prescribing conduct relating to the custody or disposition of a resident's/client's property.

"Mistreatment" means a negligent act or personal wrong against a resident or client which causes the resident or client actual physical pain, discomfort or mental anguish. This type of personal wrong does not necessarily have to present external or visible signs of existence but does not include actions which are unavoidable.

"Neglect" means *failure to provide goods and/or services necessary to avoid physical harm, mental anguish, or mental illness.* [63 O.S. §1-1902]

"Orientation" means the training for a particular job activity given to a new employee.

"Performance record" means a list of the major duties and skills to be learned in a nurse aide training program and the trainee's

performance of each.

"Qualified professional" means an individual qualified to perform training and skills testing in an approved nurse aide training and competency program.

"Reciprocity" means the process that allows a certified nurse aide from another state to be listed in the Department's nurse aide registry.

"Reconsideration" means a process that allows an applicant to obtain reconsideration of an adverse decision on an application by submission of clarifying materials to the original decision-making body.

"Registry" means a Department maintained list of individuals who have successfully completed a nurse aide training and competency examination program or a competency examination program approved by the Department or who have been deemed or waived to meet the requirements.

"Specialized facility" means any home, establishment, or institution which offers or provides inpatient long-term care services on a twenty-four-hour basis to a limited category of persons requiring such services, including but not limited to a facility providing health or habilitation services for [individuals with intellectual or developmental disabilities]. [63 O.S. §1-1902(11)]

"Supervised practical training" means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual.

"Trainee" means an individual who is enrolled in and has begun, but has not completed, a nurse aide training program.

"Trainer" means a qualified person who teaches in a nurse aide training and competency examination program.

"Training and competency examination program" means a program approved by the Department to teach and evaluate individuals to work as a nurse aide.

"Waiver" means a process that allows an individual with acceptable qualifications to be placed in the Department's registry without meeting other required qualifications.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 18 Ok Reg 2545, eff 6-25-01 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-1-3. Applicability

(a) This Chapter shall apply to specified employers, nurse aides, certified medication aides and other unlicensed employees providing health related services, and training and competency evaluation programs.

(b) An employer shall not use an individual as a nurse aide unless the employer has consulted the Oklahoma Nurse Aide Registry to determine whether the individual is listed on the nurse aide registry and whether the individual has no confirmed findings of abuse, neglect or misappropriation of patient/resident/client property.

(c) The Department shall grant an exception to the nurse aide training requirements in OAC 310:677-9-4 for home health aides, OAC 310:677-11-4 for long term care aides, OAC 310:677-13-4 for certified medication aides, OAC 310:677-15-3 for ICF/IID care aides, OAC 310:677-17-3 for

residential care aides and OAC 310:677-19-3 for adult day care aides, and allow an individual to sit for the competency examination if the individual submits all information specified on the Training Exception Application, which requires the following:

- (1) Individual's full name and personal identifying information;
- (2) Telephone number and address to include street, city, state, and zip code;
- (3) Copy of official transcript documenting classroom and clinical training equal to or greater than the classroom and clinical training as prescribed in OAC 310:677-9-4, OAC 310:677-11-4, OAC 310:677-13-4, OAC 310:677-15-3, OAC 310:677-17-3 and OAC 310:677-19-3; and

- (4) Type of nurse aide training to be excepted.

(d) The Department shall grant to a graduate of an approved practical or registered nurse program located in the United States a waiver to be placed on the nurse aide registry if the following criteria are met:

- (1) The individual submits all information specified on the Department's Nurse Aide Training and Competency Evaluation Program Waiver Application, which requires the following:
 - (A) Individual's full name and personal identifying information;
 - (B) Telephone number and address to include street, city, state, and zip code;
 - (C) Photocopy of diploma from an approved practical or registered nurse program;
 - (D) Type of nurse aide training and competency testing requesting to be waived; and
 - (E) Identification of all states, territories and districts of the United States and other countries where the individual has practiced or been licensed, certified or registered as a nurse; and

- (2) The individual does not have a denied, revoked or suspended license or certificate or an administrative penalty or disciplinary action imposed by the Oklahoma Board of Nursing or similar agency in another state, territory or district of the United States or in another country, to be evidenced by the individual's attestation.

(e) The Department shall allow a graduate of an approved practical or registered nurse program located outside the United States a training exception and shall be authorized to sit for a nurse aide competency examination if the following criteria are met:

- (1) The individual submits the Foreign Graduate Training Exception Application, which requires the following:
 - (A) Individual's full name;
 - (B) Telephone number and address to include street, city, state, and zip code;
 - (C) The location outside of the United States where the individual received their nursing education and licensing examination if applicable;
 - (D) The type of nurse aide training requesting to be excepted;

(E) Documentation verifying legal entry and resident status in the United States including but not limited to a photocopy of a Social Security Card, Visa, Green Card or naturalization papers; and

(F) A photocopy of a certified, translated diploma and transcript in English; and

(2) The individual does not have a denied, revoked or suspended license or certificate or an administrative penalty or disciplinary action imposed by the Oklahoma Board of Nursing or similar agency in another state, territory or district of the United States, to be evidenced by the individual's attestation.

(f) An individual who has not completed an approved Oklahoma Nurse Aide Training program and is submitting an application to be included on the Oklahoma Nurse Aide Registry as a certified nurse aide shall submit the following nonrefundable fee with the required completed application:

(1) Deeming Application, fifteen dollar (\$15.00) fee applicable to each of the following deeming applications except (A) of this paragraph;

(A) Home Health Aide deemed to Long Term Care Aide with no fee required;

(B) Home Health Aide deemed to ICF/IID Care Aide;

(C) Home Health Aide deemed to residential Care Aide;

(D) Home Health Aide deemed to Adult Day Care Aide;

(E) Long Term Care Aide deemed to ICF/IID Care Aide;

(F) Long Term Care Aide deemed to Residential Care Aide;

(G) Long Term Care Aide deemed to Adult Day Care Aide;

(H) ICF/IID Care Aide deemed to Residential Care Aide;
and

(I) ICF/IID Care Aide deemed to Adult Day Care Aide;

(2) Home Health Aide Reciprocity Application, \$15.00 fee;

(3) Training Exception Application, or Foreign Graduate Training Exception Application, \$15.00 fee; or

(4) Nurse Aide Training and Competency Evaluation Program Waiver Application, \$15.00 fee.

(5) The fees specified in (1) through (4) of this subsection apply to applications for home health aides, certified medication aides, ICF/IID care aides, residential care aides, and adult day care aides. A fee shall not be charged on an application requesting certification as a long term care aide only.

(g) An individual who has previously completed a Department approved Nurse Aide Training and Competency Evaluation Program and is unable to renew certification may obtain approval to take a retest by filing a Certified Nurse Aide Retest Application if any of the following criteria are met:

(1) The individual did not provide eight (8) hours of nursing or health related services for compensation during the twenty-four (24) months prior to expiration of the certification;

(2) The individual did not provide eight (8) hours of nursing or health related services for compensation up to twenty-four (24) months after expiration; or

- (3) The individual's nurse aide certification has been expired for over two (2) years but less than three (3) years.
- (4) A Certified Nurse Aide Retest Application submitted by a home health aide, ICF/IID care aide, residential care aide, or adult day care aide shall be accompanied by a fifteen dollar (\$15.00) nonrefundable fee.
- (5) An individual who fails the approved retest shall be required to retrain before taking any subsequent retests.
- (h) An individual may request a duplicate or amended certification card by submitting a Duplicate or Amended Nurse Aide Card Application with a nonrefundable ten dollar (\$10.00) fee. A fee shall not be charged on an application requesting a duplicate or amended long term care aide certification card.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 18 Ok Reg 2545, eff 6-25-01 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 21 Ok Reg 2807, eff 7-12-04 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 26 Ok Reg 2068, eff 6-25-09 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-1-4. Reporting allegations of abuse

- (a) An employer shall report to the Department any allegation of client or resident abuse, neglect, mistreatment or misappropriation of client's or resident's property against the employer's nurse aide.
- (b) An employer shall report to the Department by telephone within twenty-four (24) hours after receiving an allegation and in writing within five (5) working days after receiving an allegation.
- (c) The written report filed by the employer shall include:
 - (1) The allegation;
 - (2) Name and identification number of the nurse aide;
 - (3) Date of the occurrence;
 - (4) Results of any internal investigation;
 - (5) Any corrective action taken by the employer; and
 - (6) Name and address of any person who may have witnessed the incident.

[Source: Added at 13 Ok Reg 1307, eff 3-28-96 (emergency); Added at 13 Ok Reg 2515, eff 6-27-96 ; Amended at 24 Ok Reg 2045, eff 6-25-07]

310:677-1-5. Cumulative training calculations [REVOKED]

[Source: Added at 18 Ok Reg 2545, eff 6-25-01 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 24 Ok Reg 2045, eff 6-25-07]

310:677-1-6. Temporary emergency waiver

- (a) **Purpose.** This section implements temporary emergency waivers authorized in 63 O.S. § 1-1950.3(A)(2) for nursing facilities, specialized facilities, continuum of care facilities, assisted living centers, adult day care centers, and residential care homes.
- (b) **Eligibility for waiver.** An entity is eligible to receive a waiver if it:
 - (1) Makes diligent efforts to recruit and retain certified nurse aides, to be evidenced by one or more of the following:
 - (A) Employment advertisements;

- (B) Competitive salaries;
- (C) Retention incentives; or
- (D) Recruitment incentives; and
- (2) Has not been cited with a deficiency or violation that:
 - (A) Was identified by the department during an investigation or inspection conducted on or after the effective date of this section; and
 - (B) Relates to one or more of the following areas of noncompliance:
 - (i) Failure to develop and implement policies and procedures that prohibit mistreatment, neglect, abuse and misappropriation of property;
 - (ii) Failure to implement infection control procedures;
 - (iii) Failure to ensure that staff observe resident rights and responsibilities;
 - (iv) Failure to comply with criminal history background checks in 63 O.S. §1-1950.1;
 - (v) Failure of a nurse aide to perform proficiently on nursing or personal care services;
 - (vi) Incompetence of a nurse aide; or
 - (vii) Failure to conduct performance appraisals or training as required for nurse aides; and
 - (C) Is associated with one or both of the following aggravating circumstances:
 - (i) The deficiency or violation has not been corrected within required time frames; and/or
 - (ii) The deficiency or violation is based on activity or inactivity of an uncertified nurse aide that caused a resident serious injury, harm, impairment or death.

(c) **Process.** This subsection specifies the process to obtain a waiver.

(1) An entity shall submit a written application to the Department. The written application, at minimum, shall include:

- (A) Identifying information for the facility;
 - (B) Numbers of certified nurse aides, uncertified nurse aides, and other direct care staff persons projected to be employed by the facility during the effectiveness of the waiver;
 - (C) A narrative describing the reasons why the facility is unable to meet the staffing requirements of 63 O.S. §1-1950.3, the means by which uncertified nurse aides shall be trained and evaluated during the waiver, and the anticipated duration of the waiver, not to exceed six months; and
 - (D) An attestation of the truth of the information provided in the application.
- (2) If the Department finds that an application is incomplete, the Department shall advise the applicant in writing and offer an opportunity to submit additional or clarifying information.

(3) Within thirty days after receipt of a completed request for a waiver, the Department shall approve or disapprove the request and send written notice of the decision to the entity.

(4) The Department shall provide notice to the Office of the Oklahoma Long Term Care Ombudsman established under section 307(a)(12) of the Older Americans Act of 1965 of the Department's action on each waiver application.

(5) The entity shall notify residents, clients or participants (or, where appropriate, the guardian or legal representative) and members of their immediate families of the Department's action on the waiver application. A copy of the notice shall be posted in an easily accessible and conspicuous place in the entity.

(6) Upon denial, an applicant may appeal the Department's decision within thirty days of receipt, pursuant to the Oklahoma Administrative Procedures Act.

(7) A non-refundable fee of one hundred dollars (\$100) shall be included with the initial application for waiver.

(8) A non-refundable fee of seventy-five dollars (\$75) shall be included with an application for subsequent waiver.

(d) **Length of waiver.** A waiver approved by the Department is effective for the period not to exceed six months, unless sooner withdrawn by the Department for failure to meet eligibility requirements.

[Source: Added at 22 Ok Reg 232, eff 10-31-04 (emergency); Added at 21 Ok Reg 2456, eff 7-11-05 ; Amended at 26 Ok Reg 2068, eff 6-25-09 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-1-7. Presumptive approval of nurse aide training programs and emergency training exception for unlicensed health professionals and feeding assistants during the state of emergency caused by COVID-19 [EXPIRED]

[Source: Added at 37 Ok Reg 689, eff 4-6-20 through 9-14-21 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-21 (after the 9-14-21 expiration of this emergency action), Section 310:677-1-7 was no longer effective. For the official text of the emergency rule that was in effect from 4-6-20 through 9-14-21, see 37 Ok Reg 689.*

SUBCHAPTER 3. NURSE AIDE TRAINING AND COMPETENCY EXAMINATION PROGRAM

310:677-3-1. Categories of training programs [REVOKED]

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Revoked at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-2. Approved programs

- (a) The Department shall approve a nurse aide training and/or competency examination program that meets the criteria for a State approved program.
- (b) An entity seeking approval shall file the appropriate application form and a non-refundable application fee of one hundred dollars (\$100.00). There is no application fee for long-term care aide training or competency evaluation programs.
- (c) The Department's approval of a program shall not be transferable or assignable.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 21 Ok Reg 2807, eff 7-12-04 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 26 Ok Reg 2068, eff 6-25-09 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-3. Application

- (a) An entity shall file an application provided by the Department.
- (b) An entity may not operate a nurse aide training and competency examination program prior to the approval of the Department.
- (c) The application will include:
 - (1) Name and address for the entity sponsoring the program and for the contact person for the program;
 - (2) The location of the administrative office of the program and the location where records are maintained;
 - (3) A program plan that follows the curriculum established by the Department including, but not limited to:
 - (A) Program objectives;
 - (B) A breakdown of the curriculum into clock hours of classroom/lecture, laboratory and supervised clinical instruction;
 - (4) A Skills Performance Checklist, documenting the date the nurse aide trainee successfully demonstrated all those basic nursing skills and personal care skills that are generally performed by nurse aides and the signature of the instructor that observed the successful demonstration of the skills. The skills must include the basic nursing skills and personal care skills listed in 42 Code of Federal Regulations (CFR) 483.152 (b)(2) and (3);
 - (5) A Training Verification Form;
 - (6) A description of the program's standards for classroom and skills training facilities including, but not limited to:
 - (A) Heat and cooling systems;
 - (B) Clean and safe conditions;
 - (C) Adequate space to accommodate all trainees;
 - (D) Adequate lighting;
 - (E) Proper equipment and furnishings;
 - (F) The specific location of the classroom and lab if known at the time of the application; and
 - (7) Position descriptions and education and experience requirements for training supervisors and instructors, and the

- program's procedure for ensuring that supervisors and instructors satisfy such descriptions and requirements.
- (d) A training and competency examination program shall not be offered by or in a facility which, within the previous two years:
- (1) has operated under a registered nurse staffing waiver under Section 1819(b)(4)(C)(ii)(II) or Section 1919(b)(4)(C)(ii) of the Social Security Act; or
 - (2) has been assessed a penalty that has been determined, after opportunity for hearing, to be due and payable in an amount of not less than \$5,000;
 - (3) had a license revoked, a Medicare or Medicaid certification terminated, a denial of payment for new admissions imposed, a temporary manager appointed, or was closed or had residents transferred pursuant to an emergency action by the Department; or
 - (4) was found to have provided substandard quality of care. The deficient practice must constitute immediate jeopardy which has caused or is likely to cause serious injury, harm, impairment, or death to an individual resident or a very limited number of residents receiving care in a facility; or deficient practice that results in actual harm to residents' physical, mental and psychosocial well-being and occurs as a pattern affecting more than a very limited number of residents or widespread affecting a large number or all of the facility's residents; or deficient practice that results in potential for more than minimal physical, mental and /or psychosocial harm to residents' that is widespread and affects the entire facility population.
- (e) The Department may waive for a period not to exceed two years the imposition of (d) of this Section and allow the offering of a training and competency evaluation program in, but not by, a facility upon the written request of the facility if:
- (1) The Department determines that no other such program is offered within a round-trip travel time of one hour from the facility;
 - (2) The facility has no deficiencies that constitute substandard quality of care at the time of the request and has no deterioration in care that results in substandard quality of care during the waiver period;
 - (3) The Department provides notice of such determination and assurances to the Oklahoma Long Term Care Ombudsman; and
 - (4) The penalty or remedy was not related to the quality of care provided to residents.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-4. Program requirements

- (a) Before the Department approves a nurse aide training and competency examination program or a competency examination program, the Department shall determine whether the nurse aide training and competency examination program or the competency

examination program meets the minimum requirements.

(b) The Department shall not approve an employer based program when the employer has been assessed the following penalties or actions by the Department:

- (1) License suspended or revoked or had a conditional license issued.
- (2) An administrative money penalty of five thousand dollars (\$5,000) or more for deficiencies cited under state licensure.
- (3) Enforcement actions based on the Department's authority under Medicare and Medicaid certification programs, except for facilities certified as Intermediate Care Facilities for individuals with intellectual disabilities.
- (4) For Intermediate Care Facilities for Individuals with Intellectual Disabilities, repeated enforcement actions based on the Department's authority.

(c) The Department may withdraw approval of a nurse aide training and competency examination program sponsored by an entity when the following occurs:

- (1) The entity has been determined by the Department to have a competency examination failure rate greater than fifty (50) per cent during a calendar year.
- (2) The entity no longer meets, at a minimum, the following requirements to be a certified program:
 - (A) The training program falls below the required clock hours of training; or
 - (B) The curriculum does not include the minimum requirements specified in rule;
- (3) The entity closed or had its residents or clients transferred pursuant to the Department's action.
- (4) The onsite survey determines the training program is out of compliance with the requirements of 63 O.S. §§ 1-1950.1, 1-1950.3 or 1-1951, or OAC 310:677.

(d) The Department shall withdraw approval of a nurse aide training and competency evaluation program if:

- (1) The entity refuses to permit the Department to make unannounced visits; or
- (2) The entity falsifies records of competency or training.

(e) Withdrawal of approval shall be for a period of two (2) years or until the Department is assured through review that the entity complies with the requirements.

(f) If the Department withdraws approval of a nurse aide training and competency examination program, the Department shall notify the entity in writing of the reason(s) for the withdrawal.

(g) The Department shall allow the trainees who have started a training and competency examination program to complete the program, or allow the trainees who have started the program to transfer to another approved program.

(h) A program entity may request reconsideration of the Department's decision in accordance to Chapter 2 of this Title and appealed according to the Administrative Procedures Act.

(i) The entity shall notify the trainee in writing, that successful completion of the nurse aide training and competency examination program shall result in the individual being listed in the Department's nurse aide registry and shall retain a copy of such notice, signed by the trainee, in the trainee's file.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 18 Ok Reg 2545, eff 6-25-01 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-5. Training program review and approval

(a) Within 30 days after receipt of an application for a program that is not currently approved, the Department shall determine if the application is complete and consistent. If the application is incomplete or inconsistent, the Department shall advise the applicant in writing and offer an opportunity to submit additional information. Within 30 days after completeness, the Department shall approve or disapprove the application. If the action is to disapprove, the Department shall advise the applicant in writing of the specific reasons for the disapproval, and shall offer the applicant an opportunity to demonstrate compliance.

(b) Each program is subject to site visits by the Department. Approved programs shall be evaluated by the Department every two years.

(c) An approved program shall complete an application notifying the Department prior to making any changes that would affect the program's requirements and/or the Department's approval of the program.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-6. Closing an approved nurse aide training and competency examination program

When an entity decides to close a nurse aide training and competency examination program, it shall:

- (1) Immediately notify the Department, in writing, of its plan to close, date of intended closing, the location where its records will be stored, and the plan for its currently enrolled trainees; and
- (2) Continue the program until the classes for currently enrolled trainees are completed.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-7. Criminal history background checks

(a) An employer based program shall complete the State required criminal history background check. The record of the finding shall be maintained by the employer. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate. [63 O.S.§1-1950.1(E)]

(b) A non-employer based program shall notify trainees that if a criminal history background check reveals a cause which bars employment in a health care entity, then the trainee shall be withdrawn from the training

program.

(c) If a non-employer based training program does not require an OSBI criminal history background check as part of the admission requirements to the training program, the training program shall provide the trainee with written notification of 63 O.S. §1-1950.1 as part of the training program application.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-8. Records and examination

(a) A program shall use a performance record/Skills Performance Checklist which shall include:

(1) A record of when the trainee performs the duties and skills and the determination of satisfactory or unsatisfactory performance.

(2) The name of the instructor supervising the performance.

(b) Upon request from the nurse aide trainee, the training program shall provide the trainee with a copy of the Training Verification Form upon completion of training.

(c) Upon request from the nurse aide trainee, the training program shall provide the trainee a copy of the completed classroom/lecture training and the training performance record/Skills Performance Checklist with the skills that have been demonstrated if the trainee has to withdraw from the training program prior to completion of the training program.

(d) The program shall retain the following records for each trainee for at least three (3) years:

(1) The Trainee's Application for the training program.

(2) Performance records, the Skills Performance Checklist and Training Verification Form.

(3) Nurse aide competency and examination results.

(e) The training program shall provide copies to the nurse aide registry of any individual nurse aide training records that may be requested by the Department.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02]

310:677-3-9. Requirements for administration of the competency examination

(a) The competency examination shall be administered and evaluated only by a Department approved entity which shall be periodically monitored by the Department.

(b) Each approved examination entity must provide the Department with the following:

(1) Written job analysis studies to determine the pool of test questions.

(2) Test question validation studies.

(3) Capabilities of providing competency results in the proper format for compatibility with the Department's nurse aide registry within thirty (30) days of scoring.

- (4) Assurances that the written and skills testing process are not compromised.
- (c) Each approved examination entity shall provide the examinee with the following:
 - (1) The notice showing pass/fail results.
 - (2) The notice shall specify the areas of failure to the nurse aide.
- (d) The Department shall withdraw approval of a testing entity when it allows one or more of the following:
 - (1) Disclosure of the competency examination.
 - (2) Allowing another entity not approved by the Department to score the competency examination.
 - (3) Tampering with the competency examination.
 - (4) The competency examination was administered by a non-qualified individual.
- (e) If the Department permits the competency examination to be proctored by qualified entity personnel, the procedures adopted by the entity must ensure that the competency examination:
 - (1) Is secure from tampering.
 - (2) Is standardized and scored by a testing, educational, or other organization approved by the Department.
 - (3) Is transmitted to the scoring entity immediately after completion of the written or oral and skills examination.
- (f) If the competency evaluation is to be proctored by facility personnel and the entity chooses to delay the administration of the written or oral examination and/or skills examination after completion of the training which will delay certification, this information shall be provided in writing in the training program application and signed by the trainee.
- (g) The Department may revoke the approval of an entity to proctor the nurse aide competency examination if the Department finds evidence of impropriety, including evidence of tampering by facility staff.
- (h) The trainee may sit for the written or oral examination and skills examination at a different location than where training was completed if the testing entity is provided with a Training Verification Form.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-10. Content of the competency examination

- (a) The written or oral examination portion of the competency examination, in English, shall:
 - (1) Allow a nurse aide to choose between a written and an oral examination.
 - (2) Address each requirement specified in the minimum curriculum prescribed by the Department.
 - (3) Be developed from a pool of test questions, only a portion of which is used in any one (1) examination.
 - (4) Use a system that prevents disclosure of both the pool of test questions and the individual competency examination results.
 - (5) If oral, the examination portion shall be read from a prepared text in a neutral manner.
- (b) The skills examination portion of the competency examination shall:

- (1) Consist of randomly selected items drawn from a pool of tasks generally performed by nurse aides except as provided in section 9-5 (b).
- (2) Be performed in an entity in which the individual will function as a nurse aide or a similar laboratory setting.
- (3) Be administered and evaluated by a qualified clinical skills observer.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-11. Successful completion of the competency examination

- (a) An individual shall pass both the written or oral examination and the skills examination to complete the competency examination successfully.
- (b) An individual shall score at least seventy (70) percent on the written or oral examination.
- (c) An individual shall demonstrate at least eighty (80) percent accuracy for the skills examination.
- (d) The Department shall include in the nurse aide registry a record of successful completion of the competency examination within thirty (30) days of the date the individual is found to be competent.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02]

310:677-3-12. Failure to complete the competency examination

If an individual does not complete the competency examination successfully, the individual shall be notified by the testing entity of, at least, the following:

- (1) The areas which the individual did not pass.
- (2) That the individual may retake the examination a total of two times without further training.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-13. Training program to inform trainee of renewal requirements

Training programs shall inform the long term care aide, home health aide, ICF/IID care aide, residential care aide, and adult day care aide that they shall complete a new nurse aide training and competency examination or competency examination if, upon applying for renewal of certification, the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation during the previous twenty four (24) months.

[Source: Added at 40 Ok Reg 1588, eff 9-11-23]

SUBCHAPTER 5. NURSE AIDE REGISTRY

310:677-5-1. Establishment of registry [REVOKED]

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 18 Ok Reg 2545, eff 6-25-01 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Revoked at 40 Ok Reg 1588, eff 9-11-23]

310:677-5-2. Registry operation

- (a) The Department shall maintain overall operation of the registry.
- (b) A home health aide, long term care aide, ICF/IID care aide, residential care aide, and adult day care aide shall renew individual certification once every two (2) years. The individual certified as a home health aide, ICF/IID care aide, residential care aide, or adult day care aide shall file a Renewal Application. The individual certified as a long term care aide shall file a Renewal Application for Long Term Care Aide. Each renewal application requires:
 - (1) Personal identifying and contact information for the applicant;
 - (2) An oath of truthfulness and completeness to be signed by the applicant, affirming that the applicant completed at least eight (8) hours of nursing or health related services for compensation during the preceding 24 months.
 - (3) Upon request of the Department, the applicant shall produce documentation of at least eight (8) hours of nursing or health related services performed for compensation during the preceding 24 months.
- (c) A home health aide, ICF/IID care aide, residential care aide, or adult day care aide shall pay a ten dollar (\$10.00) fee for the processing and renewal of certifications and for change of name or other reason.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 26 Ok Reg 2068, eff 6-25-09 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-5-3. Registry content [REVOKED]

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Revoked at 19 Ok Reg 2106, eff 6-27-02]

310:677-5-4. Automatic removal from registry

- (a) If any nurse aide requests renewal of certification and there has been a continuous period of twenty-four (24) consecutive months during none of which the individual provided nursing or health related services for monetary compensation, the individual shall complete a new training and competency evaluation or a new competency evaluation program, whichever option they choose, to become recertified.
- (b) The Department shall review when requested and may grant an exception in removing any nurse aide from the nurse aide registry pursuant to OAC 310:677-5-4(a) if the nurse aide has completed a practical or registered nursing education program after certification and files with the Department a waiver application form, which requires at minimum:
 - (1) Individual's full name;

- (2) Telephone number and address to include street, city, state, and zip code;
 - (3) Photocopy of Social Security card;
 - (4) Photocopy of a diploma from an approved practical or registered nurse program; and
 - (5) Type of nurse aide certification requesting to be waived.
- (c) The Department must verify the following information:
- (1) The nurse aide/LPN/RN student has completed a practical or registered nursing education program after certification;
 - (2) The individual is in good standing with the Oklahoma Board of Nursing, and the individual does not have confirmation of abuse, neglect or misappropriation of patient/resident/client property;
 - (3) The individual is not a subject of a current ongoing investigation by the Oklahoma Board of Nursing or the Oklahoma Attorney General or other known legal entity; and
 - (4) The individual has no restrictions preventing sitting for the nursing board exam.
- (d) The Department shall automatically remove a nurse aide from the nurse aide registry and place them in the archive database if there has been a continuous period of forty-eight (48) consecutive months in which the nurse aide has not applied for renewal of certification. The individual shall complete a new nurse aide training and competency examination to be reinstated in the registry. However, a nurse aide with a pending or permanent finding of abuse, neglect, mistreatment, or misappropriation of property shall not be removed from the registry.
- (e) The Department shall review and may grant an exception to place an individual, who failed to renew certification, back on the registry if the individual can produce documentation of continuous employment for the past forty-eight (48) months in a hospital, the Advantage Program through the Department of Human Services, or an entity that does not require certification of nurse aides.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 18 Ok Reg 2545, eff 6-25-01 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-5-5. Denial, suspension, withdrawal, and nonrenewal of certification

- (a) The Department may deny, suspend, withdraw or not renew certification of a nurse aide based on the aide's noncompliance with 63 O.S. §§ 1-1950.3, 1-1950.4a, 1-1950.5, 1-1951, or this Chapter.
- (b) Grounds for certification action against a certified nurse aide may include:
- (1) Intentionally providing false or misleading information to a training program, a facility, or the Department;
 - (2) Failing to provide care as ordered by a health care professional or required in the plan of care, with resulting actual harm that is either life threatening or has a negative outcome for the resident;
 - (3) Altering or falsifying medical records;
 - (4) Removing medical records or other documentation pertaining to resident care from the employment setting without

authorization;

(5) Altering or falsifying certified nurse aide identification cards;

(6) Representing oneself as a certified nurse aide without supervision by a licensed health Professional and providing services that are not included in a Department approved nurse aide training and competency evaluation program.

(c) The Department shall notify the aide of the intent to deny, suspend, withdraw or not renew certification. The notice shall cite the specific reasons for the action and offer the aide an opportunity to demonstrate compliance. Prior to the effectiveness of the denial, suspension, withdrawal, or nonrenewal of certification, the Department shall offer the aide an opportunity for a hearing.

(d) The suspension of a certificate shall be for at least six months. A denial, withdrawal or nonrenewal of a certification shall be for at least one year. The Department shall specify the duration of the denial, suspension, withdrawal or nonrenewal of certification based on the seriousness of the underlying violation and the likelihood that the aide will maintain compliance in the future.

[Source: Added at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

SUBCHAPTER 7. HEARINGS

310:677-7-1. Right to a hearing

(a) Before the registry is notified that a finding of client or resident abuse, neglect, mistreatment or misappropriation of a client's or resident's property has been made against a certified nurse aide or nurse aide trainee, the Department shall offer the certified nurse aide or nurse aide trainee an opportunity for a hearing. If the certified nurse aide or nurse aide trainee fails to request a hearing in writing within thirty (30) days from the date of the notice, the Department shall include on the registry a finding of client or resident abuse, neglect, mistreatment or misappropriation of a client's or resident's property against the certified nurse aide or nurse aide trainee.

(b) If the certified nurse aide or nurse aide trainee requests a hearing before the Department completes its investigation, a hearing will not be scheduled until the Department completes its investigation.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 13 Ok Reg 1307, eff 3-28-96 (emergency); Amended at 13 Ok Reg 2515, eff 6-27-96 ; Amended at 18 Ok Reg 2545, eff 6-25-01 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-7-2. Hearing [REVOKED]

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 18 Ok Reg 2545, eff 6-25-01 ; Revoked at 40 Ok Reg 1588, eff 9-11-23]

310:677-7-3. Petition and hearing

(a) **Petition.** After the certified nurse aide or nurse aide trainee requests a hearing, the Department shall file a petition which states the facts

supporting the allegation.

(b) **Notice of hearing.** All parties shall be given notice of the date, time and place of the hearing. The notice of hearing shall include a copy of the petition.

(c) **Time.** The hearing shall be scheduled at least fifteen (15) working days after the certified nurse aide or nurse aide trainee has received notice of the hearing.

(d) **Conducting the hearing.** The hearing shall be conducted in accordance with this Subchapter and Chapter 2 of this Title.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 13 Ok Reg 1307, eff 3-28-96 (emergency); Amended at 13 Ok Reg 2515, eff 6-27-96 ; Amended at 18 Ok Reg 2545, eff 6-25-01 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-7-4. Orders

(a) **Authority.** The Administrative Law Judge shall issue a decision within fifteen (15) working days following the close of the hearing record. The decision shall include Findings of Fact and Conclusions of Law separately stated.

(b) **Delegation.** The Commissioner of Health may delegate the authority to issue a final decision in these matters as specified in OAC 310:002-3-6.

(c) **Registry notification.** The decision shall direct the nurse aide registry to place the findings against the certified nurse aide or nurse aide trainee onto the registry. The decision shall direct the nurse aide registry to accept and add to the registry any statement submitted by the certified nurse aide or nurse aide trainee disputing the final decision. The statement of the certified nurse aide or nurse aide trainee shall be submitted to the nurse aide registry within thirty (30) days after the decision is issued.

(d) **Notice.** Each party and attorney of record shall be mailed a copy of the Final Order. The Department shall transmit a copy of the Final Order to the nurse aide registry when the Order is mailed.

(e) **Appeal.** An appeal of the Final Order shall be perfected under the Administrative Procedures Act.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 18 Ok Reg 2545, eff 6-25-01 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-7-5. Petition for removal of finding of neglect

(a) **Petition.** If more than one (1) year has expired since the day the finding of neglect notation was placed upon the file of the certified nurse aide or nurse aide trainee, the certified nurse aide or nurse aide trainee may request a hearing and an individual proceeding shall be commenced upon the filing of a petition or request by the certified nurse aide or nurse aide trainee which states:

- (1) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and
- (2) the neglect involved in the original finding was a singular occurrence.

(b) **Notice of hearing.** All parties shall be given notice of the date, time and place of the hearing. The notice of hearing shall include a copy of the

petition.

(c) **Time.** The hearing shall be scheduled at least fifteen (15) working days after the certified nurse aide or nurse aide trainee has received notice of the hearing.

(d) **Authority.** The Administrative Law Judge shall issue a decision within fifteen (15) working days following the close of the hearing record. The decision shall include Findings of Fact and Conclusions of Law separately stated.

(e) **Registry notification.** If the Administrative Law Judge finds that the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect and the neglect involved in the original finding was a singular occurrence, the Administrative Law Judge shall take the following into consideration in making a decision whether to direct the nurse aide registry to remove the finding of neglect notation from the Registry:

- (1) The degree of negligence;
- (2) The severity of the potential negative resident outcome;
- (3) The severity of the actual negative resident outcome;
- (4) The forthrightness and cooperation of the individual;
- (5) Any rehabilitation or education completed by the individual since the incident; and
- (6) Any other factors or considerations the judge determines to be pertinent to the court's decision. In all other instances, the name and information of the nurse aide upon the nurse aide registry shall remain unchanged.

(f) **Status of certification.** Where the Administrative Law Judge directs that the finding of neglect notation be removed, the following shall apply:

- (1) If the nurse aide is no longer certified and has no other disqualifying notations on the registry, the nurse aide shall successfully complete a nurse aide competency evaluation program prior to re-establishing certification. All applicable retesting fees shall apply.
- (2) An individual who fails a nurse aide competency evaluation program under the prior paragraph shall be required to retrain before taking any subsequent retests.
- (3) If the aide is a nurse aide trainee and has no other disqualifying notations on the registry, the nurse aide trainee shall successfully complete a nurse aide training and competency evaluation program to establish certification.

[Source: Added at 26 Ok Reg 2068, eff 6-25-09]

SUBCHAPTER 9. HOME HEALTH AIDES

310:677-9-1. General requirements

(a) The home care agency shall:

- (1) Complete an annual performance review of each home care aide and provide at least twelve (12) hours of in-service training each calendar year.

- (2) Have in-service education generally supervised by a registered nurse who has at least two (2) years nursing experience with at least one (1) year of which shall be in the provision of home care.
- (3) Ensure that all certifications are current and not expired.
- (b) An individual may apply for placement in the nurse aide registry by reciprocity from another State if the individual is listed on another State registry as a certified home care nurse aide and does not have a notation of confirmed abuse, neglect, mistreatment, or misappropriation of property.
- (c) The training program shall inform the trainee that a home care aide shall complete a new nurse aide training and competency examination or competency examination if, upon applying for renewal of certification, the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation in the previous twenty-four (24) months.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-9-2. Deemed to meet state certification requirements

- (a) The Department shall deem a certified home care aide to meet the nurse aide certification requirements for the following employers after successful completion of at least sixteen (16) hours of documented orientation specific to the employer's population. The employers to which this requirement applies are the following:
 - (1) Residential care.
 - (2) Adult day care.
 - (3) Specialized facility.
- (b) An individual who is listed in the nurse aide registry as a long term care aide may be employed by a home care agency upon successful completion of a Department approved home care skills examination and at least sixteen (16) hours of orientation specific to the employer's population. The individual will be placed on the registry as being certified as a Home Health Aide after successfully passing the examination.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-9-3. Instructor qualifications

- The training of home health aides and the supervision of home health aides during the supervised practical portion of the training shall be performed by, or under the general supervision of, a registered nurse who possesses at least two (2) years nursing experience with at least one (1) year experience providing the following:
- (1) Home care; or
 - (2) Instruction in a home health nurse aide training program under the supervision of a qualified registered nurse.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 24 Ok Reg 2045, eff 6-25-07]

310:677-9-4. Curriculum

- (a) The home care aide training program curriculum must include:
 - (1) At least seventy-five (75) hours of training or the equivalent.
 - (2) At least sixteen (16) hours of classroom training before beginning any supervised practical training.
 - (3) At least sixteen (16) hours of supervised practical training.
- (b) The home care aide training program shall include, but is not limited to, the following subject areas:
 - (1) Communication skills.
 - (2) Observation, reporting and documentation of client status and the care or services furnished.
 - (3) Taking and recording temperature, pulse, and respiration;
 - (4) Basic infection control procedures.
 - (5) Basic elements of body functioning and changes in body function that must be reported to the aide's supervisor.
 - (6) Maintenance of a clean, safe, and healthy environment.
 - (7) Recognizing an emergency and necessary emergency procedures.
 - (8) The physical, emotional, and developmental needs of, and ways to work with, the populations served by the home care agency, including the need for respect for the client, and the client's privacy and property.
 - (9) Appropriate and safe techniques in personal hygiene and grooming including but not limited to the following: bed bath, sponge, tub or shower bath, shampoo, sink, tub, or bed, nail and skin care, oral hygiene and toileting and elimination.
 - (10) Safe transfer techniques and ambulation.
 - (11) Normal range of motion and positioning.
 - (12) Adequate nutrition and fluid intake;
 - (13) Any other task that the home care agency may choose to have the home care aide perform.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-9-5. Competency examination

- (a) The written or oral examination and skills examination shall be administered by a registered nurse.
- (b) The skills examination portion shall include at least the following:
 - (1) Taking and recording temperature, pulse, and respiration.
 - (2) Appropriate and safe techniques in personal hygiene and grooming.
 - (3) Safe transfer techniques and ambulation.
 - (4) Normal range of motion and positioning.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

SUBCHAPTER 11. LONG TERM CARE AIDES

310:677-11-1. General requirements

(a) The facility shall:

- (1) Complete a performance review of every nurse aide at least once every twelve (12) months and provide two (2) hours of inservice training specific to their job assignment each month.
- (2) Have in-service education generally supervised by a registered nurse who has at least two (2) years nursing experience with at least one (1) year of which shall be in the provision of long term care services.
- (3) Ensure that each nurse aide certification is current and not expired.

(b) An individual may apply for listing in the nurse aide registry by reciprocity from another State and the Department may approve such application if the individual is listed in another State registry as a certified long term care aide and does not have a notation of abuse, neglect, mistreatment, or misappropriation of property.

(c) The training program shall inform a trainee that the trainee shall not perform any resident services until the trainee has completed the required sixteen (16) hours of training identified in 310:677-11-4 and the aide shall not perform services for which they have not trained and been found proficient by the instructor.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-11-2. Deemed to meet state certification requirements

(a) The Department shall deem a certified long term care aide to meet the nurse aide certification requirements for the following employers after successful completion of at least sixteen (16) hours of documented orientation specific to the employer's population. This requirement shall apply to the following employers:

- (1) Residential care.
- (2) Adult day care.
- (3) Specialized facility.

(b) A home care aide may be employed by a long term care facility following at least sixteen (16) hours of training in the following areas:

- (1) Resident rights.
- (2) Caring for the resident when death is imminent.
- (3) Care of the cognitively impaired resident.
- (4) Avoiding the need for restraints in accordance with current professional standards.
- (5) The minimum data set, care plans and the interdisciplinary team.

(c) Documentation of the sixteen (16) hours of training shall indicate time spent in each area, be signed by the nurse aide and the instructor and be kept in the nurse aide's personnel file. Documentation shall also be submitted to the Department to place the certified home care aide on the registry as a certified long term care aide.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-11-3. Instructor qualifications

- (a) The training of long term care aides shall be done by, or under the general supervision of, a registered nurse who has:
- (1) At least two (2) years of nursing experience with at least one (1) year in long term care facility services.
 - (2) Completed a course in teaching adults or experience in teaching adults or supervising nurse aides.
- (b) The nurse aide training and competency examination may be supervised by the registered nurse who serves as the director of nursing, provided that the director of nursing shall not perform the actual training.
- (c) There must be one (1) Registered Nurse who meets the qualifications for each long term care training program, whether in the role of RN Supervisor or RN instructor.
- (d) A licensed practical nurse may act as an instructor in an approved nurse aide training and competency examination program when a registered nurse maintains responsibility for the program and is available to provide instruction in areas in which a licensed practical nurse may lack technical expertise.
- (e) Other personnel from the health professions may supplement the instructor. These persons shall be licensed by the State, if applicable, and shall have at least one (1) year experience in the practice of the profession.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02]

310:677-11-4. Curriculum

- (a) The training program for long term care aides shall include:
- (1) At least, seventy-five (75) hours of training or the equivalent.
 - (2) At least sixteen (16) hours of training in the following areas prior to any direct contact with a resident that is documented and signed by the nurse aide trainee:
 - (A) Communication and interpersonal skills.
 - (B) Infection control.
 - (C) Safety and emergency procedures, including the Heimlich maneuver.
 - (D) Promoting a resident's independence.
 - (E) Respecting a resident's rights.
 - (3) At least sixteen (16) hours of supervised practical training that is documented and signed by the nurse aide trainee.
- (b) The long term care aide training program shall include the subjects specified in paragraphs (b)(2) through (7) of 42 CFR 483.152(b) including:
- (1) Basic nursing skills;
 - (2) Personal care skills;
 - (3) Mental health and social service needs;
 - (4) Care of cognitively impaired residents;
 - (5) Basic restorative services; and
 - (6) Residents' Rights.

(c) Pursuant to 63 O.S. § 1-1951(A)(3), the long term care aide training program shall *include a minimum of ten (10) hours of training in the care of Alzheimer's patients.*

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 26 Ok Reg 2068, eff 6-25-09 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-11-5. Competency examination

The competency examination must comply with 42 CFR 483.154 and is addressed under OAC 310:677-3-9 and OAC 310:677-3-10.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

SUBCHAPTER 13. CERTIFIED MEDICATION AIDES

310:677-13-1. General requirements

(a) An individual shall be able to read, write, and speak English and be certified in good standing as a home health aide, a long term care aide, or a ICF/IID care aide listed in the Department's Nurse Aide Registry, prior to admission to a State approved certified medication aide training program. The Department shall make available an attestation form that training programs may use for admission to certified medication aide training.

(b) A certified medication aide shall complete at least eight (8) hours of continuing education every twelve (12) months, excluding the first year of certification, from a State approved program. A record of successful completion shall be kept in the certified medication aide's personnel file.

(c) An employer shall not use as a certified medication aide any individual who does not comply with 63 O.S. § 1-1950.3(E), OAC 310:677, and the employer's policies and procedures.

(d) A certified medication aide shall renew certification every 12 months. Renewal requires the following:

(1) Documentation of completion of at least eight (8) hours of continuing education every twelve (12) months, excluding the first year after certification as a medication aide. Classroom and supervised practical training hours completed by a CMA in a Department-approved advanced training program may count towards the eight required hours of continuing education;

(2) Current certification as a long term care aide, home health aide or ICF/IID care aide. CMAs may also be certified in the other two (2) categories in addition to the required certification as a long term care aide, home health aide and ICF/IID care aide; and

(3) Current listing in the nurse aide registry.

(e) The Department shall approve certified medication aide training programs that meet the requirements of OAC 310:677-13-3 through 13-5, and OAC 310:677-13-9.

(f) The Department shall review, approve or disapprove a Certified Medication Aide Continuing Education Program application and notify

the entity of its action within thirty (30) days of the request or receipt of additional information from the applicant.

(g) The following words or terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

(1) "Stable diabetes" means diabetes associated with a blood glucose level consistently between 80 and 140 milligrams per deciliter (mg/dl) fasting and less than or equal to 180 mg/dl after a meal, and/or a Hemoglobin A1c (HbA1c) at or below 7.0 within the last three months.

(2) "Unstable diabetes" means:

(A) A non-acutely ill person with blood glucose levels more than three times over a six week period that are under 80 mg/dl or more than 140 mg/dl fasting, or more than 180 mg/dl two hours after a meal;

(B) A person with diabetes who has prescriptions for both insulin and glucagon;

(C) A person with Type I diabetes who experiences hypoglycemia unawareness;

(D) A person who is newly diagnosed with diabetes and for whom insulin is prescribed; or

(E) A person who has been previously diagnosed with diabetes and now requires insulin administration for management. They may be considered stable again when their glucose is maintained in the stable range specified in subsection (g)(1) of this section, which may include maintaining an HbA1c at or below 7.0.

(3) "Newly diagnosed" means a person who now has a diagnosis of either Type I or Type II diabetes, has a new prescription for insulin, has not been diagnosed with diabetes in the past and who does not have stable diabetes.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Amended at 23 Ok Reg 2422, eff 6-25-06 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-2. Deemed to meet state certification requirements

A certified medication aide shall be eligible to perform the duties of a certified medication aide for the following employers:

- (1) Nursing facility or continuum of care facility;
- (2) Specialized facility;
- (3) Residential care home;
- (4) Adult day care facility; and
- (5) Assisted living center.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Amended at 23 Ok Reg 2422, eff 6-25-06]

310:677-13-3. Instructor qualifications

(a) Each training program instructor shall be qualified as a physician, licensed nurse, pharmacist, respiratory therapist, speech therapist, or

certified diabetes educator. Each instructor shall have one year of experience in their area of expertise. The program shall designate a registered nurse as the training program supervisor if a licensed practical nurse serves as an instructor.

(b) Other personnel from the health professions may supplement the instructor within their area of expertise or scope of practice, as required by the curriculum and approved by the Department.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Amended at 23 Ok Reg 2422, eff 6-25-06 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-4. Curriculum

(a) The certified medication aide training program shall include a minimum of forty (40) hours of classroom and supervised practical training with a minimum of sixteen (16) hours of supervised practical training.

(b) The certified medication aide training shall include, but is not limited to each of the following subject areas:

- (1) Preparation and administration of medication.
 - (A) Documentation of medication administration.
 - (B) Proper medication storage procedures.
 - (i) Scheduled controlled substances.
 - (ii) Internal and external medications.
 - (C) Purposes of medications.
 - (D) Oral medications.
 - (E) Topical medications.
 - (F) Eye, ear, and nose medications.
 - (G) Vaginal medications.
 - (H) Rectal medications.
 - (I) Oral inhalants.
 - (J) Transdermal medications.
 - (K) Medical terminology, symbols, and abbreviations.
 - (L) The rights of medication administration, including the right patient, drug, date, time, dosage, route and form.
 - (M) Controlled drug procedures.
 - (N) Recognizing appropriate situations requiring assistance of the charge nurse.
 - (O) Drug-reference sources.
 - (P) Vital sign measurement with drug administration.
 - (Q) Medication labeling.
- (2) Observe, report, and document resident's status.
 - (A) Blood pressure measurement and documentation.
 - (B) Drug to drug interactions.
 - (C) Drug to food interactions, and medication timed to coincide with meals.
- (3) Principles of safety.
 - (A) Infection control techniques.
 - (B) Principles of positioning for medication administration.
- (4) Knowledge of measurement systems.
 - (A) Distinguish weight and volume measurements.
 - (B) Decimal and fraction concepts in medication administration.

- (C) Appropriate measurement equipment.
- (5) Body systems and common diseases.
 - (A) Digestive system and common diseases to medication administration.
 - (B) Respiratory system and common diseases to medication administration.
 - (C) Drug metabolism.
 - (D) Cardiovascular system and common diseases to medication administration.
 - (E) Endocrine system in relation to diabetes and hormone therapy.
 - (F) Elimination system and common diseases to medication administration.
 - (G) Skin system and common diseases to medication administration.
 - (H) Muscular-skeletal system and common diseases to medication administration.
 - (I) Nervous system and common diseases to medication administration.
- (c) The advanced training program for care of diabetes and the administration of diabetic medications by CMAs shall include:
 - (1) A minimum of twelve hours of classroom training and a minimum of four hours of supervised practical training;
 - (2) Training in the following subject areas with curriculum standards as indicated:
 - (A) Pathophysiology of diabetes, with the successful learner able to:
 - (i) Define diabetes as a chronic metabolic disorder in which the body is unable to metabolize glucose properly;
 - (ii) Describe the action of insulin in the body; and
 - (iii) Explain the differences between the types of diabetes;
 - (B) Diabetes disease management, with the successful learner able to:
 - (i) Describe the relationship between insulin, diet, and physical activity in management of diabetes; and
 - (ii) Explain how diet relates to blood glucose control;
 - (C) Blood glucose testing and use of equipment, with the successful learner able to:
 - (i) Explain the purpose of blood glucose testing;
 - (ii) Demonstrate how to use blood glucose testing equipment, and demonstrate accuracy; and
 - (iii) Explain the quality control requirements for glucose monitoring equipment, demonstrate both high and low controls, and explain their purpose and frequency of control testing;
 - (D) Stable and unstable diabetes, with the successful learner able to:

- (i) Identify appropriate blood glucose levels for persons with diabetes;
 - (ii) Define hypoglycemia and list three causes and three symptoms;
 - (iii) Define hyperglycemia and list three causes and three symptoms; and
 - (iv) Define and describe the difference between stable and unstable diabetes;
- (E) Diabetes care by managing blood glucose levels, with the successful learner able to:
- (i) List three carbohydrate choices used to treat hypoglycemia;
 - (ii) Describe measures to prevent hypoglycemia;
 - (iii) Describe the relationship between blood glucose levels and indications for glucagon use;
 - (iv) Describe measures to prevent hyperglycemia; and
 - (v) State when to contact and what to report to a licensed health care provider;
- (F) Charting, graphing, and record-keeping, with the successful learner able to:
- (i) Explain the reason for accurate documentation of all aspects of diabetes management and care, including blood glucose results, quality control testing, medication administration, and adverse reactions;
 - (ii) Identify correct forms for documentation; and
 - (iii) Demonstrate the ability to accurately document diabetes management and care;
- (G) Diabetic medications and adverse reactions (Insulin), with the successful learner able to:
- (i) Describe the purpose of insulin;
 - (ii) State the types of insulin and each onset, peak and duration of action;
 - (iii) Explain the difference between basal and bolus insulin; and
 - (iv) State common side effects, adverse reactions and precautions for insulins;
- (H) Diabetic medications and adverse reactions (Oral agents), with the successful learner able to:
- (i) Describe the purpose, action and recommended doses of each oral agent; and
 - (ii) State common side effects, adverse reactions and precautions for each oral agent;
- (I) Administration of diabetic medications, with the successful learner able to:
- (i) State the correct administration times for insulin and oral agents relevant to meals and mechanisms of action;
 - (ii) Identify the preferred sites for an insulin injection and describe site rotation patterns;

- (iii) Discuss the proper storage of insulin;
 - (iv) Demonstrate the accurate measurement and correct technique for preparation of a single and a mixed dose of insulin;
 - (v) Explain why it is required to check insulin type and dose drawn with another certified medication aide or licensed health care provider; and
 - (vi) Demonstrate administration of a dose of insulin (or saline) to self or another person and/or to a training mannequin appropriate for injections during classroom training; and
 - (vii) Demonstrate administration of a dose of insulin (or saline) to self or another person during supervised practical training;
- (J) Infection control and universal precautions for blood borne pathogens, with the successful learner able to:
- (i) Define the term "universal precautions";
 - (ii) Demonstrate safe handling of syringes, needles, pen devices, glucometer equipment and test strips, lancing devices and lancets; and
 - (iii) Explain proper disposal of used syringes, needles, test strips and lancets; and
- (3) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 90% or greater.
- (d) The advanced training program for administration of medications and nutrition via nasogastric and gastrostomy tubes, and for administration of oral metered dose inhalers and nebulizers, shall include:
- (1) A combined minimum of eight (8) hours of classroom and supervised practical training;
 - (2) Training in at least the following subject areas:
 - (A) Gastrointestinal system and alternative methods for providing medications and nourishment;
 - (B) Nasogastric and gastrostomy equipment and supplies;
 - (C) Procedures and techniques for insertion of nasogastric tube by a licensed nurse, and assessment of patient by registered nurse after placement of nasogastric or gastrostomy tube and before administration of medication or feedings;
 - (D) Procedures and techniques for checking stomach contents through a gastrostomy tube prior to the administration of medication and/or feedings per licensed nurse delegation, when assessment of gastrostomy tube placement and assessment of resident status by a licensed nurse is not indicated based on the resident's current assessment and care plan and/or status and condition;
 - (E) Methods and techniques for administration of medications and nutrition via nasogastric and gastrostomy tubes;
 - (F) Identification of and responses to potential problems associated with administration of medications and

- nutrition via nasogastric and gastrostomy tubes;
 - (G) Respiratory system and methods for delivery of medications;
 - (H) Equipment and supplies for administration of medication via metered dose inhalers and nebulizers;
 - (I) Methods and techniques for administering medications via metered dose inhalers and nebulizers; and
 - (J) Identification of and responses to potential problems associated with administration of medications via metered dose inhalers and nebulizers; and
- (3) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 90% or greater.
- (e) The advanced training program for care of diabetes and the monitoring of blood glucose only, with no administration of insulin by CMAs, shall include:
 - (1) A minimum of six (6) hours of classroom training and a minimum of two hours of supervised practical training; and
 - (2) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 90% or greater.
- (f) The advanced training program for administration of medications and nutrition via nasogastric and gastrostomy tubes only, with no administration via oral metered dose inhalers and nebulizers, shall include:
 - (1) A combined minimum of four (4) hours of classroom training and two (2) hours of supervised practical training; and
 - (2) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 80% or greater.
- (g) The advanced training program for administration of oral metered dose inhalers and nebulizers only, with no administration via nasogastric and gastrostomy tubes, shall include:
 - (1) A combined minimum of two (2) hours of classroom training and one (1) hour of supervised practical training;
 - (2) Training in the subject areas identified in subparagraphs (d) (2)(F), (G), (H) and (I) of this section; and
 - (3) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 80% or greater.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Amended at 23 Ok Reg 2422, eff 6-25-06 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-5. Competency examination

- (a) The following shall apply to the written or oral portion of the competency examination.
 - (1) The examination shall be drawn from a pool of test questions that address the course requirements.

- (2) The examination shall be administered and scored by a Department approved entity.
- (3) The examination shall comply with the examination administration requirements in OAC 310:677-3-9.
- (4) A minimum score of seventy percent (70%) shall be required to pass the written competency examination for certification as a medication aide.
- (5) A minimum score of eighty percent (80%) shall be required to pass the written competency examination for insulin administration.
- (6) A candidate who fails to score at least the required minimum on three consecutive written competency examinations shall be required to retrain before retesting.
- (b) The following shall apply to the skills demonstration.
 - (1) The skills demonstration shall be performed in a laboratory or a site comparable to the setting in which the certified medication aide will function.
 - (2) The skills demonstration shall be administered and scored by a physician, licensed nurse or registered pharmacist.
 - (3) The student shall achieve one hundred (100) percent accuracy on a medication pass on at least twenty (20) or more individuals under direct observation by an instructor.
 - (4) The successful completion of the medication pass shall be documented and retained in the certified medication aide's training file.
 - (5) The skills demonstration shall comply with the administration requirements in OAC 310:677-3-9 and the content requirements in OAC 310:677-3-10.
- (c) The competency examination program shall obtain a written attestation of compliance with OAC 310:677-13-8(a) from each candidate for medication aide certification before administering the examination to the candidate. The Department shall make available a form that examination entities may use to obtain attestations from testing candidates.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Amended at 23 Ok Reg 2422, eff 6-25-06 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-6. Competency and practice standards

- (a) Each certified medication aide must function under the supervision of a licensed nurse or physician.
- (b) Each certified medication aide shall:
 - (1) Comply with 63 O.S. Section 1-1950.3(E) and OAC 310:677-13;
 - (2) Perform within authorized duties;
 - (3) Follow written instructions of a licensed nurse or physician;
 - and
 - (4) Accurately record medications administered, withheld or refused.
- (c) Each certified medication aide shall demonstrate understanding of the CMA's relationship to licensed nurses and physicians, including:

- (1) The authority of physicians, physician assistants and advanced practice nurses to order medications and treatments;
 - (2) The authority of registered nurses to perform assessments and report to physicians;
 - (3) The authority of licensed practical nurses to perform focused reviews and report to registered nurses and physicians; and
 - (4) The functions of the certified medication aide authorized in 63 O.S. Section 1-1950.3(E) and OAC 310:677-13-7.
- (d) Each certified medication aide shall:
- (1) Pass written and clinical skills tests prior to performing as a certified medication aide; and
 - (2) Demonstrate competency and complete required continuing education that is relevant to the services being provided by the certified medication aide.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06]

310:677-13-7. Skills and functions

(a) **Task assignments.** Approved training programs and facilities, centers and homes shall ensure that a task selected, taught and assigned to certified medication aides meets the minimum requirements of this chapter.

(b) **Limitations.** A certified medication aide shall not:

- (1) Administer medication that requires assessment unless a registered nurse is available to perform the assessment within the required time;
- (2) Perform oral, nasal or tracheal suctioning;
- (3) Apply topical wound care medications that involve decubitus treatment ordered by the attending physician;
- (4) Act as preceptor for a medication aide in training;
- (5) Administer PRN medication without a documented assessment unless authorization is obtained from a licensed nurse on duty or on call, and unless fully documented by the certified medication aide;
- (6) Perform blood glucose testing unless the CMA has completed a Department-approved advanced training program and has demonstrated competency for care of diabetes;
- (7) Administer insulin unless the CMA has successfully completed a Department-approved advanced training program and competency and skills examination, and unless a physician or licensed nurse is on-site if the individual:
 - (A) Is newly diagnosed with diabetes;
 - (B) Requires insulin administration based on blood glucose levels and does not have clear physician orders for variable or sliding scale insulin; or
 - (C) Has unstable diabetes; or
- (8) Administer medications or nutrition via nasogastric or gastrostomy tubes, or administer oral metered dose inhalers or nebulizers, unless the CMA has completed a Department-approved advanced training program and has demonstrated

competency for such services; or

(9) Take or note physician orders.

(c) **Skills review.** The facility, center or home shall validate certified medication aide skills before the certified medication aide performs medication administration. The certified medication aides' skills shall be reviewed annually for performance competency.

(d) **Functions.** The functions of the certified medication aide are:

(1) Knowing the resident, including:

(A) Reviewing the resident's plan of care; and

(B) Recognizing normal and abnormal conditions for the specific resident;

(2) Collection and documentation of data;

(3) Identifying a change in condition;

(4) Reporting to the licensed nurse and/or physician;

(5) Contacting emergency medical services;

(6) Receiving facility-specific training and orientation from the facility's licensed nurse;

(7) Demonstrating competency and proficiency to the facility's licensed nurse; and

(8) Receiving delegated tasks from the facility licensed nurse, and performing based upon such delegation.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-8. Certification and renewal

(a) Effective August 1, 2006, the following, to be evidenced by the aide's attestation, are prerequisites for certification as a medication aide:

(1) Minimum age: 18;

(2) Minimum education: high school or general equivalency diploma;

(3) Current Oklahoma nurse aide certification with no abuse notations;

(4) Experience working as a certified nurse aide for six months; and

(5) Physical and mental capability to safely perform duties.

(b) Application criteria and processing requirements for renewal are as follows:

(1) The certified medication aide shall submit a Renewal Application that requires information to demonstrate compliance with OAC 310:677-13-1(d).

(2) The Renewal Application shall be accompanied by a ten dollar (\$10.00) fee.

(3) Each renewal shall be effective for twelve months from the expiration date of the medication aide's previous certification.

(4) The medication aide shall be required to retest if certification has expired by more than one year. The individual may obtain approval to take a retest by filing a Certified Medication Aide Retest Application with a fifteen dollar (\$15.00) nonrefundable fee. The aide shall retrain and test if the aide fails the retest or if certification has expired by more than three years.

(5) The Renewal Application) for a medication aide shall include documentation of continuing education equivalent to eight hours for every twelve months of certification, excluding the first year of certification.

(c) A certified medication aide who completes a Department-approved advanced training program and demonstrates competence may request a Department-issued certificate that bears an endorsement for the advanced training. When an advanced-training certificate is issued by the Department to a certified medication aide, a notation reflecting the advanced training shall be placed on the aide's record in the Nurse Aide Registry. A request for endorsement shall be accompanied by a ten dollar (\$10.00) endorsement fee and proof of training and competence on an application form that requires:

- (1) The name and contact information for the certified medication aide; and
- (2) The name of the training program, dates of attendance, details on the CMA's demonstration of competence, and copies of documents from the program confirming training and competence.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06 ; Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 26 Ok Reg 2068, eff 6-25-09 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-9. Training and Competency Evaluation Programs

(a) Department approval of the training and competency evaluation program is required prior to offering training.

(b) The program must submit information on a form provided by the Department to include:

- (1) Name and address for the entity sponsoring the program and for the contact person for the program;
- (2) The location of the administrative office of the program and the location where records are maintained;
- (3) Position descriptions and education and experience requirements for training supervisors and instructors, and the program's procedure for ensuring that supervisors and instructors satisfy such descriptions and requirements.
- (4) Standards for classroom and clinical facilities;
- (5) Program outline, with objectives, curriculum, and instruction methods, and demonstration that the program addresses skills and functions specified in OAC 310:677-13-7; and
- (6) Evaluation methods, including lab and clinical skills checklists, and examinations.

(c) Department approved training programs shall be evaluated every three years. Between evaluations, the training program shall send the Department advance notice of changes in previously approved program information.

(d) Each program is subject to site visits by the Department.

(e) Within 30 days after receipt of an application for a program that is not currently approved, the Department shall determine if the application is complete and consistent. If the application is incomplete or inconsistent,

the Department shall advise the applicant in writing and offer an opportunity to submit additional information. Within 30 days after completeness, the Department shall approve or disapprove the application. If the action is to disapprove, the Department shall advise the applicant in writing of the specific reasons for the disapproval, and offer an opportunity to demonstrate compliance.

(f) The Department may withdraw approval or refuse to renew approval of a training program based on the program's noncompliance with 63 O.S. Section 1-1950.3 or 1-1951, or OAC 310:677. The Department shall notify the program of the intent to withdraw or not renew approval. The notice shall cite the specific reasons for the action and offer the applicant an opportunity to demonstrate compliance. Prior to the effectiveness of the withdrawal or non-renewal, the Department shall offer the program an opportunity for a hearing. After the withdrawal or non-renewal, the Department may oversee orderly closure of a program.

(g) Training modules in addition to the minimums for certified medication aide training shall be submitted for Department approval as training programs prior to offering training.

(h) For advanced training programs for care of diabetes, the Department shall deem as acceptable the use of training materials approved by the American Diabetes Educators Association, Oklahoma Chapters.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06 ; Amended at 24 Ok Reg 2045, eff 6-25-07]

310:677-13-10. Denial, suspension, withdrawal, and nonrenewal of certification

(a) Grounds for certification action against a certified medication aide may include:

- (1) Intentionally providing false or misleading information to a training program, a facility, or the Department;
- (2) Failing to administer medications as ordered by a health care professional, with resulting actual harm that is either life threatening or has a negative outcome for the resident;
- (3) Failing to consistently document medications;
- (4) Altering or falsifying medication records;
- (5) Altering or falsifying certified nurse aide or certified medication aide identification cards;
- (6) Diverting drugs;
- (7) Practicing nursing or medicine except as authorized pursuant to 63 O.S. Section 1-1950.3, 1-1951, OAC 310:677, and Oklahoma laws and rules specific to the CMA's employer as specified in OAC 310:677-13-2;
- (8) Representing oneself as certified medication aide without current certification;
- (9) Administering medications in a setting other than those authorized in 63 O.S. Section 1-1950.3(E); or
- (10) Materially failing to conform to 63 O.S. Section 1-1950.3(E) and OAC 310:677-13.

(b) The Department may deny, suspend, withdraw or not renew certification of a medication aide based on the aide's noncompliance with

63 O.S. Section 1-1950.3 or 1-1951, or OAC 310:677. The Department shall notify the aide of the intent to deny, suspend, withdraw or not renew certification. The notice shall cite the specific reasons for the action and offer the aide an opportunity to demonstrate compliance. Prior to the effectiveness of the denial, suspension, withdrawal, or nonrenewal of certification, the Department shall offer the aide an opportunity for a hearing.

(c) The suspension of a certificate shall be effective for not less than six months, and a denial, withdrawal or nonrenewal of a certification shall be effective for not less than one year. The Department shall specify the duration of the denial, suspension, withdrawal or nonrenewal of certification in excess of the minimums based on the seriousness of the underlying violation and the likelihood that the aide will maintain compliance in the future.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06]

310:677-13-11. Facility policies and procedures

(a) If a facility uses certified medication aides, facility policies and procedures shall address:

- (1) Methods that the facility, center or home uses to ensure that training, skill validation, and task assignment procedures are approved and implemented;
- (2) Licensed supervision, oversight and availability;
- (3) Staff intervention during an emergency;
- (4) Procedures for responding when a resident experiences a change in condition, demonstrates side effects or does not respond to the medication regimen as identified in the plan of care;
- (5) Documentation that must be maintained;
- (6) Reporting errors to licensed nurses and/or physicians; and
- (7) Reporting violations of 63 O.S. Section 1-1950.3(E) and OAC 310:677 to the State Health Department.

(b) If a facility uses certified medication aides that have completed an advanced training program and demonstrated competency for care of diabetes or other specialized training modules, the facility policies and procedures shall address subsection (a) of this section and:

- (1) Standards for monitoring and assessments of residents by a registered nurse or physician, including:
 - (A) Frequency of monitoring and assessment;
 - (B) Distinguishing between Type I and Type II diabetes, and stable and unstable diabetes;
- (2) Validating CMA skills before the CMA performs medication administration, and annual reviews of CMA performance competency and proficiency by the facility nurse;
- (3) Procedures for blood sugar testing;
- (4) Collecting data;
- (5) Charting, graphing and recording data;
- (6) Standards for reporting to the licensed nurse or physician on a timely basis, including:

- (A) Recognition of abnormal resident reactions;
 - (B) Contact procedures, on-call hours, and response times;
 - and
 - (C) Medication administration errors, including the wrong patient, drug, date, time, dosage, route or form;
- (7) Contacting emergency medical services;
 - (8) Training, orientation and delegation of tasks from the facility's nurse;
 - (9) Drawing up insulin;
 - (10) Following physician orders, including use of sliding scale orders prescribed by physicians;
 - (11) Safety and infection control; and
 - (12) Minimum qualifications for CMAs and facility screening of applicants, to include assurance that each certified medication aide has the physical and mental capability to safely perform duties.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06]

310:677-13-12. Medication aide continuing education

- (a) An entity seeking approval of a certified medication aide continuing education program shall file a nonrefundable application fee of seventy-five dollars (\$75.00) and a Certified Medication Aide Continuing Education Form, which requires the following:
- (b) Within 30 days after receipt of an application for a continuing education program that is not currently approved, the Department shall determine if the application is complete and consistent. If the application is incomplete or inconsistent, the Department shall advise the applicant in writing and offer an opportunity to submit additional information. Within 30 days after completeness, the Department shall approve or disapprove the application. If the action is to disapprove, the Department shall advise the applicant in writing of the specific reasons for the disapproval, and offer an opportunity to demonstrate compliance.
- (c) Department-approved continuing education programs shall be evaluated every three years. Between evaluations, the training program shall send the Department advance notice of changes in previously approved program information.
- (d) An approved continuing education program shall submit to the Department within 30 days after the conclusion of a continuing education class the following information:
 - (1) The title of the class and number of hours offered;
 - (2) The name, certification number, and number of hours attended for each certified medication aide who satisfactorily completed the continuing education class.

[Source: Amended at 24 Ok Reg 2045, eff 6-25-07 ; Amended at 26 Ok Reg 2068, eff 6-25-09]

SUBCHAPTER 15. ICF/IID CARE AIDES

310:677-15-1. Deemed to meet state certification requirements

(a) A certified ICF/IID care aide is deemed to meet the nurse aide certification requirements for the following employers after successful completion of at least sixteen (16) hours of documented orientation specific to the facility population. The employers to which this subsection applies are:

- (1) Residential care.
- (2) Adult day care.

(b) The Department shall deem a certified long term care aide or a home care aide who has at least sixteen (16) hours of training specific to individuals with intellectual or developmental disabilities to meet the requirements for an ICF/IID care aide.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-15-2. Instructor qualifications

(a) The instructor for training ICF/IID care aides shall be a licensed nurse or a qualified intellectual disability professional who has at least one (1) year experience in the provision of services in a facility for the developmentally disabled.

(b) Other personnel from the health professions may supplement the instructor as required by the curriculum.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 37 Ok Reg 1455, eff 9-11-20]

310:677-15-3. Curriculum

(a) The ICF/IID care aide training program shall include at least seventy-five (75) hours of classroom and supervised practical training or the equivalent.

(b) The ICF/IID care aide training program shall include, but is not limited to, each of the following subject areas:

- (1) Ethical conduct.
- (2) Resident's rights.
- (3) Principles of safety.
- (4) Infection control techniques.
- (5) Nutrition and hydration.
- (6) Elements and changes of body functions.
- (7) Basic nursing skills.
- (8) Communication skills.
- (9) Mobility.
- (10) Hygiene, personal care, and comfort.
- (11) Terminology, principles, and concepts of cognitive impairment.
 - (A) Characteristics of cognitive impairment.
 - (B) Discern between different levels of intellectual disability.
 - (C) Principles of assessment tools.
 - (D) Terminology of active treatment.
- (12) Psychosocial needs.

- (A) Behavioral management techniques.
- (B) Identification of psychosocial needs.
- (C) Death and dying.
- (D) Recognizing deviant behavior.
- (E) Socialization skills.
- (13) Independent living skills.
 - (A) Promoting physical and mental independence.
 - (B) Promoting principles of normalization and community integration.
- (14) Active treatment components.
 - (A) Interdisciplinary team concepts and roles.
 - (B) Components of individual program plans.
 - (C) Using individual program plans.
 - (D) Proper documentation techniques.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 37 Ok Reg 1455, eff 9-11-20]

310:677-15-4. Competency examination

The competency examination shall be administered by a Department approved program. The skills portion of the examination shall be performed in a facility or laboratory setting comparable to the setting in which the individual will function as a ICF/IID care aide.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-15-5. Recertification [REVOKED]

[Source: Added at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Revoked at 40 Ok Reg 1588, eff 9-11-23]

SUBCHAPTER 17. RESIDENTIAL CARE AIDES

310:677-17-1. Deemed to meet state certification requirements

- (a) The Department shall deem a certified residential care aide to meet the adult day care program aides certification requirements after successful completion of at least sixteen (16) hours of training specific to the facility population.
- (b) The Department shall deem a certified long term care aide, a certified home care aide or a certified ICF/IID care aide who has at least sixteen (16) hours of documented training specific to the residential care population to meet the requirements for a certified residential care aide.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-17-2. Instructor qualifications

- (a) The instructor for the training of residential care aides shall be a licensed nurse who has at least one (1) year experience in the provision

of residential or health care services.

(b) Other personnel from the health professions may supplement the instructor as required by the curriculum.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02]

310:677-17-3. Curriculum

(a) The residential care aide training program shall include at least forty-five (45) hours of classroom and supervised practical training or the equivalent.

(b) The residential care aide training program shall include, but is not limited, to each of the following subject areas:

- (1) Ethical behaviors.
- (2) Legal behaviors.
- (3) Principles of safety.
- (4) Proper body mechanics.
- (5) Providing a safe environment.
- (6) Infection control.
- (7) Principles of nutrition and hydration.
- (8) Body functions.
- (9) Age-related changes.
- (10) Mobility.
- (11) Psychosocial needs.
- (12) Communication skills.
- (13) Resident behaviors.
- (14) Basic nursing skills.
- (15) Recognize, document, and report abnormal findings.
- (16) Recognize and document indications of illness.
- (17) Hygiene and personal care.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02]

310:677-17-4. Competency examination

The competency examination shall be administered by a Department approved program. The skills portion of the examination may be performed in a facility or laboratory setting comparable to the setting in which the individual will function as a residential care aide.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-17-5. Recertification [REVOKED]

[Source: Amended at 19 Ok Reg 2106, eff 6-27-02 ; Revoked at 40 Ok Reg 1588, eff 9-11-23]

SUBCHAPTER 19. ADULT DAY CARE PROGRAM AIDES

310:677-19-1. Deemed to meet state certification requirements

(a) The Department shall deem a certified adult day care program aide to meet the nurse aide certification requirements for a residential care employer after successful completion of at least sixteen (16) hours of documented training specific to the facility population.

(b) The Department shall deem a certified long term care aide, a certified home care aide or a certified ICF/IID care aide who has at least sixteen (16) hours of training specific to the adult day care population to meet the requirements for certification as an adult day care aide.

Documentation of the sixteen (16) hours of training shall be submitted to the Department and the certified long term care aide, certified home care aide or certified ICF/IID care aide shall be certified as a certified adult day care aide.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 37 Ok Reg 1455, eff 9-11-20 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-19-2. Instructor qualification

(a) The instructor for the training of adult day care program aides shall be an individual who has training experience and a strong knowledge of adult day care acquired through education or experience.

(b) Other personnel from the health professions may supplement the instructor as required by the curriculum.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95]

310:677-19-3. Curriculum

(a) The adult day care aide training program shall include at least forty-five (45) hours of classroom and supervised practical training or the equivalent.

(b) The adult day care aide training program shall include, but is not limited to, each of the following subject areas:

- (1) Ethical behaviors.
- (2) Legal behaviors.
- (3) Client rights.
- (4) Principles of safety to participant care.
- (5) Demonstrating disaster and fire procedures.
- (6) Cardiopulmonary resuscitation and first aid procedures.
- (7) Body mechanics.
- (8) Infection control.
- (9) Nutrition and hydration.
- (10) Special diets.
- (11) Sanitary food preparation and storage.
- (12) Body functions and age related changes.
- (13) Identifying changes related to the disease process.
- (14) Psychosocial needs.
- (15) Communication skills.
- (16) Mobility.
- (17) Assistive devices.
- (18) Assisting with range of motion exercises.
- (19) Hygiene, personal care, and comfort.
- (20) Providing assistance in program delivery.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02]

310:677-19-4. Competency and skills examination

The competency examination shall be administered by a Department approved program. The skills portion of the examination may be performed in a facility or laboratory setting comparable to the setting in which the individual will function as an adult day care program aide.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95 ; Amended at 19 Ok Reg 2106, eff 6-27-02 ; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-19-5. Recertification [REVOKED]

[Source: Added at 19 Ok Reg 2106, eff 6-27-02 ; Revoked at 40 Ok Reg 1588, eff 9-11-23]

CHAPTER 678. OFFICE OF CLIENT ADVOCACY

Editor's Note: *Effective 11-1-24, the rules in this Chapter were transferred from Chapter 2, Subchapter 3, in the Department of Human Service's Title 340 [OAC 340:2-3-1 through 340:2-3-75]. Pursuant to Senate Bill 1709 (2024), "all administrative rules promulgated by the Director of Human Services for the Office of Client Advocacy shall be transferred to and become a part of the administrative rules of the State Department of Health" [Senate Bill 1709 (2024)].*

[Source: Codified 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

SUBCHAPTER 1. ADMINISTRATION

310:678-1-1. Purpose

The purpose of this Subchapter is to outline the rules governing the operation of OCA. Rules relating to:

- (1) investigations conducted by OCA are found in Oklahoma Administrative Code (OAC) 340:2-3-32 through 340:2-3-38;
- (2) grievance systems maintained by OCA are found in OAC 340:2-3-45 through 340:2-3-55;
- (3) the Grievance and Abuse Review Committee (GARC) are found in OAC 340:2-3-61 through 340:2-3-65; and
- (4) OCA Advocacy Programs are found in OAC 340:2-3-71 through 340:2-3-75.

[Source: Transferred from 340:2-3-1 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-1-2. Definitions

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

"Abuse" means, with regard to:

(A) children, per Section 1-1-105 of the Oklahoma Statutes (10A O.S. § 1-1-105) harm or threatened harm to the health, safety, or welfare of a child by a person responsible for the child's health, safety, or welfare (PRFC) including, but not limited to: non-accidental physical or mental injury, sexual abuse, or sexual exploitation.

(B) vulnerable adults, per 43A O.S. § 10-103, causing or permitting:

- (i) the infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, mental anguish, or personal degradation; or
- (ii) deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult.

"Administrative information" means information reported to or obtained by Oklahoma Human Services (OKDHS) regarding the community services provider during the investigative process that may

be appropriate for internal administrative action but does not have the potential to impact the immediate health, safety, or welfare of recipients of community services, has not been verified as true and is for informational purposes only, per 56 O.S. § 1025.1.

"Administrator" or **"administrator's designee"** means, with regard to:

- (A) children in (OKDHS) custody living in a private, residential facility: the facility's chief administrative officer;
- (B) children in OKDHS custody living in an OKDHS-operated shelter or group home, the shelter or group home director;
- (C) children in OKDHS custody living in any other setting, including any type of out-of-home placement: the applicable OKDHS district director;
- (D) foster care parents: the applicable OKDHS district director or deputy director;
- (E) children in residential care facilities operated by the Oklahoma Department of Rehabilitation Services (ODRS); facilities that contract with, or are licensed by, the Oklahoma Office of Juvenile Affairs (OJA), with the exception of OJA-operated secure facilities, the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS); and the J.D. McCarty Center or OKDHS and other residential care facilities: the superintendent, director, chief administrative officer, or head of the facility regardless of the person's working title;
- (F) day treatment programs: the person charged with responsibility for program administration;
- (G) adults and children who are in OKDHS Developmental Disabilities Services (DDS) specialized foster care and DDS specialized foster care parents: the applicable DDS area manager;
- (H) Robert M. Greer Center (Greer) residents: the facility director;
- (I) providers of residential services, vocational services, or in-home paraprofessional supports to individuals with developmental disabilities living in the community: the provider's chief executive officer; and
- (J) residents of group homes for persons with developmental disabilities: the group home director.

"Advocate" means an Office of Client Advocacy (OCA) employee who provides assistance to OCA clients in exercising their rights, listening to their concerns, encouraging them to speak for themselves, seeking to resolve their problems, helping protect their rights, and seeking to improve the quality of their lives and care.

"Age-appropriate" or **"developmentally-appropriate"** means:

- (A) activities or items that are generally accepted as suitable for children of the same age or level of maturity or that are determined to be developmentally-appropriate

for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age group; and
(B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child per 10A O.S. § 1-1-105.

"Agency companion" means a person who provides agency companion services, per OAC 317:40-5-3, to:

(A) members 18 years of age or older who are eligible for services through Community or Homeward Bound waivers, or

(B) persons under 18 years of age, with approval from the OKDHS Developmental Disability Services (DDS) director or designee.

"Area manager" means an administrator of one of the three service delivery areas designated by OKDHS DDS.

"Areas of Concern" or "(AOC)" means:

(A) with regard to children: issues that do not rise to the level of abuse or neglect, but may constitute possible deficiencies, irregularities, or deviations from policies and best practices. AOCs are brought to the provider's attention or informational purposes or for appropriate corrective action, when applicable; and

(B) with regard to individuals served by a community services worker, issues that do not rise to the level of a substantiated finding, but may constitute possible deficiencies, irregularities, or deviations from policies and best practices by the community services provider, which has the potential to impact the health, safety, or welfare of recipients of community-based services, and OKDHS has conducted sufficient inquiry into the issue to meet the probable cause investigative standard, per 56 O.S. § 1025.1.

"Behavioral health" means mental health, substance abuse, or co-occurring mental health and substance abuse diagnoses, and the continuum of mental health, substance use or abuse, or co-occurring mental health and substance abuse treatment, per 10A O.S. § 1-1-105.

"Caretaker" means, per 43A O.S. §10-103, a person who has:

(A) the responsibility for the care of a vulnerable adult or the financial management of the resources of a vulnerable adult as a result of a family relationship;

(B) assumed the responsibility for the care of a vulnerable adult voluntarily, by contract, or as a result of the ties of friendship; or

(C) was appointed a guardian, limited guardian, or conservator pursuant to the Oklahoma Guardianship and Conservatorship Act.

"Caretaker misconduct" means, per 10A O.S. § 1-9-112, an act or omission by a PRFC that does not rise to the level of abuse, neglect,

sexual abuse, or sexual exploitation with regard to any child or resident:

(A) residing outside their own homes other than children in foster care or children in the custody of OJA and placed in an OJA secure facility;

(B) in a day treatment program as defined in 10 O.S. § 175.20;

(C) receiving services from a community services worker as that term is defined in 56 O.S. § 1025.1; and

(D) residing in a state institution listed in 10 O.S. § 1406.

"Child" means any unmarried person younger than 18 years of age.

"Child-placing agency" means an agency that arranges for, or places a child in, a foster family home, family-style living program, group home, adoptive home, or a successful adulthood program per 10A O.S. § 1-1-105.

"Child with a disability" means any child who has a physical or mental impairment that substantially limits one or more of the major life activities of the child or who is regarded as having such impairment by a competent medical professional, per 10A O.S. § 1-1-105.

"Client" means, with regard to OCA:

(A) investigative services: individuals listed in OAC 340:2-3-32(a)(2);

(B) grievance services: individuals listed in OAC 340:2-3-45(a)(2); and

(C) advocacy program: individuals listed in OAC 340:2-3-71(b).

"Community services provider" means a community-based program, corporation, or individual who contracts with, or is licensed or funded by, OKDHS to provide residential or vocational services to persons who are elderly or persons with intellectual or developmental disabilities, or contracts with the Oklahoma Health Care Authority (OHCA) to provide services to individuals with intellectual disabilities through a Home and Community-Based Waiver, except a private Intermediate Care Facility for Individuals with Intellectual Disabilities, per 56 O.S. § 1025.1.

"Community services worker" or "(CSW)" means any person employed by or under contract with a community services provider who provides, for compensation or as a volunteer, health-related services, training, or supportive assistance to persons who are elderly or persons with developmental disabilities and who is not a licensed health professional or any person who contracts with the OHCA to provide specialized foster care, habilitation training specialist services, or homemaker services to persons with developmental disabilities, per 56 O.S. § 1025.1.

"Community Services Worker Registry" or "(CSW Registry)" means the Registry established by OKDHS per 56 O.S. § 1025.3.

"Complaint" means a report communicating a grievance, concern, or perceived harm, submitted by phone, email, or in writing by a foster parent or a child being served by Child Welfare Services (CWS) to the Oklahoma Commission of Children and Youth (OCCY) Office of Juvenile

System Oversight (OJSO). If not submitted in writing, the complaint is entered into the written format established by OCA and OJSO.

"Custodian" means, per 10A O.S. § 1-1-105, an individual other than a parent, legal guardian, or Indian custodian, to whom legal custody of the child has been awarded by the court. The term "custodian" shall not mean OKDHS.

"Day treatment program" means non-residential, partial hospitalization programs, day treatment programs, and day hospital programs in which children and adolescents are placed for psychiatric or psychological treatment, per 10 O.S. §175.20.

"Disposition" means, with regard to OCA intake processes, the OCA intake unit action taken in response to a referral received, per OAC 340:2-3-35.

"Educational employee" means a school district employee, who provides contractual educational services on-site at a facility, who is either a witness or the alleged perpetrator in an OCA investigation.

"Exploitation" or **"exploit"** with regard to vulnerable adults means an unjust or improper use of the resources of a vulnerable adult for the profit or advantage, pecuniary or otherwise, of a person other than the vulnerable adult through the use of undue influence, coercion, harassment, duress, deception, false representation, or false pretense, per 43A O.S. § 10-103.

"Failure to protect" means, per 10A O.S. § 1-1-105, failure to take reasonable action to remedy or prevent child abuse or neglect, and includes the conduct of a non-abusing parent or guardian who knows the identity of the abuser or the person neglecting the child, but lies, conceals, or fails to report the child abuse or neglect or otherwise take reasonable action to end the abuse or neglect.

"Financial neglect" means, with regard to vulnerable adults, per 43A O.S. § 10-103, repeated instances by a caretaker or other person, who has assumed the role of financial management, of failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult, including, but not limited to:

- (A) squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult;
- (B) refusing to pay for necessities or utilities in a timely manner; or
- (C) providing substandard care to a vulnerable adult despite the availability of adequate financial resources.

"Force" means, as used by an alleged perpetrator with regard to a child residing outside of his or her home, other than in foster care:

- (A) "authorized use of physical force" means using physical contact to control or contain a child when the alleged perpetrator reasonably considers the child to:
 - (i) pose a risk of inflicting harm to himself or herself or others; or
 - (ii) be in the process of leaving a facility without authorization; and
 - (iii) when physical force is authorized, the least force necessary under the circumstances is employed;

(B) "excessive use of force" means the failure to employ the least amount of physical force necessary under the circumstances, taking into consideration all of the circumstances surrounding the incident, including the:

- (i) grounds for belief that force was necessary;
- (ii) ages, genders, and strengths of the parties involved;
- (iii) nature of the force employed;
- (iv) alternative means of force or control available;
- (v) extent of the inflicted harm; and
- (vi) provider's established method(s) of restraint and intervention for the child against whom the force was used, consistent with the child's individualized plan, protective intervention plan, or treatment plan; and

(C) "unauthorized use of force" means force that is not authorized per this paragraph. Unauthorized use of force includes unacceptable physical contact with a child including, but not limited to:

- (i) slapping;
- (ii) kicking;
- (iii) punching;
- (iv) poking;
- (v) pulling hair or an ear;
- (vi) pinching;
- (vii) using a chokehold;
- (viii) smothering;
- (ix) spitting;
- (x) head butting; and
- (xi) tugging.

"Foster care" or "foster care services" means continuous 24-hour care and supportive services provided for a child in a foster placement including, but not limited to, the care, supervision, guidance, and rearing of a foster child by the foster parent, per 10A O.S. § 1-1-105.

"Foster parent" means any person maintaining a therapeutic, emergency, specialized community, tribal, kinship, or foster family home, responsible for providing care, supervision, guidance, rearing, and other foster care services to a child.

"GARC" means the Grievance and Abuse Review Committee, per OAC 340:2-3-61.

"Group home for persons with developmental or physical disabilities" means any establishment for not more than 12 residents who are 18 years of age or older and who have developmental or physical disabilities, and which offers or provides supervision, residential accommodations, food service, and training and skill development opportunities designed to lead to increased independence of the residents and which offers or provides supportive assistance to residents requiring supportive assistance, per 10 O.S. § 1430.2.

"Guardian" or "guardian of an incapacitated person" means, per 30 O.S. § 1-111 a person who has been appointed by a court to serve as the guardian of an incapacitated person to assure that the essential

requirements for the health and safety of the person are met, to manage the estate or financial resources of the person, or both. The term includes persons appointed as general or limited guardians of the person, general or limited guardians of property, and special guardian, but does not include a person appointed as guardian ad litem, per 30 O.S. § 1-106.

"Harm or threatened harm to the health or safety, of a child" means any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental including, but not limited to, sexual abuse, sexual exploitation, neglect, or dependency, per 10A O.S. § 1-1-105.

"Heinous and shocking abuse" means abuse that includes, but is not limited to, aggravated physical abuse that results in serious bodily, mental, or emotional injury. Serious bodily injury means injury that involves:

- (A) substantial risk of death;
- (B) extreme physical pain;
- (C) protracted disfigurement;
- (D) loss or impairment of a function of a body member, organ, or mental faculty;
- (E) an injury to an internal or external organ or the body;
- (F) bone fracture;
- (G) sexual abuse or sexual exploitation;
- (H) chronic abuse including, but not limited to, physical, emotional, or sexual abuse, or sexual exploitation that is repeated or continuing;
- (I) torture including, but not limited to, inflicting, participating in or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child or for the purpose of satisfying the craven, cruel, or prurient desires of the perpetrator or another person; or
- (J) any other similar aggravated circumstance.

"Hisson class member" means an individual certified by the United States District Court for the Northern District of Oklahoma as a member of the plaintiff class in *Homeward Bound, Inc., et al. vs. Hisson Memorial Center, et al.*, Case No. 85-CV-437-GKF.

"Hotline" means the statewide Centralized Abuse and Neglect Hotline, toll-free phone number, maintained by OKDHS for the purpose of receiving reports of abuse, neglect, or exploitation of children and vulnerable adults. The Hotline operates 24 hours a day, seven days a week, 365 days a year.

"Incapacitated person" means, per 43 O.S. § 10-103:

- (A) any person 18 years of age or older
 - (i) who is impaired by reason of mental or physical illness or disability, dementia, or related disease, intellectual disability, developmental disability, or other cause, and
 - (ii) whose ability to receive and evaluate information effectively or to make and communicate responsible decisions is impaired to such an extent that such person lacks the capacity

to manage his or her financial resources or meet essential requirements for his or her mental or physical health or safety without assistance from others; or

(B) a person for whom a guardian, limited guardian, or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act.

"Indecent exposure" means, per 43A O.S. § 10-103, forcing or requiring a vulnerable adult to:

(A) look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult; or

(B) touch or feel the body or private parts of another.

"In-home supports" or "(IHS)" means services funded through Medicaid Home and Community-Based Waivers, per Section 1915(c) of the Social Security Act and administered by OKDHS DDS. Services are provided in the service recipient's home, that are not residential services, per OAC 340:100-5-22.1, or group home services per 10 O.S. § 1430.2.

"Injury" means any hurt, harm, appreciable physical pain, or mental anguish.

"Intermediate Care Facility for Individuals with Intellectual Disabilities" or "(IFC/IID)" or a "specialized facility for individuals with intellectual disabilities" means a private or public residential facility, licensed per state law and certified by the federal government as a Medicaid services provider, for individuals with intellectual disabilities as defined in Title XIX rules and regulations of the Social Security Act.

"Investigation" means, regarding a:

(A) child, per 10A O.S. § 1-1-105 a response to an allegation of abuse or neglect that involves a serious and immediate threat to the safety of a child, making it necessary to determine:

(i) the current safety of the child and the risk of subsequent abuse or neglect; and

(ii) whether child abuse or neglect occurred and whether the family needs prevention- and intervention-related services;

(B) vulnerable adult, a response to a maltreatment allegation, making it necessary to determine if maltreatment of the vulnerable adult occurred.

"Investigation results" means, per 10A O.S. § 1-1-105, a written response stating one of the following findings:

(A) regarding a child:

(i) "substantiated" means OCA determined, after an investigation of a report of child abuse or neglect and based upon some credible evidence, that child abuse or neglect occurred;

(ii) "unsubstantiated" means OCA determined, after an investigation of a report of child abuse or neglect, that insufficient evidence exists to fully determine whether child abuse or neglect occurred; or

(iii) "ruled out" means OCA determined, after an investigation of a report of child abuse or neglect that no child abuse or neglect occurred; or

(B) regarding a vulnerable adult:

(i) "substantiated" means that in OKDHS judgment, there appears to be probable cause to suspect the existence of abuse, neglect, or exploitation;

(ii) "not substantiated" means that OKDHS has found insufficient evidence of abuse, neglect, or exploitation

"Maltreatment" means, per 56 O.S. §1025.1, abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of vulnerable adults, as those terms are defined in 43A O.S. § 10-103; or abuse, neglect, sexual abuse or sexual exploitation of children, per 10A O.S. § 1-1-105.

"Medicaid personal care assistant" means, per 56 O.S. § 1025.1, a person who provides Medicaid services funded under Oklahoma's personal care program and is not a certified nurse aide or a licensed professional.

"Medicaid personal care services provider" means, per 56 O.S. § 1025.1, a program, corporation, or individual who provides services under the state Medicaid program personal care program or ADvantage Waiver to individuals who are elderly, or who have a physical disability.

"Mental anguish" means, in regard to a vulnerable adult, mental damage evidenced by distress, depression, withdrawal, severe anxiety, or unusually aggressive behavior toward one's self or others.

"Mental health facility" means a public or private hospital or related institution, as defined by 63 O.S. § 1-701, offering or providing inpatient mental health services, a public or private facility accredited as an inpatient or residential psychiatric facility by the Joint Commission on Accreditation of Healthcare Organizations, or a facility operated by the Department of Mental Health and Substance Abuse Services (DMHSAS) and designated by the Commissioner of DMHSAS as appropriate for the inpatient evaluation or treatment of minors, per 43A O.S. § 5-502.

"Near death" means a child is in serious or critical condition as certified by a physician, as a result of abuse or neglect, per 10A O.S. § 1-1-105.

"Neglect" means in regard to:

(A) children, per 10A O.S. § 1-1-105:

(i) the failure or omission to provide any of the following:

(I) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education;

(II) medical, dental, or behavioral health care;

(III) supervision or appropriate caretakers to protect the child from harm or threatened harm of which any reasonable and prudent person responsible for the child's health, safety or welfare would be

- aware; or
- (IV) special care made necessary by the physical or mental condition of the child;
- (ii) the failure or omission to protect a child from exposure to any of the following:
 - (I) the use, possession, sale, or manufacture of illegal drugs;
 - (II) illegal activities;
 - (III) sexual acts or materials that are not age-appropriate; or
- (iii) abandonment; or

(B) vulnerable adults, per 43A O.S. § 10-103:

- (i) the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest;
- (ii) the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing; or
- (iii) negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult through the action, inaction, or lack of supervision by a caretaker providing direct services.

"OCA intake" means the OCA maintained centralized intake system that receives authorized referrals.

"Ombudsman" or **"ombuds"** means an advocate.

"Person responsible for the child's (PRFC) health, safety, or welfare" means, per 10A O.S. § 1-1-105, a parent; legal guardian; custodian; foster parent; person 18 years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program, as defined in 10 O.S. § 175.20; or an owner, operator, or employee of a child care facility, as defined by 10 O.S. § 402.

"Personal degradation" means, per 43A O.S. § 10-103, a willful act by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a vulnerable adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. Personal degradation includes the taking, transmitting, or display of an electronic image of a vulnerable adult by a caretaker, where the caretaker's actions constitute a willful act intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. Personal degradation does not include:

- (A) the taking, transmission, or display of an electronic image of a vulnerable adult for the purpose of reporting vulnerable adult abuse to law enforcement, OKDHS, or other regulatory agency that oversees caretakers or enforces abuse or neglect laws or rules,

- (B) the taking, transmission, or display of an electronic image of a vulnerable adult for the purpose of treatment or diagnosis, or
- (C) the taking, transmission, or display of an electronic image of a vulnerable adult as part of an ongoing investigation.

"Personal support team" or "(team)," formerly known as the "interdisciplinary team," means the decision-making body for service planning, implementation, and monitoring of the individual plan, per OAC 340:100-5-52.

"Physical abuse" means, in regard to children, an injury resulting from punching, beating, kicking, biting, burning, or otherwise harming a child. Even when the injury is not an accident, the alleged perpetrator may not have intended to hurt the child.

(A) The injury may result from:

- (i) extreme physical punishment inappropriate to the child's age or condition;
- (ii) a single episode or repeated episodes that range in severity from significant bruising to death; or
- (iii) any action that involves hitting with a closed fist, kicking, inflicting burns, shaking, or throwing the child, even when no injury is sustained, but the action places the child at risk of grave physical danger.

(B) A minor injury on a child older than 10 years of age is not considered physical abuse unless the actions that caused the injury placed the child in grave physical danger.

"Plan for Immediate Safety" means the plan for actions taken to immediately control any significant and clearly observable condition that is present and is endangering or threatening to endanger a child or vulnerable adult.

"Probable cause" means, in regards to vulnerable adults, information or evidence that would lead a reasonable person to believe that abuse, neglect, or exploitation has been committed.

"Problem resolution" means verbal or written communications that seek to resolve concerns, complaints, service inadequacies, or issues the client or the client's team members identify, including the client's guardian, OCA advocate, volunteer advocate, or other persons interested in the client's welfare.

"Protective custody" means custody of a child taken by law enforcement or designated court employee, without a court order.

"Reasonable and prudent parent standard" means, per 10A O.S. § 1-1-105, the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. This standard is used by the child's caregiver when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities. For purposes of this definition, the term "caregiver" means a foster parent with whom

a child in foster care has been placed, a representative of a group home where a child in foster care has been placed, or a designated official for a residential child care facility where a child in foster care has been placed.

"Referring party" means the individual who informs OCA, calls the Hotline, or reports in writing that an incident occurred.

"Reportable incident" means an incident that must be reported because the person reporting knows, or has reasonable cause to believe or suspect, that a child or vulnerable adult may have been subjected to abuse or neglect.

"Reporting party" means the individual who initially tells someone verbally or in writing that an incident occurred.

"Residential child care facility" means, per 10A O.S. § 1-1-105, a 24-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives.

"Restricted registry" or "Joshua's List" means the registry created per 10 O.S. § 405.3, for the purpose of recording individuals who have:

(A) a substantiated finding of abuse or neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, by an individual when the abuse or neglect occurred to a child while in the care of a facility licensed, certified, operated, or contracted by or with OKDHS or OJA. The provisions of this subparagraph shall apply to:

(i) the Central Oklahoma Juvenile Center, the Oklahoma Juvenile Center for Girls, and the Southwest Oklahoma Juvenile Center upon the effective date of this act; and

(ii) facilities licensed by, certified by, or contracting with the Office of Juvenile Affairs after November 1, 2018.

(B) revocation or denial of a child care facility license; and

(C) a specified criminal history of an individual, as defined by OAC 340:110-1-10.1.

"Safety threat" means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future that without another person's intervention, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death.

"Secure facility" means, per 10A O.S. § 1-1-105, a facility which is designed and operated to ensure all entrances and exits from the facility are subject to the exclusive control of the staff of the facility, whether or not the juvenile being detained has freedom of movement within the perimeter of the facility, or a facility that relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents. This definition excludes OJA-operated secure facilities.

"Self-neglect" means, per 43A O.S. § 10-103, the action or inaction of a vulnerable adult which causes that person to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence, or incapacity.

"Sexual abuse" means, with regard to:

(A) children, per 10A O.S. § 1-1-105, conduct, that includes, but is not limited to, rape, incest, and lewd or indecent acts or proposals made to a child as defined by law, by a PRFC; or

(B) vulnerable adults, per 43A O.S. § 10-103:

(i) oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object;

(ii) for the purpose of sexual gratification, the touching, feeling or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult; or

(iii) indecent exposure by a caretaker or other person providing services to the vulnerable adult.

"Sexual exploitation" means, with regard to:

(A) children, per 10A O.S. § 1-1-105, conduct that includes, but is not limited to, allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, by any person 18 years of age or older or by a PRFC, or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of a child in those acts by a PRFC; or

(B) vulnerable adults, per 43A O.S. § 10-103, conduct that includes, but is not limited to, a caretaker's causing, allowing, permitting, or encouraging a vulnerable adult to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult, as those acts are defined by state law.

"Specialized foster care" means, per OAC 317:40-5-50, foster care that:

(A) provides up to 24 hours per day of in-home residential habilitation services funded through the Community Waiver or the Homeward Bound Waiver. Specialized foster care serves individual ages 3 and older, up to 24 hours per day of supervision, supportive assistance, and training in daily living skills.

(B) is provided in a setting that best meets the specialized needs of the service recipient.

"State Office administrator" means, with regard to grievances filed by a:

(A) foster parent, a child being served by CWS, or an individual filing on behalf of a child being served by CWS: the OKDHS CWS director, or his or her designee;

(B) DDS client or an individual filing on behalf of a DDS client: the DDS director, or his or her designee.

"Suspicious injury" means, regarding a vulnerable adult, an injury that includes, but is not limited to, an injury that:

- (A) appears inconsistent with the offered explanation(s) for the injury;
- (B) is unusual;
- (C) cannot be explained as the result of an accident, self-injurious behavior, or normal activities of daily living;
- (D) is a minor injury located on or near a private body part or on a part of the body that makes it unlikely to have been the result of self-injury or an accident during daily living activities; or
- (E) involves multiple abrasions, bruises, and minor injuries on the body of a person, identified around the same time or over a period of several weeks, but have no clear, known explanation.

"Verbal abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions, or behaviors by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame, or degradation, per 43A O.S. § 10-103.

"Vulnerable adult" means, per 43A O.S. § 10-103, an individual who is an incapacitated person or who because of physical or mental disability, including persons with Alzheimer's disease or other dementias, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively or to meet essential requirements for mental or physical health or safety or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others.

"Ward" means a person over whom a guardianship has been given by the court.

[Source: Transferred from 340:2-3-2 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-1-3. Customer complaint process

(a) **Purpose and scope of the customer complaint process.** The customer complaint process provides Office of Client Advocacy (OCA) customers an opportunity to raise concerns about the OCA services they receive and to request a review from the advocate general or designee. The process is available to OCA customers and clients, client relatives and associates, employees of other Oklahoma Department of Human Services (OKDHS) programs, providers, and any other OCA customers.

(b) **Procedure.**

- (1) Any customer who is dissatisfied with or has a concern about OCA services, practices, or procedures, or who considers the action or inaction of an OCA employee to be improper or discourteous, submits a written complaint detailing their concerns to the advocate general. The complaint is sent either electronically to OCA.advocategeneral@okdhs.org or by regular

mail to Office of Client Advocacy, PO Box 25352, Oklahoma City, OK 73125.

(2) The advocate general or designee reviews the complaint and informs the complainant of the results of the review within 20 business days after receipt of the complaint.

[Source: Transferred from 340:2-3-26 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

SUBCHAPTER 3. INVESTIGATIONS

310:678-3-1. Office of Client Advocacy (OCA) investigations

(a) Legal authority, scope, and purpose.

(1) Legal authority.

(A) Section 1-9-112(A)(3)(d) and (e) of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-112(A)(3)(d) and (e)) gives the Office of Client Advocacy (OCA) the responsibility to investigate allegations of abuse, neglect, sexual abuse, sexual exploitation, and misconduct by a person responsible for the child:

- (i) residing outside their own homes regardless of custody, other than children in foster care;
- (ii) receiving services from a community services provider or a community services worker, per 56 O.S. § 1025.1;
- (iii) in a day treatment program per 10 O.S. § 175.20; and
- (iv) residing in a state institution per 10 O.S. § 1406.

(B) 43A O.S. § 10-105 gives the Oklahoma Department of Human Services (DHS) responsibility to investigate allegations of caretaker abuse, neglect, verbal abuse, and exploitation of vulnerable adults. DHS confers on OCA the responsibility to conduct investigations that involve:

- (i) Hissom class members;
- (ii) residents of the Robert M. Greer Center (Greer); and
- (iii) vulnerable adults receiving services from a community services provider, community services worker, Medicaid personal care services provider, or Medicaid personal care assistant, as those terms are defined in 56 O.S. § 1025.1.

(C) OCA investigates, pursuant to Oklahoma Administrative Code (OAC) 340:75-3-430, reports alleging denial of medically beneficial treatment by a medical provider to a handicapped infant.

(2) **Scope.** OCA conducts investigations of maltreatment allegations listed in this subsection. Per 10A O.S. § 1-9-112, OCA investigates allegations of:

(A) abuse, neglect, sexual abuse, sexual exploitation, and caretaker misconduct of children by persons responsible for a child regardless of custody residing outside their own homes, other than children in foster care or children in the custody of the Oklahoma Office of Juvenile Affairs (OJA) and placed in an OJA Secure facility as defined by Section 2-1-103 of Title 10A of the Oklahoma Statutes. These investigations include, but are not limited to:

- (i) in DHS operated or licensed shelters and group homes;
- (ii) and children in facilities operated by, licensed by, or contracting with OJA;
- (iii) in community-based youth services shelters and community intervention centers that contract with OJA per 10A O.S. § 2-7-305;
- (iv) in facilities operated by or contracting with Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS);
- (v) in facilities operated by the J.D. McCarty Center of Oklahoma;
- (vi) residing in or attending educational classes at facilities operated by the Oklahoma Department of Rehabilitation Services (ODRS), the Oklahoma School for the Blind and the Oklahoma School for the Deaf; and
- (vii) receiving services from a community services worker or community services provider per 56 O.S. § 1025.1;

(B) abuse and neglect of, and caretaker misconduct with regard to, children in day treatment programs per 10 O.S. § 175.20, including sanctions programs certified by OJA to provide programming for children who are court ordered to participate in that program;

(C) abuse, neglect, verbal abuse, and caretaker misconduct with regard to, residents of Greer;

(D) abuse, neglect, verbal abuse, and exploitation of Hisson class members living in Oklahoma and who do not reside in a private intermediate care facility for the intellectually disabled (ICF/ID); and

(E) abuse, neglect, verbal abuse, and exploitation of vulnerable adults receiving services from a community services worker, community services provider, Medicaid personal care services provider, or Medicaid personal care assistant, per 56 O.S. § 1025.1.

(3) **Purpose.** OCA conducts independent and objective investigations of suspected maltreatment of clients by PRFCIs and vulnerable adult caretakers (VACs) in order to:

- (A) protect clients from further maltreatment;
- (B) deter and prevent maltreatment;
- (C) provide relevant evidence in administrative and judicial proceedings;

- (D) rule out unfounded allegations; and
- (E) hold violators accountable.

(b) **Confidentiality of Office of Client Advocacy records.** State and federal statutes and regulations including, but not limited to, 10A O.S. § 1-9-112(C); 10A O.S. § 1-6-102; 56 O.S. § 183; 43A O.S. § 10-110; and OAC 340:65-1-2 require confidentiality for certain DHS records. Information regarding clients is confidential and protected from unauthorized use. Only authorized individuals are permitted access to case records or provided information from OCA case records.

(1) **OCA investigations involving children.** Statutes and policies regarding the confidentiality of OCA files, records, and reports relating to investigations involving children include, but are not limited to, the confidentiality provisions of the statutes and policies listed in (A) through (C) of this paragraph.

(A) 10A O.S. §§ 2-6-102 through 106 applies to OCA investigations involving children in OJA custody and in facilities that contract with OJA.

(B) 10A O.S. §§ 1-2-106, 1-2-107, 1-6-102 et seq., and 1-6-107 applies to investigations involving children, regardless of custody, residing outside their own homes.

(C) OAC 340:75-1-42 through 340:75-1-46 applies to OCA investigations involving children in DHS custody, including information regarding placement.

(2) **OCA investigations involving vulnerable adults.** Statutes and policies regarding the confidentiality of OCA files, records, and reports relating to investigations involving vulnerable adults include, but are not limited to, (A) through (C) of this paragraph.

(A) **Disclosure to meet client's protection and other needs.** When consulting persons knowledgeable of the circumstances of an alleged victim of abuse, neglect, or exploitation, or when making other contacts as part of the investigation or service planning process, OCA staff may disclose information necessary to ensure the client is protected and the client's needs are met. Information may be disclosed for this purpose without a court order to specific persons acting in an official capacity with regard to the investigation, including:

- (i) a district attorney or employees of the district attorney's office;
- (ii) the attorney representing an alleged victim in the matter under investigation;
- (iii) staff of an Oklahoma law enforcement agency or a law enforcement agency of another state;
- (iv) physical or mental health care professionals involved in the evaluation or treatment of the vulnerable adult;
- (v) the guardian of the vulnerable adult, in the form of a summary of the allegations in the referral;
- (vi) the provider for a vulnerable adult; and
- (vii) other public or private agencies or persons authorized by DHS to diagnose, or provide care,

treatment, supervision, or other services to a person who is the subject of an OCA investigation.

(B) Disclosure to district attorney and law enforcement. District attorneys and staff, the attorney representing the alleged victim, and law enforcement agencies may receive information from the Advocate General or review the entire case record. All other disclosures are limited to summaries of information provided for a specific purpose. Case information from OCA records is not released for research purposes without the prior approval of the advocate general.

(C) Disclosure to others and the news media. In other situations, OCA investigative information is considered confidential per 43A O.S. § 10-110(A) and may be disclosed only by court order. Confidentiality applies to members of the news media as well as the general public. News media representatives requesting information on a specific case are referred to the advocate general, the OCA programs administrator for investigations, or the DHS Office of Communications for a detailed explanation of DHS confidentiality rules.

[Source: Transferred from 340:2-3-32 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-3-2. Procedure for reporting suspected abuse, neglect, verbal abuse, caretaker misconduct, and exploitation

(a) Reporting abuse or neglect of a child under 18 years of age. Persons having reason to believe that a child under 18 years of age is a victim of abuse or neglect are required per Section 1-2-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-101) to promptly report it to the Oklahoma Department of Human Services (DHS) Abuse and Neglect Hotline (Hotline) at 1-800-522-3511. Any allegation of abuse or neglect reported in any manner to a DHS county office is immediately referred to the Hotline, per Section 10A O.S. § 1-2-101.

(b) Reporting abuse, neglect, verbal abuse, or exploitation of a vulnerable adult. Any person having reasonable cause to believe that a vulnerable adult is a victim of abuse, neglect, verbal abuse, or exploitation reports to DHS or the municipal police department or sheriff's office in the county where the suspected abuse, neglect, verbal abuse, or exploitation occurred as soon as the person is aware of the situation. The reporting requirement applies to providers, per Oklahoma Administrative Code (OAC) 340:2-3-2 and the provider's employees and agents.

(c) Reporting caretaker misconduct regarding a child. When the DHS Specialized Placement Unit Child Care Licensing office, the Office of Juvenile Affairs, or another source determines a:

- (1) pattern of misconduct exists by a facility or person responsible for the child of interest (PRFCI); or
- (2) facility administration fails to take appropriate corrective action in response to an investigation or written plan of

compliance, a report should be made to the Hotline.

(d) Reporting caretaker misconduct regarding a vulnerable adult. Persons who have reason to believe caretaker misconduct, per OAC 340:2-3-2, has occurred with regard to a vulnerable adult residing at the Robert M. Greer Center (Greer), promptly reports the allegation to the Office of Client Advocacy (OCA).

(e) Reporting a vulnerable adult's death, serious physical injury, or sexual assault. In addition to the mandatory reporting requirements per OAC 340:2-3-33(b) the events listed in (1) through (7) of this subsection are reported to OCA intake when a vulnerable adult's caretaker is alleged to be involved in the vulnerable adult's:

- (1) violent death, whether apparently homicidal, suicidal, or accidental;
- (2) death under suspicious, unusual, or unnatural circumstances;
- (3) death when the vulnerable adult is a resident Greer;
- (4) death when the vulnerable adult is a Hissom class member;
- (5) serious physical injury, per OAC 340:2-3-2;
- (6) physical injury when the injury is:
 - (A) unexplained; and
 - (B) suspicious; or

- (7) rape, sodomy, or other sexual activity prohibited by state law.

(f) Interference, retaliation, or discrimination related to the reporting obligations required by the Oklahoma Children's Code and the Protective Services for Vulnerable Adults Act prohibited.

(1) Per 10A O.S. § 1-2-101, the reporting obligations under the Oklahoma Children's Code are individual and no employer, supervisor, or administrator interferes with the reporting obligations of any employee or other person or in any manner discriminates or retaliates against the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, or administrator who discharges, discriminates, or retaliates against the employee or other person is liable for damages, costs, and attorney fees.

(2) Per 43A O.S. § 10-104, no employer terminates the employment, prevents or impairs the practice, or occupation of, or imposes any other sanction on any employee solely for the reason the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act.

(g) Immunity from liability for good faith report of abuse, neglect, or exploitation of a child or vulnerable adult. Per 10A O.S. § 1-2-104, the Oklahoma Children's Code and 43A O.S. § 10-104, the Oklahoma Protective Services for Vulnerable Adults Act, any person exercising good faith and due care in making a report of alleged abuse, neglect, or exploitation has immunity from any civil or criminal liability the person might otherwise incur. The person has the same immunity with respect to participation in any judicial proceeding resulting from the report.

(h) Failure to report abuse, neglect, or exploitation of a child or vulnerable adult. Any person who knowingly and willfully fails to promptly report abuse, neglect, or exploitation as required per 10A O.S. §

1-2-101 and 43A O.S. § 10-104 may be subject to administrative action or criminal sanctions upon conviction. In addition, failure to report by a DHS employee may result in disciplinary action.

(i) False report of abuse, neglect, or exploitation of a child or vulnerable adult.

(1) Per 10A O.S. § 1-2-101, any person who knowingly and willfully makes a false report regarding alleged maltreatment of a child, or a report the person knows lacks factual foundation, may be reported by DHS to local law enforcement for criminal investigation, and upon conviction, is guilty of a misdemeanor.

(2) Per 43A O.S. § 10-104, any person who willfully or recklessly makes a false report of abuse, neglect, or exploitation of a vulnerable adult may be liable in a civil action for actual damages and for punitive damages set by the court or jury regarding the reported party.

(j) Method of reporting.

(1) Each report alleging abuse or neglect of a child is screened by the DHS Hotline in compliance with Child Welfare Services policies and procedures. Each accepted report of a child within Office of Client Advocacy (OCA) investigative authority and scope is assigned to OCA for possible investigation. Reports may be phoned to the Hotline at 1-800-522-3511, faxed to 405-936-0922, emailed to STO.Hotline.Referral@OKDHS.org, or mailed to Child Abuse and Neglect Hotline, DHS, PO Box 25352, Oklahoma City, Oklahoma 73125-0352.

(2) Reports of abuse, neglect, or exploitation of a Hisson class member, resident of Greer, or other vulnerable adults receiving Developmental Disabilities Services (DDS) services are reported to OCA except for weekends and after business hours when the reports are made to the Hotline at 1-800-522-3511. Reports to OCA may be phoned to 1-800-522-8014 or 405-522-2720, faxed to 405-522-2680, or emailed to oca.intake@okdhs.org.

(3) Reports of abuse, neglect, verbal abuse, financial neglect, or exploitation of a vulnerable adult receiving services from a Medicaid personal care services provider are reported to the Adult Protective Services office, except for weekends and after business hours when the reports are made to the Hotline at 1-800-522-3511.

(4) Reports of allegations may be submitted by completing Form 15GN001E, Office of Client Advocacy-Intake Referral, and sent to the applicable intake unit.

(k) Confidentiality of reporting party's identity. The identity of the person who reports abuse or neglect of a child per 10A O.S. § 1-6-102(H) (7), or abuse, neglect, or exploitation of a vulnerable adult per 43A O.S. § 10-105.1(C)(2), is kept confidential and is not disclosed. DHS accepts anonymous reports of abuse, neglect, or exploitation of a child or vulnerable adult.

(l) Staff training regarding reporting obligations. Each administrator ensures the employee receives relevant training regarding the employee's responsibility to report a child or vulnerable adult's alleged abuse, neglect, or exploitation. Except for employees of a DDS

provider, the employee receives the training within 30 calendar days of the employee's initial employment and receives subsequent annual training. DDS provider employee training is as specified per OAC 340:100-3-38 et seq.

[Source: Transferred from 340:2-3-33 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-3-3. Facility administrator's responsibilities regarding allegations reportable to Office of Client Advocacy (OCA)

(a) **Facility administrator's responsibility for protection, safety, health, and welfare of children and vulnerable adults.** When OCA intake receives an allegation of maltreatment by a vulnerable adult caretaker (VAC) or a person responsible for the child of interest (PRFCI), from anyone other than the administrator or the administrator's designee of the facility or provider responsible for the client, OCA intake promptly notifies the applicable administrator of the allegation.

(1) Upon becoming aware of an allegation of caretaker maltreatment involving an OCA client, an administrator or the administrator's designee ensures the safety, protection, and needed medical attention of any client named in the allegation and other clients receiving services from the facility or provider.

(2) When criminal activity is alleged regarding a child or vulnerable adult, the administrator or the administrator's designee immediately notifies the appropriate local law enforcement authority. The types of criminal activity reported to law enforcement include, but are not limited to, the use or possession of illegal drugs; domestic abuse; illegal sexual activity; illegal use of alcohol; theft of money, property, or medication that is a controlled substance; and when someone other than a caretaker is believed to have committed the allegation.

(3) The administrator or the administrator's designee takes necessary personnel actions to ensure the protection and safety of the alleged victim(s) and other clients. When necessary to ensure safety, a Plan for Immediate Safety (PFIS) is completed with an OCA investigator. The creation of the PFIS may include consultation with: Oklahoma Department of Human Services (DHS) Developmental Disabilities Services (DDS), Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU), Child Care Services (CCS), or the Oklahoma Office of Juvenile Affairs (OJA). OCA does not determine or approve personnel actions taken by an administrator or the administrator's designee in response to allegations reported to OCA.

(4) In the event of alleged abuse or neglect of a Hissom class member (HCM) by a provider's employee or subcontractor, the administrator or the administrator's designee ensures the protection and medical attention for any HCM named in an allegation or other individual served. In the event of alleged abuse or neglect by an individual serving as a provider, it is the responsibility of the HCM's case manager to ensure protection,

medical attention, or both for the HCM. OCA intake notifies the applicable DDS area manager by email within one business day of receipt of a referral of abuse or neglect by an individual serving as provider for the HCM.

(b) **Preliminary assessment.** Upon learning of an incident reportable to DHS, the administrator or the administrator's designee:

- (1) immediately ensures the safety of any client(s) named in the referral;
- (2) secures any physical evidence, including any video, photographic, or other recorded evidence, and gathers documents within the possession, custody, or control of the facility or provider relevant to the allegation;
- (3) immediately photographs injuries. Photographs are taken by a person uninvolved in the incident that is the subject of the allegation relating to the injuries; and
- (4) coordinates activities with OCA and other agency or law enforcement authorities involved in investigating the referral.

(c) **Collecting pertinent reports and documents.** The administrator or the administrator's designee determines which employees were present when the alleged incident occurred and requires each employee to submit a written account of the alleged incident. The administrator or the administrator's designee collects medical records, documents, reports, and other documentary evidence that pertains to the alleged incident, within the facility or in the provider's possession, custody, or control, and places them in a file for OCA investigative and other investigative authorities' use. The administrator or designee securely maintains documents collected during the preliminary assessment.

(d) **OCA access to documents and evidence.** Upon request, an OCA investigator is provided a copy of and access to the original written statements, incident reports, relevant documents, records, reports, photos, audio or video recordings, and other evidence collected during the preliminary assessment.

(e) **Prohibition from interviewing during preliminary assessment.** Facility or provider employees do not conduct an investigation of an alleged incident while the OCA decision to accept the referral for investigation is pending, or during an open OCA investigation. To avoid the consequences of over-interviewing parties involved in an alleged incident, the preliminary assessment is limited to inquiries regarding those involved, obtaining written statements, and clarifying information needed to take appropriate action to ensure client safety. Determining if a staff member engaged in maltreatment is not the goal of a preliminary assessment. Once there is reason to believe maltreatment may have occurred, the preliminary assessment ceases, and the incident is reported to the DHS Abuse and Neglect Hotline (Hotline) when it involves a juvenile or to the OCA Intake Unit when the alleged victim is a vulnerable adult. Outside of regular DHS-business hours reports of abuse or neglect of a vulnerable adult are reported to the Hotline. This prohibition does not extend to interviews and investigations conducted by law enforcement when responding to a report of criminal activity. The assigned OCA investigator coordinates activities with local, state, and federal law enforcement entities to seek

the most appropriate investigative response to the referral.

(f) **Facility and provider contact person.** The facility or provider administrator is responsible for the care of each individual, per Oklahoma Administrative Code (OAC) 340:2-3-32(a)(2) and designates a contact person for OCA. The administrator or the administrator's designee informs the advocate general of the name, phone number, and email address of the designated contact person and immediately notifies the advocate general of changes to the information by email or mail. The designated contact person is available by phone or email at all times.

(g) **Documentation provided by the Robert M. Greer Center (Greer).** Within one DHS-business day of Greer submitting an incident report to the Oklahoma State Department of Health, a five-business day report, or a final report regarding an allegation reported to OCA intake, the facility sends OCA intake a copy by email or fax.

(h) **Ensuring confidentiality.** Administrators maintain information, files, and documents regarding referrals made to OCA intake or to the Hotline, including OCA investigation reports distributed, per OAC 340:2-3-36, in a manner that protects information confidentiality.

[Source: Transferred from 340:2-3-34 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-3-4. Processing referrals received by the Office of Client Advocacy (OCA)

(a) **OCA referral screening options.** Except for referrals received from the Oklahoma Department of Human Services (DHS) Abuse and Neglect Hotline (Hotline) involving a child, OCA intake records on Form 15GN001E, Office of Client Advocacy-Intake Referral, the specifics of each referral and makes an appropriate disposition. All known information is considered when determining the appropriate disposition and course of action. If the information is unclear and it appears the allegation may rise to the level of abuse, neglect, or exploitation, a preliminary inquiry is conducted by intake staff. The screening disposition options and criteria include, but are not limited to, the options described in (1) through (12) of this subsection.

(1) **Assign for OCA investigation.** This screening disposition means OCA opens an investigation of an allegation of the person responsible for the child of interest (PRFCI) or vulnerable adult caretaker (VAC) maltreatment.

(2) **Assign for internal caretaker conduct review.** This screening disposition means the facility or provider named in the referral is given responsibility to conduct an internal caretaker conduct review per Oklahoma Administrative Code (OAC) 340:2-3-37. Within one business day of receiving a referral given this disposition, OCA intake notifies the administrator or designated contact person. This screening disposition applies to allegations involving vulnerable adults residing at the Robert M. Greer Center (Greer) and facilities for children not licensed by or contracted with DHS.

(3) **Refer to OCA advocate.** This screening disposition is made when the referral involves a Hissom class member or a resident of

Greer and involves a concern based on the information provided and does not rise to the level of maltreatment.

(4) **Refer to another administrative entity.** This screening disposition means OCA intake forwards the information to another state agency or DHS program or office. This screening disposition is appropriate when information provided by the reporting party does not include an allegation of caretaker maltreatment within OCA purview, but involves complaints about employee performance or allegations within the scope of another administrative entity.

(5) **Refer to Office of Inspector General (OIG).** An allegation regarding the alleged misuse of a Supplement Nutrition Assistance Program (SNAP) Electronic Benefits Transfer (EBT) card, or Social Security Administration fraud or overpayment, is sent to OIG for investigation. This disposition is also utilized when there are allegations of fraud, misconduct, or criminal behavior against current DHS employees.

(6) **Refer to law enforcement.** This screening disposition is used when the referral involves possible criminal activity and the reported allegations are not within OCA investigative authority per OAC 340:2-3-32(a). This disposition is not used when OCA opens an investigation on a referral even though a law enforcement agency is investigating the matter. A case may warrant simultaneous OCA involvement and referral to law enforcement. In those instances, notification to law enforcement is appropriately documented.

(7) **Refer for grievance.** This screening disposition means the referral is directed to the appropriate entity for processing as a grievance, when the content of the referral is not caretaker maltreatment, but a complaint or concern that can be addressed by a grievance. When the complaint can be addressed as a grievance and is referred for grievance by OCA, the entity promptly notifies its local grievance coordinator. A referral may be appropriate for processing as a grievance when the complaint concerns:

- (A) conditions that do not endanger clients or residents;
- (B) staff improprieties that do not constitute maltreatment;
- and
- (C) privileges and restrictions not involving the use of isolation, force, or restraints.

(8) **No action required.** This screening disposition is made when OCA takes no action in response to the referral because the information provided is for notification purposes only and does not include an allegation, complaint, or concern appropriate for another screening disposition.

(9) **Refer to administration.** This screening disposition means the matter is not within the purview of OCA, another DHS unit, or another state agency, but is relevant to the facility or provider operations.

(10) **Refer to Developmental Disabilities Services (DDS) Quality Assurance (QA).** This screening disposition is made

when an allegation involves an alleged contract violation that does not involve caretaker maltreatment.

(11) **Refer for special advocacy.** This screening disposition is made when the referral constitutes a request for advocacy services per OAC 340:2-3-75.

(12) **Refer to State Office DDS case management.** This screening disposition is made when an allegation does not rise to the level of abuse, neglect, or exploitation but involves an issue of person-centered planning or case management follow-up on behalf of a vulnerable adult.

(b) **Law enforcement notification.** Law enforcement is notified when a referral opened as an OCA investigation involves possible criminal activity on the part of a PRFCI or a VAC.

(c) **Assignment process for referrals opened for investigation.** Investigations involving vulnerable adults are assigned within one business day of a disposition to investigate the allegation. When urgent circumstances exist in a case opened for investigation, an assignment is made, and the investigation commences immediately.

(d) **Information provided to reporting party.** The reporting party upon proper identification may be provided with information regarding the disposition of the referral.

[Source: Transferred from 340:2-3-35 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-3-5. Office of Client Advocacy (OCA) investigation procedures for cases involving child victims

(a) **OCA investigation initiation.** Per Section 1-9-112 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-112), Oklahoma Human Services (OKDHS) OCA within its investigative scope and authority, conducts a prompt and thorough investigation upon receiving a report of abuse, neglect, sexual abuse, or sexual exploitation of a child within priority guidelines, per 10A O.S. § 1-2-105 and Oklahoma Administrative Code (OAC) 340:75-3-130.

(b) **Joint investigations with law enforcement.** In accordance with 10A O.S. § 1-9-102, the multidisciplinary team (MDT) approach is used:

- (1) whenever feasible for investigations involving cases of child sexual abuse, sexual exploitation, physical abuse, and neglect cases;
- (2) to enhance the investigative process and maximize services provided to affected children and families; and
- (3) to consult with other MDT team members, as appropriate.

(c) **Investigation notice and written description of investigation process provided to alleged perpetrator.** Per 10A O.S. § 1-2-106, at initial contact with an alleged perpetrator who is the subject of an investigation, OCA advises the alleged perpetrator of the specific complaint or allegation made against him or her. If OCA is unable to locate the alleged perpetrator, as soon as possible after initiating the investigation, OCA provides him or her a brief and easily understood written description of the investigation process, per 10A O.S. § 1-2-106.

(d) Facility or provider administrator responsibility to arrange document production, visits, and interviews. The applicable facility or provider agency administrator or the administrator's designee arranges document production, site visits, and interviews per OCA request.

(1) The facility or provider administrator or the administrator's designee who employed the alleged perpetrator at the time of the alleged incident informs the employee of:

- (A) the OCA investigator's name and phone number;
- (B) the investigative process described in this Section;
- (C) the employee's rights and responsibilities relating to the investigation described in (1) of this Section, except as stated in (2) of this subsection using Form 15IV005E, Rights and Responsibilities of Alleged Perpetrators, or a substantially similar provider or agency form, and Form 15IV004E, Address Information Notice, a copy of which is provided to the OCA investigator; and
- (D) the allegation made against the alleged perpetrator without divulging the reporting party's identity or the substance of the evidence.

(2) When the alleged perpetrator is subject to the Community Services Worker (CSW) Registry, the rights and responsibilities of the accused community services worker and Medicaid personal care assistant are found in OAC 340:2-3-39.1.

(A) The facility or provider administrator or the administrator's designee promptly completes Form 15IV005E and Form 15IV004E.

(B) The facility or provider administrator or the administrator's designee mails Form 15IV005E and Form 15IV004E to the worker when it is not possible to hand-deliver it to the worker who is no longer employed by the provider.

(e) OCA access to victims, employees, clients, facilities, files, and other records.

(1) The applicable facility or provider administrator or the administrator's designee arranges for the OCA investigator to have immediate and direct access to any alleged victim in the referral who is still the facility's or provider's client.

(2) During an OCA investigation, OKDHS, Office of Juvenile Affairs (OJA), Oklahoma Department of Rehabilitation Services (ODRS), Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS), the J.D. McCarty Center, providers, and facilities and persons who contract with them, provide OCA access to all employees, clients, facilities, locations, files, and records of any nature that may pertain to the investigation.

(3) Denial of access may be grounds for a contract termination between OKDHS and the contractor or for other courses of action.

(f) Discrimination, retaliation, or interference in an OCA investigation prohibited and subject to criminal penalties.

(1) An employer, supervisor, administrator, or governing body or entity must not interfere with the any employee's or other person's

reporting obligations or in any manner discriminate or retaliate against a person who in good faith reports suspected child abuse or neglect or provides testimony in any proceeding involving child abuse or neglect, per 10A O.S. § 1-2-101.

(2) 21 O.S. § 455 states it is a felony to:

(A) willfully prevent or attempt to prevent, any person who makes an abuse or neglect report, pursuant to 10A O.S. § 1-2-101 from giving testimony or producing any record document or other object; or

(B) threaten physical harm through force or fear, cause or procure physical harm, harass or cause a person to be harassed because of testimony in a civil or criminal trial proceeding or because of making a report of child abuse or neglect.

(g) **and responsibilities.** The alleged perpetrator's rights and responsibilities during an OCA investigation are outlined in this subsection.

(1) **Rights.** During the investigation process, an alleged perpetrator has the right to:

(A) be advised by OCA of the nature of each allegation made against him or her;

(B) be advised by OCA of the investigative process;

(C) be interviewed by the OCA investigator and allowed to give his or her position regarding the allegation;

(D) be advised by the OCA investigator of the substance of the evidence against him or her, but not the identity of the person reporting the allegation;

(E) submit or supplement a written statement relating to the allegations;

(F) seek advice from other parties concerning his or her rights and responsibilities in OCA investigations, including the right to seek counsel;

(G) decline to answer any question when he or she reasonably believes the answer to the question may incriminate him or her in a criminal prosecution; and

(H) be notified in writing by OCA of the outcome of the investigation.

(2) **Responsibilities.** During the investigative process, the alleged perpetrator has the responsibility to:

(A) prepare written statements and reports relevant to the investigation, upon request;

(B) be available for interviews and accommodate the OCA investigator with scheduling interviews;

(C) refrain from action that interferes with the investigation including any action that intimidates, threatens, or harasses any person who has or may provide information relating to the allegation; and

(D) provide pertinent information and respond fully and truthfully to questions.

(h) **Educational employees.** This subsection applies to an educational employee, who is either a witness or the alleged perpetrator in an OCA

investigation.

(1) The facility or provider administrator where the incident took place notifies the school principal of the nature of the allegation and the assigned OCA investigator's name.

(2) OCA investigates educational employees who meet the definition of a caretaker, per OAC 340:2-3-2.

(i) **Contractor's employees.** This subsection applies to an employee of a contractor of a provider or facility when the employee is an alleged perpetrator in an OCA investigation.

(1) The facility or provider administrator where the incident took place notifies the contractor chief administrative officer of the nature of the allegation against the contractor's employee and the assigned OCA investigator's name.

(2) The contractor chief administrative officer is responsible for notifying the contract employee of the reason for the investigative interview, advising the employee of his or her rights and responsibilities relating to the OCA investigation, and arranging for the employee's appearance at an investigative interview. This requirement is for notification purposes and to coordinate with the investigative process. The facility or provider administrator where the alleged incident took place is responsible for client protection.

(j) **Document collection and review.** The OCA investigator gathers and reviews relevant documents including, but not limited to:

(1) incident reports and other written reports, accounts, and statements prepared during the preliminary assessment;

(2) medical records;

(3) photographs or video;

(4) facility or provider logs; and

(5) activity and tracking documents.

(k) **Investigative interviews.** When an injury is alleged, the OCA investigator or other appropriate person observes, notes, and documents apparent injuries and obtains pertinent medical documentation, including photographic evidence. Interviews are conducted in private. No person, other than the OCA investigator and the person interviewed, is allowed to attend an interview except for a person necessary to facilitate communication. An attorney or other representative of the person interviewed may attend an interview only as a silent observer with the advocate general's or the advocate general's designee's prior permission.

(l) **Interview protocols.** The OCA investigator conducts a separate private interview with each alleged victim, available witnesses to the alleged maltreatment, persons allegedly directly or indirectly involved in the allegation, persons with relevant knowledge, and each alleged perpetrator.

(m) **Recording investigation interviews.** OCA interviews are audio-recorded. To maintain information confidentiality provided in an interview, the person interviewed or anyone in attendance is not permitted to record. Interview recordings remain with the OCA investigative file.

(n) **"Plan for Immediate Safety"** means the plan for actions taken to immediately control any significant and clearly observable condition that

is present and is endangering or threatening to endanger a child.

(o) **Allegation presentation for witnesses later identified as alleged perpetrators.** During an investigation, when a witness is identified as an alleged perpetrator, the OCA investigator interviews the witness again to inform the witness that he or she is an alleged perpetrator. At that time, the witness is informed of the substance of the evidence and relevant information learned during the investigation and provided an opportunity to respond. The OCA investigator informs the facility or provider agency administrator of the new allegation and of the potential, additional alleged perpetrators.

(p) **Opportunity for alleged perpetrators to respond.** Following the alleged perpetrator's initial interview, if the OCA investigator obtains information the alleged perpetrator did not have an opportunity to respond to, the OCA investigator conducts another interview with the alleged perpetrator. The OCA investigator advises the alleged perpetrator of the substance of the new information and provides an opportunity to present a response.

(q) **Interpreter services for persons who are deaf or hard of hearing or have limited English proficiency.** When OCA interviews a person who is deaf or hard of hearing or with limited English proficiency, OCA provides oral or sign language interpreter services by an independent and qualified interpreter. Interpreter services for OKDHS employees and clients are provided per OAC 340:1-11-10.

(r) **Scheduling interviews.** To schedule an interview with an alleged perpetrator, the OCA investigator phones, emails, or mails the facility or provider agency administrator or the administrator's designee that employs the alleged perpetrator. After two documented attempts to schedule an interview, the OCA investigator, contacts the facility or provider agency administrator or the administrator's designee in writing advising the administrator of his or her responsibility to compel the employee to participate. The OCA investigator notifies Developmental Disabilities Services (DDS) Quality Assurance or Child Welfare Services Specialized Placements and Partnerships Unit staff to ensure compliance with contract provisions. If unsuccessful, the OCA investigator sends a letter by mail to the alleged perpetrator's last known address notifying the alleged perpetrator of the investigation, offering an opportunity to be interviewed, and setting a date and time for a response. The letter informs the alleged perpetrator of the consequence of failing to participate. The OCA investigative report is completed without the alleged perpetrator's statement, and a finding is made based on the available information. For other persons needing to be interviewed, the OCA investigator follows the same protocol for an alleged perpetrator, but the letter only requests his or her participation in an interview.

(s) **Areas(s) of concern (AOC) notification.** During the investigation, the assigned OCA investigator emails or phones the applicable facility or provider administrator or the administrator's designee and informs him or her of AOCs. Upon the investigation's completion, all identified AOCs are provided in writing to the facility or agency provider administrator.

(t) **The written investigative report.** After completing the information-gathering portion of the investigative process, the OCA investigator prepares a written investigative report containing:

- (1) the referral allegation(s) investigated, including the date, time, and location of the alleged incident(s), the date the allegation was reported to OCA, and the assigned OCA case number;
- (2) a statement of any physical injuries the alleged victims sustained;
- (3) information regarding involved law enforcement entities;
- (4) a recommendation for the district attorney to consider further investigation;
- (5) the applicable definition(s) of caretaker misconduct or the maltreatment type at issue, such as abuse, neglect, verbal abuse, exploitation, or caretaker misconduct;
- (6) the finding(s), per (x) of this Section;
- (7) a list of the involved parties, titles and roles in the matter, if they were interviewed and, when interviewed, whether the interviews face-to-face or by phone;
- (8) the name, address, and phone numbers of any interpreter employed during the investigation;
- (9) an explanation of the basis for the finding(s);
- (10) a summary of relevant information obtained during each interview conducted during the investigation;
- (11) a list of relevant documents and records reviewed during the investigation;
- (12) a list of attachments to the report provided upon request; and
- (13) an explanation for any delays in meeting the time requirements for completing the investigation report contained in this Section.

(u) **OCA findings and completion time requirements regarding investigations involving a child.** Per 10A O.S. § 1-9-112.1, the OCA investigation of a child abuse or neglect report results in a written report, with findings, within 30- calendar days from the referral date.

(v) **Notice of child abuse or neglect findings.**

(1) After completing the OCA investigation, a findings letter is sent to the:

(A) alleged perpetrator; and

(B) facility or provider administrator.

(2) When a facility or provider administrator is named as an alleged perpetrator, a findings letter is mailed to the facility's or provider's chair of the board of directors or governing entity, or to the director of the state agency operating the facility, as applicable.

(3) The OCA investigator verbally provides the findings to the child victim's parents or legal guardian.

(w) **Appeal process for substantiated child abuse or neglect findings.** The 2010 Child Abuse Prevention and Treatment Act, Section 5101 et seq. of Title 42 of the United States Code, requires that OKDHS provide persons who disagree with a substantiated finding of child abuse or neglect with a procedure for appealing and responding to appeals of those findings, per OAC 340:2-3-39.

(x) **OCA investigation report submitted to Child Welfare Services (CWS).** Per 10A O.S. § 1-9-112.1, the OCA abuse or neglect investigation report concerning a child in OKDHS custody is submitted to the CWS director or the director's designee within 30-calendar days from the referral date.

(y) **Dissemination of investigation reports involving persons subject to the Community Services Worker (CSW) Registry.**

(1) All OCA investigations involving a substantiated finding against a CSW or Medicaid personal care assistant are processed for the CSW Registry, per OAC 340:2-3-29.

(2) A copy of the investigative report is sent to the district attorney in the county where the suspected maltreatment occurred.

(3) OCA sends an investigation summary to the designated leadership within the facility or provider administrator within five OKDHS-business days of the investigation closing. Nothing in this subsection is construed as an OCA determination that the subject of the investigation report may be placed on the CSW Registry.

(4) The investigation report is sent to the DDS director or designee.

(z) **Dissemination of reports involving alleged perpetrators subject to the Restricted Registry, Joshua's List.**

(1) All OCA investigations involving a substantiated abuse or neglect finding against an alleged perpetrator when the abuse or neglect occurred to a child while in the care of a facility licensed, certified, operated, or contracted with OKDHS or OJA are processed for the Restricted Registry, per OAC 340:110-1-10.1; and OCA submits a copy of the report to the Office of Background Investigations.

(2) A copy of the investigation report is sent to the district attorney in the county where the suspected abuse or neglect occurred, per 10A O.S. § 1-2-105.

(3) When the victim is a child receiving DDS services, OCA sends a copy of the report to the DDS director or the director's designee.

(aa) **OCA investigative reports confidentiality.** Persons receiving copies of OCA investigative reports regarding a child are bound by confidentiality provisions of 10A O.S. §§ 1-6-102 through 1-6-107.

[Source: Transferred from 340:2-3-36 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-3-6. Office of Client Advocacy (OCA) investigation procedures for cases involving vulnerable adults

(a) **Initiation of OCA investigation initiation.** Oklahoma Human Services (OKDHS) OCA within its investigative scope and authority, per Section 10-105 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-105), conducts a prompt and thorough investigation upon receiving a report of maltreatment of a vulnerable adult who is a recipient of home and community based waiver services, State Plan Personal Care (SPPC) services, living choice waiver services, medically fragile waiver services,

or a Hissom Class Member, or a resident of the Robert M. Greer Center (Greer).

(1) An OCA investigator initiates an investigation when they make face-to-face contact with the vulnerable adult, who is the alleged victim.

(2) The OCA investigator initiates the investigation as soon as possible within five-calendar days, not to exceed 120 hours from the time of the referral receipt.

(3) In the case of an emergency when a priority response is required, an OCA investigator initiates the investigation as soon as possible, but not to exceed 24 hours from the date of case assignment.

(4) During an investigation, when the OCA investigator has concerns that the vulnerable adult victim may be engaging in acts of self-neglect or needs involuntary protective services or court intervention, the OCA investigator promptly makes a referral to the Adult Protective Services (APS) and coordinates with APS to ensure the vulnerable adult's safety, per 43A O.S. § 10-106.

(b) **Joint investigations with law enforcement.** Investigations regarding vulnerable adults are conducted jointly with law enforcement when possible.

(c) **Reportable incident regarding vulnerable adults.** The OKDHS vulnerable adult investigations include allegation notification to the local law enforcement agency, per 43A O.S. § 10-105.

(d) **Investigation notice provided to vulnerable adult's caretaker (VAC), legal guardian, and next of kin.**

(1) As soon as possible after initiating an investigation of a referral regarding a vulnerable adult, OKDHS provides the alleged victim's caretaker, legal guardian, and next of kin, notice that includes a brief oral summary and a written description of the investigation process, regardless of whether the caretaker, guardian, or next of kin is alleged to be the perpetrator of the abuse, neglect, or exploitation of the vulnerable adult, per 43A O.S. § 10-105.1.

(2) When the vulnerable adult retains the capacity to consent to voluntary services and does not want a caretaker or next of kin to receive an investigation notification, OKDHS abides by the vulnerable adult's wishes.

(e) **Facility or provider administrator responsibility to arrange document production, visits, and interviews.** The applicable facility or provider agency administrator or the administrator's designee arranges document production, site visits, and interviews per OCA request. The facility or provider administrator or the administrator's designee who employed the accused VAC at the time of the alleged incident informs the employee of:

- (1) the OCA investigator's name and phone number;
- (2) the investigative process described in this Section;
- (3) the employee's rights and responsibilities relating to the investigation described in (h) of this Section, using Form 15IV005E, Rights and Responsibilities of Accused Caretakers, or a substantially similar provider or agency form, and Form

15IV004E, Address Information Notice, a copy of which is provided to the OCA investigator;

(4) the allegation made against the VAC without divulging the reporting party's identity or the substance of the evidence; and

(5) obtains the signature of the CSW on the forms listed in (3) of this subsection and provides a copy to the OCA investigator.

(f) OCA access to victims, employees, clients, facilities, files, and other records.

(1) Per 43A O.S. § 10-105, the OKDHS investigation includes:

(A) a visit to the home or other place of residence of the person who is the subject of the report;

(B) a private interview with the person who is the subject of the report; and

(C) consultation with persons who have knowledge of the circumstances.

(2) The applicable facility or provider administrator or the administrator's designee arranges for the OCA investigator to have immediate and direct access to any alleged victim in the referral who is still a client of the facility or provider.

(3) During an OCA investigation, OKDHS, Oklahoma Department of Rehabilitation Services (ODRS), Oklahoma Department of Mental Health and Substance Abuse Services (OMDHSAS), providers, and facilities and persons who contract with them, provide OCA access to all employees, clients, facilities, locations, files, and records of any nature that may pertain to the investigation.

(4) Denying access may be grounds for a contract termination between OKDHS and the contractor.

(g) Discrimination, retaliation, or interference in an OCA investigation prohibited.

(1) 21 O.S. § 455 states it is a felony to:

(A) willfully prevent or attempt to prevent any person who make an abuse or neglect report, pursuant to 43A O.S. § 10-104 from giving testimony or producing any record document or other object; or

(B) threaten physical harm through force or fear, cause or procure physical harm, harass or cause a person to be harassed because of testimony in a civil or criminal trial proceeding or because of making a report of child abuse or neglect.

(2) An OKDHS employee who interferes with an OCA investigation may be subject to administrative action. Interference includes, but is not limited to:

(A) intimidating, harassing, or threatening a party to the investigation;

(B) retaliation against an employee for reporting an allegation; or

(C) denying access to clients, employees, facilities, witnesses, records, or evidence.

(3) 43A O.S. § 10-104 states no employer shall terminate the employment, prevent or impair the practice or occupation of or impose any other

sanction on any employee solely for the reason the employee made or caused to be made a report, or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act, 43A O.S. § 10-101 et seq.

(h) **Rights and responsibilities of accused VAC.** The rights and responsibilities of the accused VAC during an OCA investigation are outlined in this subsection.

(1) **Rights.** During the investigation process, an accused VAC has the right to:

- (A) be advised of the nature of each allegation made against him or her;
- (B) be advised by OCA of the investigative process involving caretaker maltreatment.
- (C) be interviewed by the OCA investigator and allowed to give his or her position regarding the allegation;
- (D) be advised by the OCA investigator of the substance of the evidence against him or her, but not the reporting party's identity;
- (E) submit or supplement a written statement relating to the allegations;
- (F) seek advice from other parties concerning a his or her rights and responsibilities in OCA investigations, including the right to seek counsel;
- (G) decline to answer any question when he or she reasonably believes the answer to the question may incriminate him or her in a criminal prosecution; and
- (H) be notified in writing by his or her employer of the investigation's outcome when the investigation involves a VAC.

(2) **Responsibilities.** During the investigative process, the accused VAC has the responsibility to:

- (A) prepare written statements and reports relevant to the investigation, upon request;
- (B) be available for interviews and accommodate the OCA investigator with scheduling interviews;
- (C) refrain from action that interferes with the investigation including any action that intimidates, threatens, or harasses any person who has or may provide information relating to the allegation; and
- (D) provide pertinent information and respond fully and truthfully to questions.

(i) **VAC address and email.** During the investigative process the accused VAC provides OCA with a current mailing address and email address, if applicable.

- (1) It is the responsibility of the accused VAC to promptly notify OCA of any changes in mailing address or email address.
- (2) OKDHS sends all subsequent communications concerning the investigation and administrative actions to the last known mailing address or email address as applicable, as provided by the accused VAC.

(3) OKDHS may serve notice of investigative findings as provided in this Section and administrative actions per Oklahoma Administrative Code (OAC) 340:2-3-39.1 to the last known mailing address or email address as applicable as provided by the accused VAC.

(4) Failure to notify OCA of any changes in mailing address or email address may result in placement of the accused VAC in the Community Services Worker Registry.

(j) **Educational employees.** This subsection applies to an educational employee who is either a witness or the accused VAC in an OCA investigation.

(1) The facility or provider agency administrator where the incident took place notifies the school principal of the nature of the allegation and the assigned OCA investigator's name.

(2) OCA investigates educational employees who meet the caretaker definition, per this subsection.

(k) **Contractor's employees.** This subsection applies to an employee of a provider or facility contractor when the employee is an accused VAC in an OCA investigation.

(1) The facility or provider administrator where the incident took place notifies the contractor chief administrative officer of the nature of the allegation against the contractor's employee and the assigned OCA investigator's name.

(2) The contractor chief administrative officer is responsible for notifying the contract employee of the reason for the investigative review, advising the employee of his or her rights and responsibilities related to the OCA investigation, and arranging for the employee's appearance at an investigative interview. This requirement is for notification purposes and to coordinate with the investigative process. The facility or provider administrator where the alleged incident took place is responsible for client protection.

(l) **Document collection and review.** The OCA investigator gathers and reviews relevant documents including, but not limited to:

(1) incident reports and other written reports, accounts, and statements prepared during the preliminary assessment;

(2) medical records;

(3) photographs, videos, or both;

(4) facility or provider logs;

(5) activity and tracking documents;

(6) the vulnerable adult's Individual Plan (IP); and

(7) all relevant Developmental Disability Services (DDS) documents and forms.

(m) **Investigative interviews.** When there is an alleged injury, the OCA investigator or other appropriate person observes, notes, and documents apparent injuries and obtains pertinent medical documentation, including photographic evidence. Interviews are conducted in private. No person other than the OCA investigator and the person interviewed is allowed to attend an interview except for a person necessary to facilitate communication. An attorney or other representative of the interviewee attends an interview only as a silent observer with the advocate general's

or the advocate general's designee's prior permission.

(n) **Interview protocols.** The OCA investigator conducts a separate private interview with each alleged victim, available witnesses to the alleged maltreatment, and persons who are allegedly directly or indirectly involved in the allegation, persons with knowledge of relevant information, and each accused VAC. At the time of the interview of the accused VAC, if the OCA investigator determines that a signed Form 15IV004E, Address Information Notice, has not previously been provided to OCA, the investigator obtains it from the accused VAC. If the interview is being conducted in a manner other than in-person, the investigator reads Form 15IV004E to the accused VAC and:

- (1) obtains verbal acknowledgement of understanding from the accused VAC;
- (2) records the information on Form 15IV004E as provided by the accused VAC; and
- (3) obtains consent to sign Form 15IV004E on behalf of the accused VAC.

(o) **Recording investigation interviews.** OCA interviews are audio-recorded. To maintain information confidentiality provided in an interview, the interviewee and anyone in attendance is not permitted to record the interview. Interview recordings remain with the OCA investigative file.

(p) **"Plan for Immediate Safety"** means the plan for actions taken to immediately control any significant and clearly observable condition that is present and is endangering or threatening to endanger a vulnerable adult.

(q) **Allegation presentation for witnesses later identified as accused VACs.** During an investigation, when a witness is identified as a potential accused VAC, the OCA investigator interviews the witness again to inform the witness that he or she is a potential accused VAC. At the time, the witness is informed of the substance of the evidence and provided an opportunity to respond. The OCA investigator informs the facility or provider agency administrator of the new allegation and of the potential additional accused VAC. The OCA investigator advises the accused VAC of the substance of the new information and provides an opportunity to present a response.

(r) **Interpreter services for persons who are deaf or hard of hearing or have limited English proficiency.** When OCA interviews a person who is deaf or hard of hearing or who has limited English proficiency, OCA provides interpreter services by an independent and qualified interpreter. Interpreter services for OKDHS employees and clients are provided, per OAC 340:1-11-10.

(s) **Areas of concern (AOC) notification.** During the investigation, the assigned OCA investigator emails or phones the applicable facility or provider administrator or the administrator's designee and informs him or her of AOCs. When the investigation is completed, all identified AOCs are provided in writing to the facility or agency provider administrator.

(t) **The written investigative report.** After completing the information-gathering portion of the investigative process, the OCA investigator prepares a written investigative report containing:

- (1) the referral allegation investigated, including date, time, and location of the alleged incident, the date the allegation was reported to OCA, and the assigned OCA case number;
- (2) a statement of any physical injuries the alleged victim sustained;
- (3) information regarding involved law enforcement entities;
- (4) a recommendation for the district attorney to consider further investigation;
- (5) the applicable definition of caretaker misconduct or the type of maltreatment at issue, such as abuse, neglect, verbal abuse, exploitation, or caretaker misconduct;
- (6) the findings, per (x) of this Section;
- (7) a list of the involved parties, titles, and roles in the matter, if they were interviewed and, when they were interviewed, whether the interviews were face-to-face by phone, or virtual;
- (8) the name, address, and phone numbers of any interpreter employed during the investigation;
- (9) an explanation of the basis for the findings;
- (10) a summary of relevant information obtained during each interview conducted during the investigation;
- (11) a list of relevant documents and records reviewed during the investigation;
- (12) a list of attachments to the report provided upon request; and
- (13) an explanation for any delays in meeting the time requirements for completing the investigation report contained in this Section.

(u) **OCA investigation findings regarding a vulnerable adult.** The OCA investigation of a report of vulnerable adult maltreatment of a vulnerable adult results in a written report with findings within 60-calendar days from the referral date.

(v) **Identification of the responsible VAC.** When the evidence gathered during the investigation is sufficient to substantiate vulnerable adult maltreatment but the person responsible for the maltreatment cannot be identified, the substantiated finding is made on an unknown VAC. The facility or provider administration may be named as responsible VAC when the policies, procedures, or practices the administration adopted are the primary factor resulting in individual client maltreatment of individual clients.

(w) **Notice of maltreatment findings to a vulnerable adult.**

(1) After the OCA investigation is complete a findings letter is provided to the:

- (A) accused VAC;
- (B) legal guardian and next of kin; and
- (C) facility or provider administrator.

(2) When a facility or provider administrator is named as an accused VAC, a findings letter is provided to the facility's or provider's chair of the board of directors, or to the director of the state agency operating the facility, as applicable.

(x) **Appeal process for substantiated maltreatment findings.** The appeal process is provided for accused VACs who disagree with a

substantiated maltreatment finding, per OAC 340:2-3-39.1.

(y) Dissemination of OCA investigation reports involving VACs not subject to the CSW Registry.

(1) Except as provided in (4) of this subsection and consistent with 43A O.S. § 10-110, a summary of the final OCA investigation report involving a vulnerable adult is sent to the administrator of an affected facility or provider agency. The summary is provided within five-business days of the investigation's closure. The administrator is responsible for notifying the accused VAC and the vulnerable adult's legal guardian or next of kin of the OCA finding.

(2) When the referral alleges maltreatment, a copy of the report is sent to the applicable district attorney.

(3) A copy of the report is also sent to the DDS State Office administrator, ODRS director, or ODMHSAS director, as applicable.

(4) When a facility or provider administrator is named as an accused VAC in the allegation, the OCA forwards a summary of the investigative report to the facility or provider agency chair of the board of directors or to the director of the state agency operating the facility.

(5) A copy of the OCA report is sent to the Oklahoma State Department of Health (OSDH) when the investigation involves a day treatment program.

(6) When the accused VAC is an OKDHS employee, the relevant state office administrator provides the accused VAC with a letter summarizing the allegation and stating the OCA finding.

(7) When there is a substantiated finding of client maltreatment by a licensed nurse, a copy of the OCA report is submitted to the Oklahoma State Board of Nursing.

(8) When appropriate in cases involving a vulnerable adult, a copy of the OCA report is sent to any state agency with concurrent jurisdiction over persons or issues identified in the investigation. This includes but is not limited to, OSDH and any appropriate state licensure or certification board, agency, or registry and includes sending OSDH a copy of any report when at least one of the accused VACs is a certified nurse aide.

(9) When there is substantiated maltreatment by a guardian, a copy of the OCA investigation report is submitted to the applicable guardianship court.

(10) OCA distributes the investigation report by mail, fax, or email while maintaining confidentiality of materials.

(z) Dissemination of investigation reports involving Hissom Class Members (HCMs) and VACs subject to the CSW Registry.

(1) All OCA investigations involving a substantiated finding against a CSW or Medicaid personal care assistant employed by a Medicaid personal care services provider, are processed for the CSW Registry, per OAC 340:2-3-29.1.

(2) A copy of the investigative report is sent to the district attorney in the county where the suspected maltreatment occurred, per 43A O.S. § 10-104.

(3) OCA sends an investigation summary to the facility or provider administrator within five-business days of the investigation's closure. Nothing in this subsection will be construed as an OCA determination that the subject of the investigation report may be placed on the CSW Registry.

(4) The investigation report is sent to the DDS director or designee, the Community Living, Aging, and Protective Services director or designee, or the Oklahoma Health Care Authority director or designee, as applicable.

(5) OCA notifies the vulnerable adult's accused caretaker and legal guardian or next of kin of the investigation finding. When the vulnerable adult is an HCM, the HCM's assigned OCA advocate notifies the HCM and the HCM's guardian or close family member of the investigation finding.

(6) When an investigation involves a vulnerable adult with a legal guardian, a copy of the completed investigation report must be filed with the court the guardian is accountable to, per 43A O.S. § 10-105.

(aa) **Confidentiality of OCA investigative reports.** Persons receiving copies of OCA investigative reports or summaries regarding a vulnerable adult are bound by the confidentiality provisions of 43A O.S. § 10-110.

(1) All investigative records OKDHS receives that are created by other local or state agencies, including law enforcement agencies, are obtained directly from those local or state entities.

(2) Person seeking redacted identifying information, per 43A O.S. § 10-110, contained in the OCA investigative report, in any summary or other information contained in any other reports, records, or working papers used or developed in the investigation, must obtain a court order authorizing the information's release of such information.

(A) All reports, records, working papers, and all information contained therein remain confidential after the OKDHS release; and

(B) it is unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

(bb) **Substantiated findings involving Greer.** OCA investigation report findings involving vulnerable adult maltreatment at Greer are considered final when the report does not contain a substantiated finding. In cases with a substantiated finding, the report is final upon completion of the review process, per 340:2-3-39. When DDS staff receives a copy of a final OCA investigative report or notice that a review, per OAC 340:2-3-39.1, is concluded, within 30-calendar days, the applicable director notifies the advocate general in writing of:

(1) the personnel action taken or to be taken with regard to each accused VAC name in the report;

(2) the corrective action taken or to be taken regarding AOCs notice in the report; and

(3) whether, for each worker found to have engaged in maltreatment, there were prior OCA or facility confirmations of the worker's maltreatment of a vulnerable adult. If such

confirmations exist, the basis for each such finding, and the personnel action taken in response.

(cc) **Findings involving an HCM.** This subsection applies to the administrator of a provider that employed, or contracted with a contractor that employed, an accused VAC named in an OCA investigation report. The DDS director or the director's designee notifies the advocate general in writing:

(1) when personnel action was or will be taken with regard to each accused VAC named in the report; and

(2) of corrective action taken or to be taken regarding AOCs noted in the report.

(dd) **Ten-day staffing.** Ten days after the investigation is initiated, the provider has the right to request an investigative status update. The provider makes the request to the the assigned OCA Investigator's programs manager or programs supervisor. The ten-day staffing includes the provider administrator, the programs manager or programs supervisor and the OCA investigator. OCA provides an update as to the progress and there is an information exchange between the provider and OCA to identify any ongoing safety issue to barriers to concluding the investigation.

[Source: Transferred from 340:2-3-36.1 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-3-7. Caretaker conduct review (CCR)

(a) **Application.** This Section applies to referrals received by the Office of Client Advocacy (OCA) that OCA refers to a facility for an internal caretaker conduct review (CCR) per Oklahoma Administrative Code (OAC) 340:2-3-35(a)(2). Allegations of caretaker misconduct regarding children are screened by the Oklahoma Department of Human Services (DHS) Abuse & Neglect Hotline (Hotline) and referred to the appropriate facility contracting and licensing entities where the incident occurred. OCA may conduct an investigation when the DHS Specialized Placement Unit, DHS Child Care Licensing Unit, or other source, determines a pattern of misconduct exists by a person responsible for the child of interest (PRFCI) or facility administration, or facility administration fails to take appropriate corrective action. This Section does not apply to allegations involving caretaker misconduct of a Hisson class member or a vulnerable adult, other than a resident of the Robert M. Greer Center (Greer). OCA continues to accept and process CCRs regarding children who are in facilities not licensed by or contracted with DHS.

(b) Assignment to a facility to conduct a CCR.

(1) When OCA receives a referral that indicates possible caretaker misconduct, in lieu of an investigation, OCA intake may refer it to the facility where it allegedly occurred for handling as a CCR when:

(A) there is no injury or evidence the client might have been exposed to a significant risk of harm;

(B) there is a minor physical injury and it is not a suspicious injury;

- (C) there is a serious physical injury and the known credible information makes it unlikely the serious injury was the result of abuse or neglect; or
- (D) excessive or unauthorized use of force is alleged and there is no injury or only a minor injury that is not suspicious.

(2) In addition to the referrals in subsection (b)(1) of this Section, regarding vulnerable adults at DHS operated facilities, and at Greer, a referral indicating possible maltreatment may be referred to the facility for handling as a CCR when the allegation involves a serious physical injury that occurred under unexplained or unusual circumstances.

(c) **Protocol for conducting a CCR.** When OCA intake assigns a facility the responsibility to conduct a CCR, the administrator or designee takes necessary steps to ensure the safety of all clients and to protect the integrity of all evidence. A facility employee designated to conduct a CCR follows the investigative procedures per OAC 340:2-3-36, with the exception of recording the interviews per OAC 340:2-3-36(j)(1), including:

- (1) reviewing pertinent documentation, records, and evidence collected;
- (2) viewing any injuries and photos of injuries, and obtaining photos of injuries;
- (3) obtaining written statements and conducting interviews with:
 - (A) each alleged victim;
 - (B) each eyewitness;
 - (C) other persons with knowledge relevant to the allegation; and
 - (D) each accused caretaker;
- (4) reviewing statutes, policies, directives, standards, rules, or practices relevant to the allegation;
- (5) analyzing the accused caretaker's actions in relation to relevant statutes, policies, directives, standards, rules and practices; and
- (6) determining the appropriate finding(s) per OAC 340:2-3-36(v).

(d) **Returning the investigation responsibility to OCA.** If at any time during the CCR information is learned that gives cause to believe a client was the victim of caretaker misconduct resulting in a serious injury, abuse, or neglect, the administrator immediately discontinues the CCR and contacts OCA intake to report the new information warranting an OCA investigation. OCA intake notes the new information and changes the disposition on Form 15GN001E, Office of Client Advocacy - Intake Referral, and the case is assigned to an OCA investigator for investigation per OAC 340:2-3-35(c).

(e) **Written report of CCR.** After completion of the CCR process and determination of the appropriate finding, the person conducting the CCR prepares a written report. Facilities are encouraged, but not required, to use the OCA format for CCR reports. The written report contains:

- (1) the allegation(s), including the dates, times, and location of the alleged incident(s), the date the allegation was reported to OCA, and the OCA case number;

- (2) a statement of any injury sustained by the alleged victim(s) and, in cases involving an injury, a statement whether photographs were taken of the injury and if so, the date they were taken;
- (3) the finding(s), whether caretaker misconduct did or did not occur, based on a greater weight of the evidence standard;
- (4) a list of the involved parties, their titles and roles in the matter, whether they were interviewed and, if so, when;
- (5) citation to pertinent statutes, policies, directives, standards, rules, and practices, when applicable;
- (6) an explanation of the basis for the finding(s);
- (7) a summary of pertinent information obtained in interviews conducted during the review;
- (8) a list of relevant documents and records reviewed;
- (9) a list of attachments to the report;
- (10) a list of areas of concern identified during the course of the investigation regarding facility or DHS practices or procedures that have implications for the safety, health, or welfare of clients, but do not rise to the level of abuse or neglect; and
- (11) either on a cover memo or at the end of the report, the date and signature of the person who conducted the CCR, and the signature of the person who reviewed and approved the report.

(f) **Time for completion of report.** The final written report is submitted to the advocate general within 30 calendar days from the date OCA intake notified the administrator an allegation is referred for CCR.

(g) **OCA processing of CCR reports.** The administrator transmits the completed CCR to the advocate general. The advocate general or designee reviews the CCR report for completeness and appropriateness of the finding. When a report is incomplete or the finding is questionable, OCA contacts the administrator to request further inquiry into the allegation. OCA opens an investigation when a report indicates the need.

(h) **Final CCR report.** When a final CCR report is not submitted to the advocate general within 45 calendar days from the date OCA notifies the facility or provider administrator the allegation is referred for CCR, OCA notifies the appropriate state agency, office, or regulatory entity that contracts with the facility or agency for the delivery of services.

(i) **Review by Developmental Disabilities Services (DDS)**

director. Within five business days of completion of a CCR report at the Robert M. Greer Center (Greer), the facility administrator or designee informs the client and the client's guardian or parent of the CCR result. If the client or the guardian or parent does not concur with the finding(s), the facility administrator or designee notifies the advocate general in writing by email or letter. The advocate general refers the matter to the OCA grievance coordinator to process for review by the DDS director as a contested grievance per OAC 340:2-3-46 and 340:2-3-51(g) and the client or guardian or parent who did not concur with the finding(s) is considered the grievant for purposes of the review. When the grievant does not concur with the proposed resolution of the applicable director or designee, the matter is reviewed by the Grievance and Abuse Review Committee (GARC) per OAC 340:2-3-62 and 340:2-3-64.

(j) **State office administrator's report.** The findings in a CCR are considered final when the time for requesting review pursuant to subsection (i) of this Section has expired and review has not been requested, or the review was timely requested and concluded.

(1) Within 60 calendar days of the finding becoming final, the state office administrator or designee informs the advocate general in writing of:

- (A) any personnel action taken or to be taken;
- (B) any corrective action taken or to be taken; and
- (C) for each worker found to have engaged in caretaker misconduct, whether there was prior confirmation by OCA or the facility for client maltreatment by the worker and, if so, the basis for each finding and the personnel action taken in response.

(2) When personnel action is involved, the State Office administrator notifies the DHS Human Resources Management director.

(3) When a CCR has not resulted in a confirmed finding, no information or material pertaining to the allegation or the investigation is placed in the personnel files of any employee named in the report.

[Source: Transferred from 340:2-3-37 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-3-8. Investigation of complaints made by foster parents or made by or on behalf of children being served by Child Welfare Services (CWS)

(a) **Application.** The Office of Client Advocacy (OCA) investigates allegations:

(1) that an employee of Oklahoma Human Services (OKDHS) or of a child-placing agency threatened a foster parent with removal of a child from the foster parent, harassed or refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination towards a foster parent who engaged in a protected act, per Sections 1-9-112 and 1-9-117 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-9-112 and 1-9-117); and

(2) that any OKDHS or child-placing agency employee retaliated or discriminated against a child being served by CWS for engaging in a protected act, per 10A O.S. § 1-9-119.1 and 10A O.S. § 1-9-120.

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

(1) **"Administrator"** with regard to a child-placing agency, means the chief administrative officer of the agency.

(2) **"Child-placing agency"** means an agency that arranges for or places a child in a foster family home, group home, adoptive home, or successful adulthood program, per 10 O.S. §§ 401 through 418.

(3) **"Discrimination"** means differential treatment by an OKDHS or child-placing agency employee of similarly situated foster parents or similarly situated children being served by CWS that in reprisal for engaging in a protected activity.

(4) **"Harassment"** means a knowing and willful pattern of conduct, statements, or behaviors that serve no legitimate purpose, directed at a foster parent or child being served by CWS that a reasonable person in the same or similar circumstances would find intimidating or substantially distressing.

(5) **"Protected activity"** means a foster parent or child being served by CWS engaged in:

(A) filing a grievance with OKDHS or the Oklahoma Commission on Children and Youth (OCCY) Office of Juvenile System Oversight (OJSO), or with a child-placing agency, per 10A O.S. § 1-9-120;

(B) providing information regarding foster care services to any state official or OKDHS employee; or

(C) testifying, assisting, or otherwise participating in an investigation, proceeding, or hearing against OKDHS or a child-placing agency.

(6) **"Retaliation"** means:

(A) with regard to a child being served by CWS, in reprisal for the child engaging in a protected activity, an OKDHS or child-placing agency employee took an adverse action against the child including, but not limited to, punishment, interference, or coercion; or

(B) with regard to a foster parent, in reprisal for the foster parent engaging in a protected activity, an OKDHS or a child-placing agency employee:

(i) threatened a foster parent with a child's removal from the foster parent's care;

(ii) refused or failed to place a child in a licensed or certified foster home; or

(iii) disrupted a child placement.

(c) **Scope.** A foster parent or a child being served by CWS has the right, without fear of reprisal or discrimination, to lodge concerns and complaints with respect to the provision of foster care services to OJSO. OJSO forwards complaints to OCA. OCA determines if foster parent or child being served by CWS complaints meet criteria for a formal investigation. OCA:

(1) initiates investigations that meet the criteria, per Oklahoma Administrative Code (OAC) 340:2-3-38(a); and

(2) forwards discrimination allegations to the Office for Civil Rights when the alleged discrimination includes actions or decisions based on race, color, national origin, sex, religion, age, or disability, unless authorized by law.

(d) **Exclusions.** The provisions of this Section do not apply to:

(1) a complaint by a foster parent or by a child being served by CWS regarding the result of a criminal, administrative, or civil proceeding for a violation by that foster parent or child being served by CWS of a law, rule, or contract provision, or an action

taken by OKDHS or a child-placing agency in conformity with the result of such proceedings;

(2) allegations of acts of retaliation, discrimination, or harassment that occurred more than one year prior to the date of the foster parent or child being served by CWS complaint; or

(3) allegations of a pattern of retaliation, discrimination, or harassment, the last incident that occurred more than one year after the foster parent or child being served by CWS participated in a protected activity.

(e) **Protections for foster parents filing complaints in good faith.** 10A O.S. § 1-9-117 provides that any foster parent who has reasonable cause to believe he or she was threatened with removal of a foster child, refused placement of a child, or had a placement disrupted in retaliation, discrimination, or harassment by an OKDHS or a child-placing agency employee, as outlined in (c) of this Section, may file a complaint with OJSO. The law provides that persons making a report in good faith under this Section may not be adversely affected solely on the basis of having made such report. The law also provides that any person who knowingly and willfully makes a false or frivolous report or complaint may be subject to loss of foster parent approval or licensure status.

(f) **Reporting procedure.** Foster parents or children being served by CWS may file complaints by calling OCA or using the OCCY website at okfosterparentvoices.org or okfosteryouthmatters.org.

(g) **Confidentiality.** OCA maintains confidentiality regarding the reporter's identity. OCA must prepare and maintain written records from the reporting source including the:

(1) names and addresses of the child being served by CWS and the person(s) responsible for the child's welfare;

(2) nature of the complaint; and

(3) names of the persons or agencies responsible for the allegations contained in the complaint.

(h) **Prohibition against interference.** An OKDHS employee who interferes with a foster parent's or child being served by CWS's grievance rights or an OCA investigation may be subject to administrative action for misconduct per OKDHS personnel rules relating to cause for disciplinary action.

(i) **Initiation of OCA investigation.** Upon disposition of a report of retaliation, discrimination, or harassment against a foster parent or child being served by CWS, OCA assigns an OCA investigator to investigate the allegations per this Section. The OCA investigation does not duplicate and is separate from any investigation mandated by the Oklahoma Child Abuse Reporting and Prevention Act or other investigations having formal notice or hearing requirements.

(j) **Rights and responsibilities of employees.** The rights and responsibilities of OKDHS employees or agents in an OCA foster parent or child being served by CWS investigation are listed in (1) through (7) of this subsection. OKDHS employees or agents:

(1) make themselves available for interviews and accommodate the OCA investigator in scheduling interviews;

- (2) provide pertinent information and respond fully and truthfully to questions asked;
- (3) may submit written statements relating to the events in question in addition to being interviewed;
- (4) may seek advice concerning their rights and responsibilities from other parties within, or outside of OKDHS;
- (5) prepare written statements or reports relevant to the investigation upon request;
- (6) who reasonably believe answers to official inquiries regarding the events in question may incriminate them in a criminal prosecution, may decline to answer those questions; and
- (7) when interviewed do not discuss their interviews with anyone outside of OCA.

(k) **Access.** At all times, OCA is granted access to any foster home or facility approved, authorized, or funded by OKDHS, or a child-placing agency.

(l) **Investigation procedures.** Investigations are conducted, per OAC 340:2-3-36, unless otherwise provided in this Subchapter.

(1) **Notifying administrators and accused caretakers.** The assigned OCA investigator notifies the applicable administrator or State Office administrator of the investigation and arranges for document production, site visits, and interviews. The administrator or State Office administrator who employed an accused employee at the time of an alleged incident promptly informs the accused employee of:

- (A) the OCA investigator's name and phone numbers;
- (B) the investigative process;
- (C) his or her rights and responsibilities relating to the investigation described in (j) of this Section, using Form 15IV006E, Investigations of Foster Parent Retaliation Complaints - Rights and Responsibilities of Accused OKDHS Employees, a copy of which is provided by the OCA investigator; and
- (D) the nature of the allegation(s) made against the employee; however, at this time the employee is not provided the details of the allegations or the substance of the evidence.

(2) **OCA access to evidence.** Applicable administrators and State Office administrators cooperate and facilitate with the OCA investigation by:

- (A) providing access to requested information;
- (B) producing relevant documents, files, and records;
- (C) accompanying the OCA investigator on foster home visits, when requested by OCA; and
- (D) providing access to accused employees and others who have knowledge of relevant information.

(3) **OCA findings regarding foster parent or child being served by CWS retaliation, discrimination, or harassment and completion timeframes.** The OCA investigator conducts a prompt and thorough investigation within 60-calendar days from the date of the referral, stating one of the following findings.

(A) **"Substantiated"** means OCA determined, based on the preponderance of the evidence that foster parent retaliation, discrimination, or harassment occurred or that a child being served by CWS was subject to retaliation or discrimination.

(B) **"Unsubstantiated"** means OCA determined, based on the preponderance of the evidence, that insufficient evidence exists to determine foster parent retaliation, discrimination, or harassment occurred or that a child being served by CWS was subject to retaliation or discrimination.

(4) **The written investigation report.** After completing the information-gathering portion of the investigative process, the OCA investigator prepares a written report containing:

(A) the allegations investigated, including the date, time, and location of the alleged incident, the date the allegation was reported to OCA, the OCA case number, and the assigned OCA investigator;

(B) a list of the involved parties, and their titles and roles in the alleged incident;

(C) the applicable definition of the type of conduct at issue, such as retaliation, discrimination, or harassment, or any combinations thereof;

(D) if the foster parent or child being served by CWS engaged in a protected activity listed in (c)(2) of this Section and, if so, a description of the activity;

(E) the findings, per (l)(3) of this Section;

(F) an explanation of the basis for the finding;

(G) a summary, in cases involving a substantiated finding, of each interview conducted during the investigation, including the date and location of the interview;

(H) areas of concern identified during the investigation regarding OKDHS or child-placing agency practices or procedures;

(I) a list of documents and records reviewed during the investigation; and

(J) a list of attachments submitted with the final report.

(5) **OCA investigative report dissemination.**

(A) In cases involving allegations against an OKDHS employee, the advocate general submits a copy of the final OCA investigation report to the OKDHS Director and applicable State Office administrators.

(B) In cases involving a child-placing agency employee, the advocate general sends a letter summarizing the allegation and the OCA finding to the agency administrator and sends a copy of the report to the appropriate State Office administrator. When the child-placing agency administrator is the subject of the investigation, the letter summarizing the allegation and the OCA finding is sent to the agency's board of directors.

(C) OCA sends the foster parent or child being served by CWS and each accused OKDHS employee a letter summarizing the allegation and the OCA finding.

(D) All parties receiving copies of the investigative reports are bound by the confidentiality provisions, per 10A O.S. § 1-9-112 and 43A O.S. § 10-110.

(m) **Request for reconsideration by the advocate general.** Within 15-calendar days of receipt of the final OCA investigative report or summary, the CWS State Office administrator or the administrator's designee, the child-placing agency administrator, or the employee may request reconsideration by the advocate general.

(n) **OKDHS Director's request for reconsideration by the advocate general.** Within 30-calendar days of receipt of the final OCA investigative report, the OKDHS Director may request reconsideration by the advocate general.

(o) **Response to a substantiated finding by a State Office administrator or child-placing agency administrator.**

(1) When a State Office administrator receives a copy of an OCA investigative report containing a substantiated finding and reconsideration was not timely requested within 30-calendar days of receipt of the OCA report, the State Office administrator notifies the advocate general in writing of any personnel action taken, or to be taken, with regard to the employee, or any corrective action taken, or to be taken, regarding the areas of concern noted in the OCA report.

(2) When the OKDHS Director refers the matter to the advocate general for reconsideration, the State Office administrator's response to the advocate general regarding corrective action is due within 30-calendar days of the advocate general's final finding on reconsideration.

(3) When a child-placing agency administrator receives a letter summarizing the allegations and the OCA finding against a child-placing agency employee, the child-placing agency administrator notifies the advocate general in writing within 30-calendar days of the final report of any personnel action taken, or to be taken, with regard to each employee named in the report, and of the status of areas of concern noted in the OCA report.

[Source: Transferred from 340:2-3-38 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-3-9. Program Review process for substantiated child abuse or neglect findings in Office of Client Advocacy investigations

(a) **Purpose.** The Office of Client Advocacy (OCA) program review process serves the following purposes:

(1) per the 2010 Child Abuse Prevention and Treatment Act (CAPTA), Section 5101 et seq. of Title 42 of the United States Code, Oklahoma Human Services (OKDHS) is required to provide persons who disagree with a substantiated finding of child abuse or neglect with a procedure for appealing and responding to

appeals of those findings;

(2) serves as a quality assurance mechanism to assess findings compliance with Office of Client Advocacy (OCA) standards, per Oklahoma Administrative Code (OAC) 340:2-3-36; and

(3) provides a procedure for notice and an opportunity for review to an individual and, if the individual is an employee of a facility licensed, certified, operated, or contracted by or with the Office of Juvenile Affairs (OJA), to the facility prior to recording an individual in the Restricted Registry, per Section 405.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 405.3).

(b) **Eligibility criteria.** An individual may request consideration through the program review process when:

(1) the person is an alleged perpetrator in an investigation involving abuse or neglect allegations; and

(2) the investigation results in a substantiated finding regarding the alleged perpetrator; and

(3) there is no other court action or court order in regard to the alleged child abuse or neglect including pending or completed:

(A) protective order hearings;

(B) civil actions for monetary compensation; or

(C) criminal court proceedings.

(c) **Procedures for the alleged perpetrator program review**

process. The procedures for the alleged perpetrator program review process are outlined in (1) through (4) of this subsection.

(1) **Notification to alleged perpetrator.** Upon substantiating abuse, neglect, or both, the OCA social services inspector notifies the alleged perpetrator of the finding by mailing Forms 04KI077E, Notification Concerning Finding(s) of Child Abuse/Neglect, and 04KI079E, Request for Program Review, provided the criteria in OAC 340:2-3-39 is met. Forms 04KI077E and 04KI079E are:

(A) mailed by certified mail and regular mail within 10-calendar days of abuse or neglect substantiation; and

(B) mailed to the alleged perpetrator's last known address.

(i) Form 04KI077E informs the alleged perpetrator of:

(I) any substantiated child abuse or neglect finding in the investigation;

(II) the date of the abuse or neglect referral, allegation, and finding without identifying the reporting party; and

(III) demographic information.

(ii) Form 04KI079E specifies:

(I) the alleged perpetrator may request a program review by mailing a request to the OCA program review committee within 15-calendar days from the postmark on the envelope containing Form 04KI079E;

(II) the alleged perpetrator has the right to provide additional information through written statements that must be submitted at the same time the request for program

review is made;

(III) failure to submit the program review request within 15-calendar days from the postmark on the envelope containing Form 04KI079E results in the finding becoming final, and also specifies that the alleged perpetrator waives any right to refute this finding in the future, unless good cause is established; and

(IV) that verification of legal representation must be established when the alleged perpetrator requests an attorney be notified of the determination results. Verification is established by a statement of representation on official letterhead from the attorney.

(2) **Good cause conditions.** an alleged perpetrator is granted a review despite failure to make a timely response, provided good cause is established, including, but not limited to, severe illness or other disabling condition.

(3) **Review Procedure.** Within 60-calendar days following a review request acceptance, or a late review request when good cause was established, the OCA program review committee determines whether the substantiated child abuse or neglect finding meets substantiation protocol, per OAC 340:2-3-2. No individual with direct decision making authority regarding a case being reviewed is authorized to vote to ensure that there is no conflict of interest.

(A) The decision to uphold, modify, or reverse the original abuse or neglect finding is determined by reviewing:

(i) Form 04KI003E, Report to District Attorney, including attachments, and relevant OCA information; and

(ii) all written documents submitted to the OCA program review committee.

(B) When the program review committee determines the finding failed to meet substantiation criteria per OAC 340:2-3-36, the committee:

(i) determines whether the preliminary decision was based on a lack of credible evidence to support the child abuse or neglect allegations; or

(ii) determines whether the preliminary decision is based on the OCA social services inspector's lack of documentation; and

(I) when a lack of documentation exists, the program review committee sends notification to the programs administrator, programs manager and OCA social services inspector that information is missing. The program review committee requests the information be added to the report or

scanned into On Base;
(II) after the program review committee's notification is received, the programs manager reopens and reassigns the investigation;
(III) the assigned OCA social services inspector adds the additional information to the report within 15-calendar days of the reassignment and sends notification to the program review committee upon completion; and
(IV) the program review committee reconsiders the review request with the additional information and modifies or upholds the finding as appropriate; and
(iii) modifies the finding, when appropriate, in KIDS.

(I) When the substantiation finding is appropriate, but the allegation in KIDS is incorrect, the program review committee's chairperson ensures the inappropriate allegation is marked as an improper entry and the correct allegation is added along with the substantiated finding; and
(II) Forms 04KI077E and Form 04KI079E are mailed with the corrected allegations and findings.

(C) Within 60-calendar days following the acceptance of the review request, the program review committee, provides written notification to the:

- (i) alleged perpetrator;
- (ii) advocate general;
- (iii) programs administrator;
- (iv) programs manager;
- (v) OCA social services inspector;
- (vi) district attorney's office in the county where the finding originated;
- (vii) Specialized Placement and Partnership Unit, when applicable;
- (viii) Child Care Services (CCS), when applicable;
- (ix) Office of Juvenile Affairs (OJA), when applicable; and
- (x) facility or agency provider administrator.

(4) Notification of Child Care Services (CCS) of a PRFC's substantiated finding of heinous and shocking abuse.

(A) OCA is responsible for notifying CCS upon completion of a program review when a finding of heinous and shocking abuse is substantiated.

(B) CCS notifies a child care facility owner or operator and the child care resource and referral organization in writing immediately or not later than one-business day

after a finding of heinous and shocking abuse is substantiated on a PRFC by DHS, per 10 O.S. § 406.

(d) **Procedures for the OJA facility program review.** The procedures for the facility program review process are outlined in (1) and (2) of this subsection.

(1) **Notification to facility.** Within 10-calendar days of a facility employee's substantiation of abuse, neglect, or both, the facility is notified of the finding. The notification informs the facility:

- (A) of the substantiated finding;
- (B) of the date of the abuse or neglect referral, allegation, and finding without identifying the reporting party;
- (C) of the demographic information;
- (D) that a program review may be requested by notifying the OCA Program Review Committee within 15-calendar days of the date the facility was notified of the substantiated findings;
- (E) that additional information for consideration by the OCA Program Review Committee may be provided with the request for a program review; and
- (F) that failure to request a program review in a timely manner may result in the finding becoming final and waives any right for the facility to request consideration of the finding in the future.

(2) **Review procedure.** The review procedures for a request for program review by an OJA facility follow the procedures found in (c) of this Section.

[Source: Transferred from 340:2-3-39 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-3-10. Reconsideration process for substantiated findings of vulnerable adult maltreatment in Office of Client Advocacy (OCA) investigations and Community Services Worker Registry (CSWR) procedures

(a) **Notice of Reconsideration process for substantiated findings of vulnerable adult maltreatment by vulnerable adult caretakers (VAC) not eligible for CSWR placement.**

(1) The OCA administrative programs officer (APO) or designee sends the VAC a notification of findings of vulnerable adult abuse/neglect and request for reconsideration within 10-calendar days of approval of a substantiated investigation finding by the OCA programs manager or supervisor.

(2) The notification of findings informs the VAC of:

- (A) any substantiated vulnerable adult abuse or neglect findings in the investigation;
- (B) the abuse or neglect referral, allegations, and findings dates;
- (C) demographic Information; and
- (D) instructions regarding the request for reconsideration, specifying that:

- (i) the VAC may request reconsideration by mailing a request to the OCA Reconsideration Committee within 20-calendar days of the date the notification of findings was sent;
- (ii) the VAC has the right to provide additional written documentation to support a change of finding within 20-calendar days of the mailing date of the notification of findings.
- (iii) if the VAC requests an attorney be notified of the determination results, verification of representation must first be established via submission of a statement of representation from the attorney on his or her official letterhead; and
- (iv) failure to submit a request for reconsideration within 20-days of the date the notification of findings was sent may result in the finding becoming final. In this case, the VAC may only contest the finding upon a showing of good cause.

(3) The notification of findings does not include the reporting party's identity.

(b) Review procedure for substantiated findings of vulnerable adult maltreatment by VAC not eligible for CSWR placement.

(1) When the VAC requests reconsideration, within 45-calendar days of accepting the request, the OCA Reconsideration Committee determines whether the substantiated maltreatment finding is supported by a preponderance of the evidence and meets the relevant definition, per Section 10-103 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-103).

(2) If the VAC does not request reconsideration, within 45-calendar days of the date the notification of findings was sent, the OCA Reconsideration Committee determines whether the substantiated finding is supported by a preponderance of the evidence and meets the relevant definition, per 43A O.S. § 10-103.

(3) Regardless of whether reconsideration is requested:

(A) the decision to uphold, modify, or reverse the investigative finding or to remand for further investigation is made by reviewing:

- (i) the Report to District Attorney, including attachments and relevant OCA documentation, OCA history, Adult Protective Services (APS) history, criminal history, and referral history; and
- (ii) any written documents submitted by the VAC;

(B) to ensure that no conflict of interest exists, individuals with direct decision-making power regarding a case are not authorized to vote in connection with its reconsideration, and recuse themselves;

(C) the OCA Reconsideration Committee emails the APO its decision to uphold, modify, or reverse the finding; and

(D) within 15-calendar days of the OCA Reconsideration Committee's decision, the APO or designee provides notification to the:

- (i) VAC;
- (ii) advocate general;
- (iii) programs administrator;
- (iv) programs manager;
- (v) OCA social services inspector;
- (vi) district attorney's office in the county where the finding originated;
- (vii) Developmental Disabilities Services (DDS), when applicable;
- (viii) Aging Services (AS), when applicable;
- (ix) facility administrator; and
- (x) guardian for the vulnerable adult, when applicable.

(c) Notice of reconsideration process for substantiated findings of vulnerable adult maltreatment by community services worker (CSW)s eligible for CSWR placement.

- (1) The OCA APO or designee sends the CSW a notification of findings of vulnerable adult abuse/neglect and request for reconsideration within 10-calendar days of a substantiated investigation finding approval by the OCA programs manager or supervisor.
- (2) The CSW may be added to the CSWR when Oklahoma Human Services (OKDHS) sent proper notice:
 - (A) to his or her last known address by certified mail, return receipt requested, and regular mail;
 - (B) to his or her email as provided to OKDHS; or
 - (C) as provided in (l) of this Section.
- (3) The notice informs the CSW of:
 - (A) the dates of the abuse or neglect referral, allegation, and finding; and
 - (B) instructions regarding the request for reconsideration, specifying that:
 - (i) he or she may request reconsideration of the investigative findings by submitting a detailed written statement with the request within 20-calendar days of the mailing date of the notice;
 - (ii) he or she has the right to provide additional written documentation to support a change of finding within 20-calendar days of the mailing date of the findings letter;
 - (iii) that when a VAC requests an attorney be notified of the determination results, verification of representation must first be established via submission of a statement of representation from the attorney on his or her official letterhead; and
 - (iv) absent good cause shown, failure by the CSW to submit a request for reconsideration within 20-calendar days of the mailing date of the notice:
 - (I) may result in the finding becoming final;
 - (II) waives the right to further administrative or judicial review; and

(III) authorizes entry of his or her name in the CSWR and disclosure, per Oklahoma Administrative Code (OAC) 340:100-3-39, to any person requesting such information.

(4) The notice does not contain the reporting party's identity.

(d) Review procedure for substantiated findings of vulnerable adult maltreatment by CSWs eligible for CSWR placement.

(1) If the CSW requests reconsideration, within 20-calendar days of the date the notification of findings was sent, the OCA Reconsideration Committee determines whether the substantiated maltreatment finding is supported by a preponderance of the evidence and meets the relevant definition, per 43A O.S. §10-103.

(2) If the CSW does not request reconsideration, within 20-calendar days of the date the notification of findings was sent, the OCA Reconsideration Committee determines whether the substantiated finding is supported by a preponderance of the evidence and meets the relevant definition, per 43A O.S. § 10-103.

(3) Regardless of whether reconsideration is requested:

(A) the decision to uphold, modify, or reverse the investigative finding or to remand for further investigation is made by reviewing:

(i) the Report to District Attorney, including attachments and relevant OCA documentation, OCA history, APS history, criminal history, and referral history; and

(ii) any written documents submitted by the CSW;

(B) to ensure that no conflict of interest exists, individuals with direct decision-making power regarding a case are not authorized to vote in connection with its reconsideration, and recuse themselves;

(C) the OCA Reconsideration Committee informs the APO by email of its decision to uphold, modify, or reverse the finding; and

(D) within 15-calendar days of the OCA Reconsideration Committee's decision the APO or designee provides notification to the:

(i) CSW;

(ii) advocate general;

(iii) programs administrator;

(iv) programs manager;

(v) OCA social services inspector;

(vi) district attorney's office in the county where the finding originated;

(vii) DDS, when applicable;

(viii) child care services (CCS), when applicable;

(ix) AS, when applicable;

(x) facility administrator; and

(xi) guardian for the vulnerable adult, when applicable.

(e) Upheld substantiated findings for CSWs eligible for CSWR placement.

(1) When the OCA Reconsideration Committee makes a determination to uphold a substantiated finding of maltreatment of a vulnerable adult by a CSW eligible for CSWR placement, the OCA Reconsideration Committee immediately conducts a CSWR review to determine potential registry placement based on criteria in (A) and (B) of this paragraph. Whether the CSW's wrongful conduct:

(A) results in, or creates a substantial risk of serious physical or emotional injury to a service recipient; or

(B) was the result of intentional, willful, or reckless disregard for the service recipient's health or safety.

(2) When the OCA Reconsideration Committee upholds a substantiated finding under a preponderance of the evidence standard, but the CSW's conduct does not meet the criteria required for potential registry placement, the committee chair notifies the APO.

(3) The APO or designee provides written notification of the reconsideration determination within 15-calendar days of the decision. This time period runs concurrent with the 15-calendar day deadline for sending notice of the reconsideration results. The notice is provided to the:

(A) CSW;

(B) advocate general;

(C) programs administrator;

(D) programs manager;

(E) OCA social services inspector;

(F) district attorney's office in the county where the finding originated;

(G) DDS, when applicable;

(H) CCS, when applicable;

(I) AS, when applicable;

(J) facility administrator; and

(K) guardian for the vulnerable adult, if applicable.

(4) When the registry review affirms or modifies the findings and determines the CSW warrants potential placement on the CSWR, the OCA APO notifies OKDHS Legal Services (LS).

(5) OKDHS LS has prosecutorial discretion and determines whether to pursue CSWR placement.

(A) When OKDHS LS decides not to pursue CSWR placement, LS staff sends a Determination Letter to the CSW, copied to the OCA APO, and OCA takes no further action.

(B) When OKDHS LS staff decides to pursue CSWR placement, LS staff notifies the OCA APO or designee. The APO then notifies the CSW, as provided in (c)(2) of this Section that:

(i) if the CSW is aggrieved by the decision, an administrative hearing may be requested in writing via mail sent to OKDHS within 20-calendar days of

the date the reconsideration decision was sent; and
(ii) absent a finding of good cause by an administrative law judge (ALJ), the failure to timely request a hearing:

- (I) results in the reconsideration decision becoming final;
- (II) waives any right to an administrative hearing or judicial review; and
- (III) authorizes entry of the CSW's name in the CSWR, and disclosure to any person requesting the information per this subsection.

(f) **Hearing Notice.** When the CSW submits a timely written request for hearing, or upon the ALJ finding of good cause for a request that was not timely, OKDHS LS sends a hearing notice as provided in (c)(2) of this Section within 10-business days of receipt of the request. The hearing notice is dated and states:

- (1) the administrative law judge's (ALJ) name;
- (2) the hearing date and time;
- (3) the street and city address and room number where the hearing is scheduled;
- (4) that his or her failure to attend the hearing, absent a finding of good cause by an ALJ:
 - (A) waives any right to either an administrative hearing or judicial review; and
 - (B) authorizes entry of his or her name in the CSWR, and disclosure to any person requesting the information, per OAC 340:100-3-39;
- (5) the CSW may be represented by an attorney;
- (6) requests by the CSW or his or her attorney for witnesses or records, relevant to the proceeding must be directed to OKDHS LS staff, who forward requests to the relevant persons, OKDHS programs, and provider, per OAC 340:100-3-39; and
- (7) a final proposed list of evidence, witnesses, and summary of anticipated testimony must be submitted to the administrative law judge designated on the notice of hearing at least 10-calendar days prior to the hearing.

(g) **Hearing.**

- (1) The hearing is:
 - (A) held no earlier than 15-calendar days and no later than 90-calendar days after the date the request for hearing was received by OKDHS. Upon request by the CSW or OKDHS, and for good cause shown, a hearing may be held more than 90-calendar days after the date the request for hearing was received by OKDHS, when approved by the ALJ;
 - (B) closed and all information presented therein is confidential; and
 - (C) audio recorded.
- (2) The CSW or his or her attorney is allowed to cross-examine witnesses called by the OKDHS attorney, who is allowed to cross-

examine any witnesses called by the CSW or his or her attorney.
(3) The ALJ has final decision on the specific persons allowed to testify, the scope of direct testimony and cross-examination, and admissibility of exhibits, except all OKDHS and provider records pertaining to a finding of confirmed maltreatment are admissible.
(4) The formal rules of evidence and procedure under Oklahoma law are not controlling, the burden of persuasion and initially coming forward with evidence is on OKDHS through its attorney, and the standard of proof is clear and convincing evidence.

(h) **Hearing decision.** A written decision by the ALJ:

(1) is issued placing the CSW on the CSWR when the ALJ finds by clear and convincing evidence that maltreatment occurred.
Despite a finding by the ALJ that maltreatment occurred, the CSW is not added to the CSWR when the ALJ makes a finding that the act or omission that is the basis for the confirmed finding either:

(A) did not result in, or create a substantial risk of, serious physical or emotional injury to a vulnerable adult; or

(B) was not the result of intentional, willful, or reckless disregard for the service recipient's health or safety;

(2) is issued denying placement of the CSW on the CSWR if the ALJ finds that there is not clear and convincing evidence that maltreatment occurred;

(3) contains findings of fact and conclusions of law;

(4) contains appeal rights, the action required to appeal, and the time within which such actions must be taken;

(5) is issued within 30-calendar days of the hearing; and

(6) is sent to the CSW by certified mail, return receipt requested or email as applicable no later than the third business day following the date the decision is signed by the ALJ.

(i) **Appeal rights.** A CSW aggrieved by a decision of the ALJ may seek judicial review of the decision. A judicial review, based solely on the administrative record, may be initiated by filing a petition in the Oklahoma district court with jurisdiction within 30-calendar days from the date the decision is signed by the administrative law judge, per 56 O.S. § 1025.3 and 75 O.S. § 318. A copy of the petition and summons filed in district court must be served on OKDHS LS.

(j) **Request for CSWR removal.** A registrant may request removal after 60 months from the date of placement on the CSWR. A request for removal from the CSWR is forwarded to the OCA Reconsideration Committee. The OCA Reconsideration Committee makes a determination within 30-calendar days of receipt of the CSW's request.

(1) Criteria considered for removal includes, but are not limited to:

(A) the individual's age at the time of the offense(s);

(B) the number and types of maltreatment incidents for which the individual has findings made against them;

(C) the circumstances surrounding the maltreatment incident demonstrating willful intent;

(D) the likelihood the individual will maltreat again;

- (E) other documentation submitted indicating the vulnerable adult's health, safety, and well-being are, or are not endangered;
 - (F) a current criminal background review, conducted within 30-calendar days of the date of the removal request;
 - (G) work and training histories, since registration;
 - (H) a personal statement of rehabilitative efforts; and
 - (I) the length of time on the CSWR.
- (2) A decision to remove a registrant from the CSWR is based on an OCA Reconsideration Committee majority decision.
- (3) OCA Reconsideration Committee staff notifies the registrant of the OCA Reconsideration Committee decision.
- (k) **Service.** If Form 15IV004E, Address Information Notice, is not obtained during the investigative process found in OAC 340:2-3-36.1. OKDHS may obtain service on a CSW by any means authorized by the Rules for the District Courts of Oklahoma as found in Title 12 of the Oklahoma Statutes (12 O.S. § Rule 1, et. seq.).

[Source: Transferred from 340:2-3-39.1 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

SUBCHAPTER 5. GRIEVANCES

310:678-5-1. Grievance system protocols

(a) Legal authority, scope, and purpose.

(1) Legal authority.

(A) Per Sections 1-9-112 and 1-9-120 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-9-112 and 1-9-120), the Office of Client Advocacy (OCA) established and maintains a fair, simple, and expeditious grievance system for resolution of grievances of:

(i) all children in the custody of Oklahoma Human Services (OKDHS) custody regarding:

(I) the substance or application of any written or unwritten OKDHS policy or rule by OKDHS or an OKDHS agent; or

(II) any decision or action by an employee or agent of OKDHS, or of any child in the custody of OKDHS;

(ii) foster parents relating to the provision of foster care services, per 10A O.S. §§ 1-9-112 and 1-9-117;

(iii) all persons receiving services from OKDHS Developmental Disabilities Services (DDS); or

(iv) any child being served by OKDHS Child Welfare Services (CWS), per 10A O.S. § 1-9-119.1.

(B) 10 O.S. § 1415.1(A)(2) requires that OKDHS establish an ombudsman program for each OKDHS-operated institution and residential facility for individuals with

intellectual disabilities that include an appeals procedure for the resolution of grievances and complaints of residents, their parents, and court-appointed guardians. OKDHS conferred this responsibility on OCA.

(C) OKDHS conferred OCA with the responsibility for grievance systems for other clients listed in (2) of this subsection.

(2) **Scope.** OCA administers and monitors grievance programs for the individuals listed in (A) through (G) of this paragraph, collectively referred to as the "client" throughout this Section and Oklahoma Administrative Code (OAC) 340:2-3-46. Further grievance details for:

(A) any child served by OKDHS CWS is found at: OAC 340:2-3-47;

(B) OKDHS-approved foster parents are found at: OAC 340:2-3-50;

(C) Robert M. Greer Center (Greer) residents are found at: OAC 340:2-3-51;

(D) Hissom Class Members and persons who are transitioned to the community from state-run facilities are found at OAC: 340:2-3-52;

(E) DDS clients receiving community-based services from DDS are found at: OAC 340:2-3-53;

(F) residents of group homes for persons with developmental or physical disabilities subject to 10 O.S. §§ 1430.1 et seq. are found at: OAC 340:2-3-54; and

(G) clients receiving OKDHS services who want to file a grievance about a problem, concern, or complaint for which another grievance system within OKDHS does not exist are found at: OAC 340:2-3-55.

(3) **Purpose.** The purpose of OCA grievance policies is to provide clients a fair, simple, effective, and timely system of problem resolution with access to procedures where clients may obtain a thorough review, fair consideration, and correction, when appropriate. These policies also ensure that persons filing grievances are free from reprisal or discrimination. To further this purpose, OCA independently reviews and monitors the implementation of grievance systems subject to this Section.

(4) **Informal problem resolution.** Clients have the right to file grievances; however, resolving problems and concerns informally before filing a grievance is encouraged. Not all client inquiries and requests for explanation are considered grievances. Most are resolved within the relationship between clients and OKDHS, providers, and facility staff. Efforts are made to resolve issues and reach a consensus with the client on a plan of action to resolve the problem informally unless the client chooses to proceed directly to the grievance process.

(b) **Definitions.** In addition to the definitions in OAC 340:2-3-2, the following words and terms when used in Part 5, OAC 340:2-3-45 through 340:2-3-55, shall have the following meanings, unless the context clearly indicates otherwise:

(1) **"Area manager"** means a manager of one of the three service delivery areas, designated by OKDHS DDS.

(2) **"Business day"** means Monday through Friday, not including federal or state holidays.

(3) **"Child-placing agency"** means an agency that arranges for, or places a child in a foster family home, group home, adoptive home, or successful adulthood program, per 10A O.S. § 1-1-105.

(4) **"Client"** means any of the individuals listed in (a) of this Section, on whose behalf OCA maintains a grievance system.

(5) **"Complaint"** means a report communicating a grievance, concern, or perceived harm, submitted by phone, email, or in writing by the foster parent or child being served by CWS to the Oklahoma Commission on Children and Youth Office of Juvenile System Oversight (OJSO). If not submitted in writing, the complaint is entered into the written format established by OCA and OJSO.

(6) **"Contested grievance"** means a grievance that was not resolved at the local level (first and second levels), and at the request of the grievant or decision-maker, is submitted to a higher authority for response.

(7) **"Decision-maker"** means the person with authority to decide to accept a proposed resolution at each level of the grievance process set forth in OAC 340:2-3-45 through 340:2-3-55; typically, the client who filed the grievance or on whose behalf a grievance was filed. For clients unable to advocate for themselves, such as young children and persons with severe cognitive limitations, the decision-maker is a person who speaks on the client's behalf, depending on the circumstances and the nature of the decision.

(A) With regard to minors, the decision-maker includes, but is not be limited to, a parent, guardian, guardian ad litem, foster parent, or court-appointed legal custodian.

(B) With regard to adult DDS clients, the decision-maker may be a guardian or the client's personal support team.

(C) When the grievant is not the decision-maker, the local grievance coordinator (LGC) does not inform the grievant when the proposed resolution is issued or if it was accepted or rejected. The decision-maker may share this information with the person grieving on behalf of the client.

(8) **"Deputy director"** means a director of one of the five regional delivery areas designated by OKDHS CWS.

(9) **"District director"** means a director of a district within one of the regional delivery areas, designated by OKDHS CWS.

(10) **"Due date"** means the date a response or action is required, such as the date a respondent must respond to a grievance. When calculating the due date, the first day of the period computed is not included and only business days are included. When the last day of the period computed is a Saturday, Sunday, or legal holiday, the period runs until the end of the next business day.

(11) **"Email"** communication with OCA or with the advocate general means an email sent to the email address:

oca.grievances@okdhs.org.

(12) "**Grievance**" means a problem or concern, including a complaint of unfair treatment, that an individual needs assistance in resolving.

(13) "**Grievant**" means a client or the person who files a grievance on behalf of a client.

(14) "**Local grievance coordinator**" or "**LGC**" means regarding:

(A) children who live in a residential facility, the individual designated by the facility as its grievance coordinator;

(B)

DDS Greer clients or the OCA advocate assigned to the facility;

(C) DDS clients who are pursuing a grievance with a provider of residential, vocational, or in-home supports, the individual designated by the provider as its grievance coordinator; and

(D) other DDS clients, the applicable DDS area manager, or the area manager's designee.

(15) "**OCA grievance liaison**" means the individual(s) designated by the advocate general to coordinate and monitor contested grievances and local grievance programs.

(16) "**Respondent**" means the person at each level in the grievance process, who has the responsibility for reviewing the grievance and proposing a resolution to resolve the grievance.

(c) **Grievances: general principles.**

(1) An unresolved problem, concern, complaint, or dispute is processed as a grievance. When a client verbally communicates a complaint to an OKDHS employee or a facility or provider employee that is not resolved, the client is informed of the right to have the problem or concern processed as a grievance. At the client's request, the OKDHS employee or a facility or provider employee prepares a written statement of the client's complaint or refers him or her to the local grievance coordinator for assistance.

(A) **Facility or provider grievances.** The subject of a facility grievance or a provider grievance includes:

(i) the substance or application of policy, rule, or regulation, written or unwritten, of a facility, agency, or provider that contracts with OKDHS or a child-placing agency; or

(ii) a decision, act, or omission of an employee, agent, or contractor of such a facility, agency, or provider, or any client residing in the same placement setting.

(B) **OKDHS grievances.** The subject of an OKDHS grievance includes:

(i) the substance or application of policy, rule, or regulation, of OKDHS or a child-placing agency;

(ii) a decision, act, or omission of an employee; and includes case managers, child welfare specialists, and county office employees; or

(iii) a facility grievance filed by a Greer resident.

(2) **Summary dispositions.** When a grievance is submitted and it falls into subparagraphs (A) through (K) of this paragraph, when appropriate, the LGC contacts the client to provide assistance to the client, as needed, in rewriting the grievance to state the problem(s) or concern(s) the client wants to grieve. When it is determined the client is asking to grieve a problem or concern covered by any of the categories in (A) through (K) of this paragraph, the LGC informs the client why the grievance is not being processed, using Forms 15GR012E, Notice of Summary Disposition of Grievance - DHS County Offices; 15GR013E, Notice of Summary Disposition of Facility Grievance; 15GR014E, Notice of Summary Disposition of Grievance - Developmental Disabilities Services (DDS) Clients; 15GR015E, Notice of Summary Disposition of Developmental Disabilities Services (DDS) Provider Grievance; as applicable. Notices of Summary Disposition for an approved Foster Parent are located at OAC 340:2-3-50. The LGC writes the reason on the bottom of Form 15GR001P (paper version) or 15GR001E (electronic version), Grievance Form, and dates and signs the form. The grievance is logged on Form 15GR009E, Grievance Tracking Log. The form used to notify the grievant, with a copy of the grievance form, is sent within three business days to the advocate general for review, and the original is filed in the grievance file. Within three business days of receipt, the OCA grievance coordinator reviews the grievance. When the OCA grievance liaison determines the grievance was improperly given a summary disposition, the OCA grievance liaison informs the LGC who immediately processes the grievance. When the OCA grievance liaison concurs with the summary disposition, the OCA grievance liaison informs the LGC in writing. When the complaint was filed by, or on behalf of a child being served by CWS, or by a foster parent, the client is informed the grievance is not being processed and the reason why, per OAC 340:2-3-47 and 340:2-3-50.

(A) **Untimely grievances.** A grievance not timely filed, per OAC 340:2-3-45(g), may be accepted and processed when good cause exists for the delay in filing the grievance. There are no time limits for filing grievances on behalf of individuals served by OKDHS DDS.

(B) **Discrimination based on race, color, national origin, sex, age, religion, or disability, unless authorized by law.** When a grievance alleges discrimination or other civil rights matters, the client is referred to the OKDHS Office for Civil Rights (OCR) and the LGC immediately forwards the grievance to the OKDHS OCR administrator and informs the grievant.

(C) **A moot problem.** A moot problem is one that was decided or settled, or one that has no practical resolution, such as a placement grievance with regard to a child who is no longer in OKDHS custody or a grievance with regard to an event that is now in the past, or when the dispute is

unlikely to occur again with regard to this client.

(D) **Duplicate grievances.** A grievance that duplicates another pending grievance in the same grievance system by, or on behalf of the client involving the same incident or problem, is a duplicative grievance.

(E) **Requests that violate laws.** A grievance that requests an action that violates federal or state law.

(F) **Collateral complaint.** A collateral complaint does not involve a problem concerning the client who filed or on whose behalf the grievance was filed.

(G) **Remote grievances.** When the grievance requires action by an individual or an entity outside of OKDHS authority or control, such as a grievance about the action of a public school teacher, a guardian, or a physician in private practice. In these situations, the LGC assists the grievant with external grievance or complaint systems that may be available.

(H) **Pending proceedings.** When the grievance involves a matter that is the subject of a court or administrative hearing decision, pending civil, criminal, or administrative proceeding, or is the subject of a pending OCA, Office of Inspector General, or CWS investigation.

(I) **Investigation findings.** Investigation results regarding abuse, neglect, verbal abuse, caretaker misconduct, or exploitation cannot be grieved.

(J) **Fair hearing decisions.** The fair hearing results cannot be grieved.

(K) **Frivolous grievances.** A frivolous grievance does not state a substantive complaint or problem. Before declining a grievance of this nature, the LGC contacts the grievant to inquire if he or she needs assistance in submitting a substantive grievance.

(3) **Documenting exclusions.** When a grievance is submitted and it falls into an excluded category listed in (2) of this subsection, the LGC dates and signs Form 15GR001P as received, and notes on the form the reason he or she does not process it. The grievant is informed of the reason and decision. The grievance is logged on Form 15GR009E and is filed in the client's grievance file. The LGC sends copies of Form 15GR001P (paper version) or 15GR0014E (electronic version) and the applicable Notice of Summary Disposition to the advocate general or the advocate general's designee for review.

(4) **Who may file a grievance.** A grievance may be filed by any client listed in (a) of this Section. A grievance may also be filed on a client's behalf, by any person who knows the client and is interested in his or her welfare including, but not limited to, a parent, guardian, relative, foster parent, court appointed special advocate, guardian ad litem, case manager, personal support team member, job coach, or others, including OKDHS and residential, in-home supports, and vocational provider employees.

(5) **Group grievances.** Grievants whose complaints address the same issue(s) may file a group grievance. At any time during the group grievance process, an individual grievant may withdraw. When separate grievances are filed by two or more grievants, regarding an identical complaint, the grievants' interests are identical, and the grievants do not object, a LGC can combine the grievances for processing as a group, provided this does not unduly delay the processing of a particular grievance. When multiple grievances are grouped for processing, the LGC informs each grievant. When a group grievance is filed, the LGC may ask the grievants to designate a spokesperson for the group in writing.

(6) **Grievances involving reportable incidents.** When a grievance alleges a reportable incident including, but not limited to, facts that may constitute abuse, neglect, exploitation, or caretaker misconduct, per OAC 340:2-3-2, the LGC immediately reports the allegation to the Centralized Abuse and Neglect Hotline for children or to the OCA intake for vulnerable adults. A grievance involving a reportable incident may be processed during a pending investigation provided the grievance does not interfere with the investigation and as needed, is held in abeyance pending the investigation's conclusion. When the grievance alleges additional facts that do not constitute abuse, neglect, exploitation, or caretaker misconduct, the grievance is processed as to those facts. The LGC contacts OCA and other law enforcement agencies investigating the matter to coordinate grievance processing.

(d) **Required provider and facility grievance policies.** Every provider and facility providing services to a client living in Oklahoma, is required to operate a system for grievance resolution by clients, using policies and procedures meeting the requirements of this Part. This Section does not apply to foster parents.

(1) **LGC designation.**

(A) Every public and private facility and provider subject to, OAC 340:2-3-45 through 340:2-3-55, every OKDHS county office, and every DDS area office designates an employee to serve as LGC to carry out the responsibilities described in this Section. Facilities and providers inform the advocate general of the name, phone number, mailing and email addresses of its LGC, and of changes to the information within 30-calendar days of the effective date of a change on Form 15GR021E, Designation of Local Grievance Coordinator-Facilities and Provider Agencies, and submit it to OCA. The OCA advocate assigned to Greer serves as the LGC for Greer. The LGC duties include:

- (i) implementing grievance policies and procedures;
- (ii) maintaining knowledge of and experience with the programs and functions of the facility, provider, county office, or DDS area office;

- (iii) impartial and independent administration of the grievance system;
- (iv) reporting directly to the facility administrator with regard to the LGC grievance duties and functions;
- (v) completing the online OCA Grievance Course within 60-calendar days of LGC designation, and annually thereafter;
- (vi) meeting the two-business day deadline on client requests regarding how to file a grievance; and
- (vii) being accessible and available to meet with grievants in person.

(B) Each facility, provider, OKDHS county office, and DDS area office subject to this Part displays, in a conspicuous place readily accessible to clients, a poster notifying clients of the grievance system and the name of its LGC, using the appropriate form.

(2) **Advocate general review of grievance programs.** The grievance system operated by each facility and provider, per OAC 340:2-3-45 through 340:2-3-55, is subject to advocate general approval. Each provider and facility is required to submit its grievance policies, procedures, forms, and adopted revisions, with proof that the policies or revisions were approved by the applicable approving authority, typically the facility's board of directors, to the advocate general. Revised policies are submitted to the advocate general for approval within 30-calendar days of the provider or facility adopting the revised policy.

(3) **Notifying clients of their grievance rights.** Each client covered by these grievance policies is notified of his or her grievance rights, using the applicable form. Notice is also provided to the guardian, when applicable. Hisson Class Members are provided notice, per OAC 340:2-3-52. Each provider or facility provides the required notice annually. Providers are also encouraged to provide a simplified version of their grievance policies using language appropriate to the clients' age level and cognitive functioning.

(4) **Monitoring and evaluation.** OCA ensures the quality of grievance systems by establishing minimum standards and a monitoring program. The advocate general and OCA staff have immediate and unlimited access to clients, staff, facility files, records, and documents relating to grievance procedures and practices.

(5) **Reporting deficiencies.** An LGC, who becomes aware of a deficiency in a grievance system including a failure to follow or implement the grievance policy, must report it to the advocate general.

(6) **Advocate general deficiency report.** When the advocate general determines a deficiency exists in a facility's or agency provider's grievance system, the advocate general sends a deficiency report to the administrator and, when applicable, the

State Office administrator.

(7) **Advocate general grievance.** The advocate general may, on behalf of any or all clients served by the grievance policy in this Section originate a grievance. An advocate general grievance is filed with the provider or facility administrator or with the State Office administrator and is processed as a contested grievance.

(8) **Advocate general report.**

(A) The advocate general may initiate an inquiry on behalf of any client served by the grievance policy in this Section regarding:

- (i) any aspect of client care that affects the quality of the client's life;
- (ii) the substance, application, or interpretation of a policy or rule, of a facility or agency that contracts with OKDHS or of a placement provider; or
- (iii) any decision, behavior, or action of an employee, agent, or OKDHS contractor, or of any client residing in the same placement setting.

(B) The person to whom the advocate general inquiry is addressed has seven business days to respond in writing to the advocate general.

(C) The advocate general issues a report that sets forth the inquiry subject matter, pertinent facts, and recommendations. An advocate general report is submitted to the provider or facility administrator, when applicable, and the State Office administrator. A copy is submitted to the OKDHS Director.

(e) **The grievance form.** A grievant files a grievance by obtaining Form 15GR001P, from the LGC, filling it out, and returning it to the LGC, or to the facility or to OKDHS staff, who immediately transmits it to the LGC. A grievance may also be filed using electronic Form 15GR001E at <http://www.okdhs.org>. The grievant submits the completed form to the OCA grievance unit at oca.grievances@okdhs.org. Within one business day of receipt of the grievance, OCA staff assigns a grievance number, sends it to the assigned LGC, and contacts the grievant. Approved kinship or foster parents and children being served by CWS contact OJSO to initiate a grievance.

(f) **Retaliation prohibited.** A person filing a grievance may not be retaliated or discriminated against or harassed in reprisal for filing a grievance, seeking advice, or inquiring about filing a grievance. Clients are encouraged to use available grievance systems and are not discouraged from filing a grievance. Allegations of retaliation, discrimination, or harassment made by foster parents are forwarded to the foster care ombudsman or designee. All allegations, made by other clients, of retaliation, discrimination, and harassment for filing a grievance, seeking advice, or inquiry about filing a grievance are reported to the OCA grievance unit and may result in an OCA investigation or an advocate general inquiry or grievance.

(g) **Grievance time limits.** Except for DDS clients, foster parents, and children being served by CWS, in order to be processed for action and

resolution, a grievance must be filed within 15-business days of the date of the incident, decision, act, or omission complained about in the grievance, or within 15-business days of the date the grievant becomes aware of, or with reasonable effort, should have become aware of a grievable issue. The LGC may extend the time limit for filing a grievance. Time limits for filing grievances for children being served by CWS and foster parent are found in OAC 340:2-3-47 and 340:2-3-50 respectively.

(1) Filing and other time requirements contained in this Section are counted in OKDHS-business days unless otherwise specified. In computing any time requirement, the day of the incident, decision, act, or omission at issue is not included. The next calendar day is the first day of the time requirement.

(2) When the LGC or a respondent fails to meet grievance processing time requirements without obtaining an extension, the LGC processes the grievance to the next step within three business days of the grievant's request.

(3) Responses, notices, and other documents issued during the grievance process are delivered to the grievant in person or by mail at the grievant's last known address. A grievance is considered administratively resolved when a correctly addressed letter with proper postage is sent to the last known address of the grievant, and is returned undeliverable with no forwarding address.

(4) There is no time limit on allegations of abuse, neglect, verbal abuse, exploitation, or caretaker misconduct. When a grievance, timely or untimely, consists of such an allegation, the OCA Intake Unit or the Abuse and Neglect Hotline is immediately notified per OAC 340:2-3-33.

(5) There are no time limits for grievances filed on behalf of individuals served by OKDHS DDS.

(h) **Grievance records, logs, and quarterly reports.** The LGC maintains an accurate and complete record of each grievance filed, as well as summary information about the number, nature, and outcome of all grievances. Grievance records are kept separate and apart from other client records and files. OKDHS grievance records and files are retained per federal and state laws governing record retention and destruction.

(1) Each LGC tracks grievances as they progress through the system and logs every OCA-numbered grievance form issued on Form 15GR009E. For grievances submitted by a client, Form 15GR009E includes the:

- (A) grievance number;
- (B) name of the grievant given the form;
- (C) date the form was submitted by the grievant;
- (D) nature and outcome of the grievance;
- (E) date of final resolution; and
- (F) level where it was resolved.

(2) When Form 15GR001P is provided to a client and not turned in, the facility tracks only the identification number copy of Form 15GR001P given to the client, the name of the client to whom the form was given, and the date it was given to the client. This information is tracked on Form 15GR009E.

(3) Each LGC submits a quarterly grievance report, Form 15GR010E, Quarterly Grievance Report, to the advocate general no later than the 21st day following the end of each calendar quarter. Quarterly reports are submitted by mail, fax, or emailed to: oca.grievances@okdhs.org. When grievance activity did not occur or was pending during a particular fiscal year quarter, the LGC indicates it on Form 15GR010E.

(4) When a grievance becomes moot at any point during the grievance, the LGC may stop the grievance process and declare the grievance, administratively resolved. The LGC informs the grievant, notes it on Forms 15GR001P or 15GR001E and 15GR009E, and sends a copy of Form 15GR001P or 15GR001E to OCA with the next quarterly grievance report.

(i) **Processing grievances.** After completing Form 15GR001P, the grievant submits the form directly to the LGC, other facility employee, lockbox, or OCA. When the grievant completes and submits Form 15GR001E, the OCA grievance unit submits the grievance directly to the assigned LGC within one business day. Grievances of a child being served by CWS are processed, per OAC 340:2-3-47. Foster parent grievances are processed per OAC 340:2-3-50.

(j) **Informal resolution of grievance.** When the LGC can promptly resolve the grievance to the grievant's satisfaction without further processing, the LGC fills out the bottom of Form 15GR001P or 15GR001E, signs it, and files it in the appropriate grievance file.

(k) **First level problem resolution.** Within three business days of receipt of Form 15GR001P or 15GR001E, when the grievance is not resolved to the decision-maker's satisfaction, the LGC fills out Form 15GR002E, Local Grievance Coordinator (LGC) Worksheet.

(1) The LGC identifies who has the authority to provide the quickest and surest resolution to the problem at the lowest level in the organizational structure. For adults receiving services from DDS, the first level respondent may be the DDS case manager supervisor.

(2) The LGC completes the first box in the first level section on Form 15GR002E, attaches corresponding Form 15GR001P or 15GR001E, and other relevant documentation and information, and submits it to the first level respondent, by the most efficient means practicable, within three-business days of receipt of the grievance from the grievant.

(3) The first level respondent responds to the grievance within five-business days of receipt of Form 15GR002E by completing the second box in the first level section on Form 15GR002E. When the proposed resolution contains a promise of some future action, a target date is specified for full implementation of that future action. The grievant may contest the target date by proceeding to the second problem resolution level.

(4) The LGC monitors the timely response by the first level respondent. When a complete response is not timely received by the LGC, the LGC notes this on Form 15GR002E, and the grievance immediately proceeds to the second problem resolution level.

(5) Within three-business days of receipt of the first level response, the LGC or the LGC's designee contacts the decision-maker to inform the decision-maker of the proposed resolution, the right to take the grievance to the second problem resolution level, and determines if the decision-maker is satisfied with the proposed resolution. The first level respondent may meet with the decision-maker with or without the LGC present. The LGC is responsible for informing the decision-maker that he or she has three-business days to accept or appeal the respondent's proposed resolution. When a decision is not communicated to the LGC within three-business days, the decision-maker is deemed to have accepted the proposed resolution.

(6) When the decision-maker is satisfied with the proposed resolution, the LGC indicates his or her acceptance on Form 15GR002E, notifies those responsible for grievance resolution, and places the form in the grievance file.

(7) When the proposed resolution has been accepted by the decision-maker, but involves a future target date, the LGC monitors compliance with the target date. If the LGC determines that the resolution was not achieved by the target date, the LGC immediately reopens the grievance and processes it for the second problem resolution level.

(8) When the decision-maker does not accept the proposed resolution and elects to take the grievance to the second problem resolution level, the LGC processes the grievance for the second problem resolution level per (l) of this Section.

(l) Second level problem resolution.

(1) When the grievance is not resolved at the first problem resolution level, the LGC processes it per this subsection within three-business days of the grievant requesting the second problem resolution level, per (k) of this Section.

(2) The LGC fills out the first box in the second level section on Form 15GR002E, ensures the corresponding Form 15GR001P (paper version) or 15GR001E (electronic version) and other relevant documents are attached, and immediately submits it to the second level respondent. For facilities and providers subject to these rules, the administrator or the administrator's designee is the second level respondent. For OKDHS grievances, the OKDHS district director or the DDS area manager, as applicable, is the second level respondent. However, when the district director was the first level respondent, then the second level respondent is the applicable deputy director or the deputy director's designee. When the provider administrator or DDS area manager is the first level respondent, the second level review is bypassed and processed as a contested grievance; per OAC 340:2-3-46.

(3) The administrator or the administrator's designee responds to the grievance within seven-business days of receipt of Form 15GR002E by completing the applicable box in the second level section. When the proposed resolution contains a promise of some future action, a target date is specified for full implementation of

that future action.

(4) The second level respondent for a placement grievance regarding a specific foster child is the applicable deputy director or the deputy director's designee.

(5) The LGC monitors the timely response by the respondent. When a complete response is not timely received by the LGC, the LGC notes this on Form 15GR002E and the grievance immediately is processed as a contested grievance. A contested OKDHS grievance is processed, per OAC 340:2-3-46. Contested facility grievances are processed per (m) of this Section.

(6) Within three-business days of receipt of the second level response, the LGC or the LGC's designee contacts the decision-maker to inform him or her of the proposed resolution, the right to contest the response to the grievance, and determines if the decision-maker is satisfied with the proposed resolution. The LGC is responsible for informing the decision-maker that he or she has three-business days to accept or appeal the respondent's proposed resolution. When no decision is communicated to the LGC within three-business days, the grievant is deemed to have accepted the proposed resolution.

(7) When the decision-maker is satisfied with the proposed resolution, the LGC documents the decision-maker's acceptance on Form 15GR002E, notifies those responsible for resolution of the grievance, and places Form 15GR002E in the grievance file.

(8) When the proposed resolution is accepted by the decision-maker, but involves a future target date, the LGC monitors compliance with the target date. When the LGC determines the resolution was not completed by the target date, the LGC immediately reopens the grievance and processes it as a contested grievance.

(9) When the decision-maker does not accept the proposed resolution and elects to contest the response, a contested OKDHS grievance is processed, per OAC 340:2-3-46. Contested facility or provider grievances are processed per (m) of this Section.

(m) Contested facility or provider grievances. When the decision-maker does not accept the proposed resolution or the target date of the second level proposed resolution, a facility or provider grievance is appealed to the chair of the board of directors of the facility or provider or an appeals committee designated by the board. This Section does not apply to grievances of Hisson Class Members or individuals who previously resided at NORCE or SORC after November 1, 2012.

(1) The LGC transmits a contested facility or provider grievance to the chair of the board of directors of the facility or provider, or an appeals committee designated by the board, within three-business days of notice that the decision-maker does not accept the proposed resolution and is contesting it.

(2) In reviewing the contested grievance, the board of directors, or appeals committee if applicable, is not required to conduct an evidentiary hearing or hear argument. In the event the board determines evidentiary hearing evidence would assist in resolving the grievance, the board has the option of conducting an informal

hearing.

(3) Within 10-business days of receipt of a contested grievance, the chair of the board of directors or the appeals committee responds by submitting a written decision to the LGC.

(4) Within three-business days of receipt of the written decision of the chair of the board of directors or the appeals committee, the LGC informs the decision-maker of the decision and provides the decision-maker with a copy of the board's decision. This concludes the grievance process and the grievant's administrative remedies have been exhausted.

(n) **Fast track grievances.** When an OKDHS grievance is such that time is of the essence, with the advocate general's or his or her designee's approval, a grievance can be submitted directly to the OCA grievance liaison for processing as a contested grievance, per OAC 340:2-3-46. When a grievance involves a time-sensitive problem, the OCA grievance liaison may shorten the response time as circumstances warrant.

(o) **Communication with OCA.** Any notices, forms, or other information that facilities, providers, or OKDHS county offices are required to submit to OCA or to the advocate general are submitted by email at oca.grievances@okdhs.org.

(p) **Grievance training required.** LGCs are required to take the OCA-approved grievance training within 60-calendar days of their appointments, and annually thereafter.

[Source: Transferred from 340:2-3-45 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-5-2. Contested grievances appealed to the State Office

(a) **Application.** This Section describes the processes for contesting the second level response to Oklahoma Human Services (OKDHS) grievances,, and provider grievances of Hisson Class Members. For grievances of children being served by Child Welfare Services, refer to OAC 340:2-3-47. For grievances of approved foster parents refer to Oklahoma Administrative Code (OAC) 340:2-3-50.

(b) **Definitions.** The definitions in OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Initiating the contested grievance.** When a decision-maker asks to appeal a grievance to the State Office administrator, within three-business days of notice of the request, the local grievance coordinator (LGC) transmits the grievance to the Office of Client Advocacy (OCA), Attention OCA grievance liaison, with Form 15GR002E, Local Grievance Coordinator (LGC) Worksheet, attaching the corresponding Form 15GR001P (paper version) or 15GR001 E (electronic version), Grievance Form, and other documents and information relevant to the subject matter of the grievance.

(d) **Documentation requirements.** When Form 15GR002E is submitted to OCA, attachments are:

- (1) corresponding Form 15GR001P or 15GR001E;
- (2) supporting facts relating to the proposed resolution by the second level respondent, including documentation relating to the first level and second level of problem resolution processes; and

(3) any written rule, policy, procedure, regulation, or other information relevant to the grievance subject matter.

(e) **OCA grievance processing.** Within three-business days following receipt of an OCA contested grievance, the OCA grievance liaison reviews the contested grievance and accompanying documentation and determines if additional information is necessary for disposition of the appeal. When information is missing, the OCA grievance liaison contacts the person(s) in possession of the needed information and sets deadlines for submission of the information by the most efficient means to avoid delays in processing the contested grievance.

(f) **Rejected grievances.** When OCA determines the subject matter of a grievance falls in one of the categories listed in OAC 340:2-3-45(c)(2), the OCA grievance liaison returns the grievance to the LGC with a cover letter indicating the reason the grievance was not accepted for processing as a contested grievance. Within three-business days following receipt of the letter, the LGC contacts the grievant to inform the grievant of the status of the grievance.

(g) **OCA transmittal to State Office administrator.** Within three-business days following receipt of an OCA contested grievance and all documents required by (d) of this Section, the advocate general or the advocate general's designee prepares and sends Form 15GR011E, Contested Grievance Transmittal, to the State Office administrator with decision-making authority to respond to the subject of the grievance.

(h) **State Office administrator's response.** The State Office administrator who receives a contested grievance responds to the grievant within 10-business days or by the due date on Form 15GR011E. The advocate general or the advocate general's designee may grant an extension when good cause is shown. The State Office administrator sends his or her response directly to the LGC after completing the designated portion of Form 15GR011E. A copy is sent to the advocate general or the advocate general's designee. The State Office administrator attaches his or her response to Form 15GR011E and includes:

- (1) the proposed resolution and how it will be implemented;
- (2) the names of those responsible for implementing the proposed resolution;
- (3) the proposed resolution target date;
- (4) the facts and analysis supporting the proposed resolution including relevant documentation; and
- (5) any relevant written rules, policies, procedures, regulations, or other information.

(i) **Timely response required.** The OCA grievance liaison monitors the timely response by the State Office administrator. When a complete response is not timely received by the OCA grievance liaison and an extension was not granted, the OCA grievance liaison immediately processes the grievance for review by the Grievance and Review Committee (GARC), per OAC 340:2-3-64(b). OCA notifies the grievant and affected State Office administrator that the grievance is being processed for GARC.

(j) **Presentation of proposed resolution.** The LGC or the LGC's designee contacts the decision-maker within three-business days

following receipt of the State Office administrator's response. When the decision-maker accepts the proposed resolution, the LGC notes this on the OCA transmittal memo and files it in the client's grievance file.

(k) **Request for GARC review.** When the grievant does not accept the State Office administrator's response, the LGC completes the designated portion of Form 15GR011E and returns it to the OCA grievance liaison within three-business days. Upon OCA receipt of Form 15GR011E, the grievance is processed for review by GARC, per OAC 340:2-3-64.

[Source: Transferred from 340:2-3-46 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-5-3. Grievances of minors being served by Child Welfare Services

(a) **Application.** This Section describes grievance processes relating to children being served by Child Welfare Services (CWS).

(b) **Definitions.** The definitions in Oklahoma Administrative Code (OAC) 340:2-3-2 apply to this Section unless the context clearly indicates otherwise.

(c) **Notice of grievance rights.** Written notice of the child being served by CWS's grievance rights is provided to each child being served by CWS when services commence and at least annually thereafter, and to any foster placement when the child enters placement and at least annually thereafter. The notice explains the child being served by CWS's right to grieve and, when applicable, identifies the relevant local grievance coordinator (LGC).

(d) **Grievance defined.** Per Section §1-9-120 of Title 10 A of the Oklahoma Statutes (10A O.S. § 1-9-120), each child being served by CWS has the right, without fear of reprisal or discrimination, to present grievances with respect to the providing or receiving of services.

(1) **Grievable issues.** Except for the limitations listed in (d)(2) of this Section, matters that are grievance subjects include:

- (A) the substance or application of any written or unwritten policy or rule of Oklahoma of Human Services (OKDHS) or an OKDHS agent, per 10A O.S. § 1-9-112;
- (B) any decision or action by an OKDHS or child-placing agency employee or agent; or
- (C) denial of any right included in the statement of rights, per 10A O.S. § 1-9-119.1.

(2) **Non-grievable issues.** When it is determined by the Office of Client Advocacy (OCA) the child being served by CWS is asking to grieve a problem or concern covered in OAC 340:2-3-45(c)(2) or by any of the categories listed in (A) through (C) of this paragraph, the OCA Grievance Unit must notify the child being served by CWS, in writing, why the grievance is not being processed. In addition to OAC 340:2-3-45(c)(2), situations that are not grievable by children being served by CWS under the grievance system are:

- (A) a court decision;
- (B) findings of a child abuse and neglect assessment or investigation; and

(C) a complaint alleging retaliation by an OKDHS employee. When retaliation is alleged, the complaint is forwarded to the OCA Investigations Unit for review and disposition.

(3) **Retaliation or discrimination allegations.** Retaliation, harassment, or discrimination allegations, per OAC 340:2-3-38(b), are processed, per that Section. All other discrimination allegations are referred the OKDHS Office for Civil Rights (OCR) and, the Grievance Unit forwards the complaint to the OKDHS OCR administrator, and informs the child being served by CWS in writing.

(e) **Grievance filing and processing.** A grievance filed by a child being served by CWS is processed as provided for in this Section.

(1) Grievances of children being served by CWS are filed with the Office of Juvenile System Oversight of the Oklahoma Commission on Children and Youth. Dispute resolutions for children being served by CWS must be accomplished quickly, informally, and at the lowest possible level.

(2) A grievance may be filed by:

(A) any minor being served by CWS; or

(B) anyone interested in the minor's welfare, such as a parent, staff, foster parent, child's attorney, or court-appointed special advocate.

(3) When a grievance is filed by someone other than the child being served by CWS and the child being served by CWS is of sufficient age to express his or her own preferences, OCA staff contacts him or her to determine whether he or she wants the grievance to continue. When the child being served by CWS does not want the grievance to continue, the grievance is withdrawn and the file is closed.

(4) Grievances for children being served by CWS must be filed within 45-calendar days of the event. For a grievance to be considered valid, a complaint must be timely filed online, by phone, or by paper form. When a course of misconduct is alleged, by a child being served by CWS, the grievance must be filed within 45-calendar days of the most recent occurrence in the course.

(5) After the grievance procedure is completed, a child being served by CWS or former child being served by CWS has a right of access to the record of grievances he or she filed.

(6) Grievances of children being served by CWS are deemed timely-resolved within no more than 60-calendar days of the complaint filing date.

(f) **Informal resolution of grievance.** The informal resolution of grievances is encouraged. To that end, when a grievance is filed by, or on behalf of a child placed in a:

(1) foster home, the grievance is initially forwarded to the involved child's worker. When the worker can promptly resolve the grievance, he or she notifies the OCA Grievance Unit of the resolution details and the file is closed. When the worker cannot promptly resolve the grievance, he or she informs the OCA

Grievance Unit of the same and the grievance proceeds to the initial resolution level; or

(2) facility, group home, or shelter, the grievance is initially processed by the LGC. When the LGC is able, without further processing, to promptly resolve the complaint to the grievant's satisfaction, the LGC documents this fact at the bottom of the grievance form, signs the form, and files it in the appropriate grievance file. When the LGC cannot promptly resolve the grievance, he or she informs the OCA Grievance Unit of the same and the grievance proceeds to the initial resolution level.

(g) Initial resolution level.

(1) Within three-business days of the grievance's processing from the informal resolution stage, the OCA Grievance Unit identifies the initial resolution respondent and submits the grievance and supporting documentation to him or her.

(2) The OCA Grievance Unit monitors the respondent for a timely response. Within three-business days following receipt of the grievance from the OCA Grievance Unit, the initial resolution respondent reviews the grievance, interviews the child being served by CWS and any other necessary persons, prepares a proposed resolution, and submits the proposed resolution on OKDHS letterhead to the OCA Grievance Unit. When requested, and upon a showing of good cause, the OCA Grievance Unit may grant an extension of relevant due dates to the initial resolution respondent. When a timely response is not received, the OCA Grievance Unit may proceed to first elevation.

(3) Within three-business days following receipt of the initial respondent's proposed resolution, the OCA Grievance Unit or designee sends written notice to the decision-maker containing the proposed resolution and information on the right to elevate the grievance when dissatisfied with the proposed resolution.

(4) The decision-maker has three-business days to accept or reject the proposed resolution. Failure to respond to the proposed resolution is deemed acceptance of the resolution. When the decision-maker rejects the respondent's resolution at the initial resolution level, the grievance proceeds to first elevation unless the decision-maker requests mediation.

(h) Mediation for children being served by CWS. When the decision-maker rejects the respondent's proposed resolution, the decision-maker may request grievance mediation.

(1) When the decision-maker chooses not to request mediation after rejecting the respondent's proposed resolution, the grievance proceeds to first level elevation process.

(2) When the decision-maker requests mediation, all deadlines are suspended while mediation is ongoing. When the decision-maker requests an extension in order to pursue mediation, the OCA Grievance Unit must grant the requested extension. The grievance is not processed until the mediation is completed, and grievance timeframes are suspended for the duration of the mediation. When mediation resolves the original grievance, the decision-maker may withdraw the grievance or the OCA

Grievance Unit may declare the grievance administratively resolved. When a decision-maker grieves and requests mediation of the dispute before filing a grievance alleging retaliation, the OCA Grievance Unit computes deadlines from the date mediation concluded.

(3) When the grievance is not resolved through mediation, it proceeds to first elevation.

(i) First elevation.

(1) Within three-business days after the grievant requests a first elevation, the OCA Grievance Unit identifies the first elevation respondent and submits the complaint and supporting documentation to him or her.

(2) The OCA Grievance Unit monitors timely response by the first elevation respondent. Within five-business days following receipt of the grievance from the OCA Grievance Unit, the first elevation respondent reviews the grievance, interviews the child being served by CWS and any other necessary persons, prepares a proposed resolution, and submits the proposed resolution on OKDHS letterhead to the OCA Grievance Unit. When requested, and upon a showing of good cause, the OCA Grievance Unit may grant an extension to the respondent. When a timely response is not received, the OCA Grievance Unit may proceed to the second elevation.

(3) Within three-business days following receipt of the first elevation respondent's proposed resolution, the OCA Grievance Unit sends written notice including the proposed resolution and information on the grievant's right to elevate the grievance, when the decision-maker is dissatisfied with the proposed resolution.

(4) The decision-maker has three-business days to accept or reject the proposed resolution. Failure to respond to the proposed resolution is deemed acceptance of the resolution. When the decision-maker opts to reject the first elevation respondent's proposed resolution, the grievance proceeds to the second elevation.

(j) Second elevation.

(1) Within three-business days after the decision-maker requests a second elevation, the OCA Grievance Unit prepares and sends (A) through (D) of this paragraph to the State Office administrator with decision-making authority to respond to the subject of the grievance. The OCA Grievance Unit sends:

- (A) a copy of the complaint;
- (B) all prior proposed resolutions;
- (C) all of the decision-maker's responses to all prior proposed resolutions; and
- (D) instructions for response, including any relevant deadlines.

(2) Within seven-business days following receipt of the grievance from the OCA Grievance Unit, the State Office administrator reviews the grievance, interviews the child being served by CWS and any other necessary persons, prepares a proposed resolution, and submits the resolution to the OCA Grievance Unit. The

proposed resolution must be on OKDHS letterhead and include:

- (A) the proposed resolution and implementation;
- (B) the person or persons responsible for implementing the proposed resolution;
- (C) the target date for the proposed resolution;
- (D) the facts and analysis supporting the proposed resolution, including relevant documentation; and
- (E) any relevant rules, policies, procedures, regulations, or other information.

(3) The OCA Grievance Unit monitors the timely response by the State Office administrator. The OCA Grievance Unit may grant an extension, when requested. When a timely response is not received, the OCA Grievance Unit may proceed to the Grievance and Review Committee (GARC), per OAC 340:2-3-64(b). The OCA Grievance Unit notifies the grievant and the affected State Office administrator that the grievance is being processed for GARC.

(4) Within three-business days following receipt of the proposed resolution, the OCA Grievance Unit sends written notice to the decision-maker containing the proposed resolution and information on the right to elevate the grievance when he or she is dissatisfied with the proposed resolution.

(5) The decision-maker has three-business days to accept or reject the proposed resolution. Failure to respond to the proposed resolution is deemed acceptance of the resolution. When the decision-maker rejects the State Office administrator's proposed resolution, the grievance proceeds to GARC.

(k) **GARC review.** A GARC review is conducted, per OAC 340:2-3-64.

[Source: Transferred from 340:2-3-47 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-5-4. Foster parent grievances

(a) **Application.** This Section describes processes relating to foster parent grievances. Section 1-9-120 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-120) confers on Oklahoma Human Services (OKDHS) the responsibility to establish grievance procedures for foster parents contracting with state agencies or child-placing agencies.

(b) **Definitions.** The definitions in Oklahoma Administrative Code (OAC) OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Notice of grievance rights.** Form 15GR008E, Notice of Grievance Rights - Foster Parents, is given to each foster parent when approved as an OKDHS foster parent, at reassessment, and with each new placement. It is given to the foster parent by the Child Welfare Services (CWS) specialist assigned to the foster home within two-business days of the approval, reassessment, or placement. Form 15GR008E is used to explain the foster parent's right to grieve and to inform the foster parent of the means through which a grievance may be filed. After the foster parent signs Form 15GR008E, a copy is given to the foster parent and the original is maintained in the permanent record for the foster parent.

(d) **Grievance defined.** Foster parents may file grievances with respect to the provision or receipt of services.

(1) **Grievable issues.** Except for the limitations listed in (d)(2) of this Section, matters that are the subjects of a grievance include:

(A) the substance or application of any OKDHS policy, rule, or regulation; or

(B) a decision, act, or omission of an OKDHS employee.

(2) **Non-grievable issues.** When it is determined the foster parent is asking to grieve a problem or concern covered in OAC 340:2-3-45(c)(2) or by any of the categories listed in (A) through (G) of this paragraph, the Office of Client Advocacy (OCA) Intake Unit must notify the Foster Care Ombudsman (FCO). It is the FCO's or designee's responsibility to notify the foster parent in writing, why the grievance is not being processed. In addition to OAC 340:2-3-45(c)(2), situations that are not grievable by foster parents under this grievance system are:

(A) a court decision;

(B) findings of a child abuse and neglect assessment or investigation in a foster home. The process for appealing these findings is located at OAC 340:75-3-530;

(C) disposition of a fair hearing regarding closure of a foster home. The fair hearing process regarding closure of a foster home is located at OAC 340:75-7-94;

(D) disputes with other foster parents;

(E) written plans of compliance. The foster parents provide written input on the compliance documentation;

(F) a decision not to return a child in OKDHS custody to a foster home after removal due to a child abuse or neglect investigation. The fair hearing process is located at OAC 340:75-1-12.6; and

(G) a complaint alleging retaliation by an OKDHS employee. When retaliation is alleged, the complaint is forwarded to the OCA Investigations Unit for review and disposition.

(3) **Retaliation or harassment allegations.** Retaliation or harassment allegations, per OAC 340:2-3-38(b), are processed, per that Section.

(4) **Discrimination allegations.** Discrimination or non-compliance allegations based on race, color, national origin, sex, age, religion, disability, political affiliation or opinion, or genetic information unless authorized by law are referred to the OKDHS Office for Civil Rights and the FCO immediately forwards the complaint to the OKDHS OCR administrator, and informs the foster parent in writing.

(e) **Filing and processing a grievance.**

(1) Foster parent grievances are filed with the Oklahoma Commission on Children and Youth (OCCY) Office of Juvenile System Oversight. Foster parent dispute resolutions must be accomplished quickly, informally, and at the lowest possible level.

(2) Foster parent grievances must be filed within 45-calendar days of the event. For a grievance to be considered valid, a

complaint must be timely filed at OKfosterparentvoices.org. When a course of misconduct is alleged, the foster parent grievance must be filed within 45-calendar days of the most recent occurrence.

(3) After the grievance procedure is completed, a foster parent or former foster parent has a right of access to the record of grievances he or she filed.

(4) Foster parent grievances are deemed timely-resolved within no more than 60-calendar days of the complaint filing date.

(f) Initial Resolution Level.

(1) Within three-business days following receipt of the grievance, the FCO identifies the respondent and submits the grievance and supporting documentation to the respondent.

(2) The FCO monitors the respondent for a timely response. Within three-business days following receipt of the grievance from the FCO, the respondent reviews the grievance, prepares a proposed resolution, and submits the resolution to the FCO. The FCO may grant an extension to the respondent, when requested. When a timely response is not received the FCO may proceed to first elevation.

(3) Within three-business days following receipt of the respondent's proposed resolution, the FCO or designee sends written notice to the decision-maker containing the proposed resolution and information on the right to elevate the grievance when dissatisfied with the proposed resolution.

(4) The decision-maker has three-business days to accept or reject the proposed resolution. Failure to respond to the proposed resolution is deemed acceptance of the resolution. When the decision-maker rejects the respondent's resolution at the initial resolution level, the grievance proceeds to the first elevation unless the decision-maker requests mediation.

(g) Foster parent mediation. When the decision-maker rejects the respondent's proposed resolution, the decision-maker may request grievance mediation.

(1) When the decision-maker chooses not to request mediation after rejecting the respondent's proposed resolution, the grievance proceeds to the first elevation.

(2) When the decision-maker requests mediation, all deadlines are suspended while mediation is ongoing. When a foster parent requests an extension in order to pursue mediation through OCCY Foster Parent Mediation Program, per 10 O.S. § 601.6, the FCO must grant the requested extension. The grievance is not processed until mediation is completed, and grievance timeframes are suspended for the duration of the mediation. When mediation resolves the original grievance, the foster parent(s) may withdraw the grievance or the FCO may declare the grievance administratively resolved. When a foster parent grieves and requests mediation of the dispute through the OCCY mediation program before filing a grievance alleging retaliation, the FCO computes deadlines from the date mediation concluded.

(3) When the grievance is not resolved through mediation, the grievance proceeds to the first elevation.

(h) First elevation.

(1) Within three-business days after the grievant requests first elevation, the FCO identifies the first elevation respondent and submits the complaint and supporting documentation to the first elevation respondent.

(2) The FCO monitors timely response by the first elevation respondent. Within five-business days following receipt of the grievance from the FCO, the first elevation respondent reviews the grievance, prepares a proposed resolution, and submits the resolution to the FCO. The FCO may grant an extension to the respondent, when requested. When a timely response is not received the FCO may proceed to the second elevation.

(3) Within three-business days following receipt of the first elevation respondent's proposed resolution, the FCO sends written notice including the proposed resolution and information on the grievant's right to elevate the grievance when the decision-maker is dissatisfied with the proposed resolution.

(4) The decision-maker has three-business days to accept or reject the proposed resolution. Failure to respond to the proposed resolution is deemed acceptance of the resolution. When the decision-maker opts to reject the first elevation respondent's proposed resolution, the grievance proceeds to the second elevation.

(i) Second elevation.

(1) Within three-business days after the decision-maker requests a second elevation, the FCO prepares and sends (A) through (D) of this paragraph to the State Office administrator with decision-making authority to respond to the subject of the grievance. The FCO sends:

- (A) a copy of the complaint;
- (B) all prior proposed resolutions;
- (C) all of the decision-maker's responses to all prior proposed resolutions; and
- (D) instructions for response, including any relevant deadlines.

(2) Within seven-business days following receipt of the grievance from the FCO, the State Office administrator reviews the grievance, interviews the foster parent and any other necessary persons, prepares a proposed resolution, and submits the resolution to the FCO. The proposed resolution must be on OKDHS letterhead and include:

- (A) the proposed resolution and implementation;
- (B) the person or persons responsible for implementing the proposed resolution;
- (C) the target date for the proposed resolution;
- (D) the facts and analysis supporting the proposed resolution including relevant documentation; and
- (E) any relevant rules, policies, procedures, regulations, or other information.

(3) The FCO monitors the timely response by the State Office administrator. The FCO may grant an extension, when requested. When a timely response is not received, the FCO may proceed to the Grievance and Review Committee (GARC), per OAC 340:2-3-64(b). The FCO notifies the grievant and the affected State Office administrator that the grievance is being processed for GARC.

(4) Within three-business days following receipt of the proposed resolution, the FCO sends written notice to the decision-maker containing the proposed resolution and information on the right to elevate the grievance when dissatisfied with the proposed resolution.

(5) The decision-maker has three-business days to accept or reject the proposed resolution. Failure to respond to the proposed resolution is deemed acceptance of said resolution. When the decision-maker rejects the State Office administrator's proposed resolution, the grievance proceeds to GARC.

(j) **GARC review.** A GARC review is conducted, per OAC 340:2-3-64.

[Source: Transferred from 340:2-3-50 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-5-5. Developmental Disabilities Services (DDS) Greer Center Facility (Greer) resident

(a) **Application.** This Section describes processes relating to grievances of residents of Oklahoma Department of Human Services (DHS)-operated facilities listed in Sections 1406 and 1414.1 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 1406 and 1414.1). 10 O.S. § 1415.1 confers on DHS the responsibility for establishing an ombudsman program that includes a grievance system at DHS-operated facility for persons with developmental disabilities.

(b) **Definitions.** The definitions in Oklahoma Administrative Code (OAC) 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Notice of grievance rights.** The DDS facility gives Form 15GR006E, Notice of Grievance Rights - DDSD Clients (General), to the resident and his or her guardian within 24 hours of the resident's admission to a facility and yearly thereafter at the annual individual planning meeting. Form 15GR006E is used to identify the local grievance coordinator (LGC) and to explain the resident's right to grieve. After the resident or guardian signs Form 15GR006E, a copy is given to the resident, the resident's guardian, or to the responsible family member when the resident does not have a guardian or both, and the original is maintained in the permanent record for the resident. When the LGC changes, the facility notifies the residents, guardians, or responsible relatives of the new LGC's name and contact information within 20-business days.

(d) **Filing and processing of grievance at the facility.** Grievances of residents are processed, per OAC 340:2-3-45(g) unless otherwise provided in this Section.

(1) The Office of Client Advocacy (OCA) maintains an office on campus at Greer. OCA assigns an advocate who serves as the LGC at Greer and provides assistance to residents, their guardians,

and persons interested in residents' welfare who want to file a grievance per OAC 340:2-3-71(h)(4).

(2) The OCA advocate at Greer sends a copy of a grievance to the resident's guardian or guardian ad litem and to a responsible relative, unless otherwise specified.

(3) When a grievance involves a decision of a resident's team, the first level respondent is the applicable unit coordinator, unless the unit coordinator is involved in the decision being grieved.

(e) **Time limits on filing grievances.** The time limit set forth in OAC 340:2-3-45(g) does not apply to grievances filed by or on behalf of residents.

(f) **Second level problem resolution.** The facility director is the second level respondent.

(g) **Contested grievances.** When a resident elects to contest the facility director's response to a grievance, the contested grievance is processed, per OAC 340:2-3-46. The DDS director or the director's designee is the State Office administrator responsible for responding to residents' contested grievances.

(h) **Request for review by Grievance and Review Committee (GARC).** When a resident requests a GARC review of the DDS director's response to a grievance, the OCA grievance liaison prepares a request for GARC review using an OCA-prescribed format.

(i) **Advocate inquiry.** An OCA advocate may file a formal inquiry to request information relating to the treatment of one or more residents; the substance, application, or interpretation of any policy, rule, or regulation, of DHS or a DHS agent or contractor; or any decision, behavior, or action of a DHS employee, agent, or contractor, or of another resident.

(1) An advocate formal inquiry is submitted directly to the facility director or any other DHS employee believed to have the knowledge to respond to the inquiry. The person, to whom the inquiry is submitted, has seven business days from receipt of the inquiry to respond in writing. The advocate general may grant an extension for good cause shown.

(2) When the response does not resolve the concern that prompted the formal inquiry or when a response is not timely received, the matter may be treated as a formal grievance and processed as a contested grievance, per OAC 340:2-3-46.

(3) The advocate general issues a report that sets forth the subject matter of the inquiry, the pertinent facts, and the recommendations. An advocate general report is submitted to the facility director, when applicable, and the State Office administrator. A copy is submitted to the DHS Director.

(j) **Advocate grievance.** An OCA advocate may file a grievance on behalf of a resident when a grievance was not filed by, or on behalf of a resident.

(1) At the discretion of the advocate general or the advocate general's designee, an advocate grievance is filed directly with the facility director. The facility director has seven business days to respond in writing. The advocate general or the advocate general's designee may grant an extension for good cause shown.

(2) When the facility director's response is not acceptable or is not timely submitted, it is processed as a contested grievance, per OAC 340:2-3-46.

(k) **Fast track grievances.** When the subject of a DHS grievance is such that time is of the essence, with the approval of the advocate general or the advocate general's designee, a grievance may be submitted directly to the facility director or to the OCA grievance liaison for processing as a contested grievance, per OAC 340:2-3-46. When a grievance involves a time sensitive problem, the OCA grievance liaison may shorten the time for responding as warranted by the circumstances.

[Source: Transferred from 340:2-3-51 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-5-6. Grievances of Hissom class members

(a) **Application.** This Section describes processes relating to grievances of Hissom class members. The Oklahoma Department of Human Services (DHS) legal basis and authority for grievance policies and procedures for Hissom class members includes orders of the United States District Court for the Northern District of Oklahoma in Homeward Bound, et al., vs. The Hissom Memorial Center, Case No. 85-C-437-E.

(b) **Definitions.** The definitions in Oklahoma Administrative Code (OAC) 340:2-3-2 and 340:2-3-46(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Notice of grievance rights.** The Office of Client Advocacy (OCA) advocate assigned to a Hissom class member gives Form 15GR007E, Notice of Grievance Rights - Hissom Class Members, at least yearly to each class member or his or her guardian(s), close family members, and volunteer advocates. This form is used to identify the OCA advocate assigned to the class member and to explain the class member's right to grieve. After the class member, guardian(s), or both, sign the form, the advocate documents this in a contact sheet and provides copies to the client or the client's guardian, the assigned Developmental Disabilities Services (DDS) case manager, and the program coordinator of the applicable provider for placement in the client's home record. The original is maintained in the class member's OCA's record.

(d) **Filing and processing of grievances.** Grievances of class members are processed per OAC 340:2-3-45 unless otherwise provided in this Section.

(1) OCA assigns an advocate to represent each class member. The assigned advocate serves as the grievance advisor for class members and provides assistance to class members and persons interested in class members' welfare who want to file a provider or DHS grievance per OAC 340:2-3-71(h)(4). When an advocate files a provider or DHS grievance on behalf of a class member, the advocate contemporaneously provides a copy of the grievance to the DDS case manager assigned to the class member and to the DDS programs administrator for community services.

(2) Class members, guardians, volunteer and other advocates, case managers, personal support team members, and persons interested in class members' welfare can file a DHS grievance by

completing Form 15GR001P (paper version) or 15GR001E (electronic version). The advocate submits a completed 15GR001P to the LGC. When the advocate completes Form 15CR001E the OCA grievance unit submits it directly to the LGC within one business day of receipt. When the LGC receives a grievance that was not submitted by the OCA advocate representing the class member, the LGC promptly informs the advocate by email, fax, or phone.

(3) When a grievance involves a decision of a class member's team, the first level respondent is the supervisor of the client's DDS case manager, unless the case manager is involved in the decision being grieved.

(e) **Provider grievances.**

(1) Each residential and vocational provider that contracts with DDS to provide services to Hissom class members has a grievance resolution system. The provider's written grievance policies, forms, and procedures are in compliance with OAC 340:2-3-45.

(2) Provider grievances by the class member, the assigned OCA advocate, or a person interested in the welfare of the class member are initiated using Form 15GR001P or 15GR001E or the provider's grievance form. The completed grievance form is submitted to the provider's grievance coordinator LGC. Upon receipt of a provider grievance by or on behalf of a Hissom class member by anyone other than the OCA advocate or the DDS case manager, the LGC promptly informs the DDS case manager and the advocate by email, fax, or phone. When a DHS employee initiates a grievance on behalf of a class member, at the time the grievance is filed the employee sends a copy to the DDS case manager and the OCA advocate assigned to the class member.

(3) When the subject matter of a grievance can be submitted for resolution as a provider grievance or a DHS grievance, the class member has the option to as a provider grievance, a DHS grievance, or both.

(f) **Time limits on filing grievances.** The time limit set forth in OAC 340:2-3-45(g) does not apply to grievances filed by or on behalf of Hissom class members.

(g) **Fast track grievances.** When the subject of a DHS grievance is such that time is of the essence with the approval of the advocate general or the advocate general's designee, a grievance can be submitted directly to the OCA grievance liaison for processing as a contested grievance per OAC 340:2-3-46. When a grievance involves a time sensitive problem, the OCA grievance liaison can shorten the response time as warranted by the circumstances.

(h) **Second level problem resolution.** The area manager of the appropriate DDS area office is the individual responsible for responding to a DHS grievance at the second level of problem resolution.

(i) **Contested grievances.** When the response to a DHS or provider grievance is contested by a class member or a grievant on behalf of a class member, the contested grievance is processed per OAC 340:2-3-46 unless otherwise provided in this Section. The DDS director is the state office administrator responsible for responding to contested grievances

of class members.

(j) **Request for review by the Grievance and Abuse Review Committee (GARC).** When a Hissom class member requests review by GARC of the DDS director's response to a grievance, the OCA grievance liaison prepares a request for GARC review using the OCA-prescribed format that includes the information listed in subsection (i) of this Section.

(k) **Formal inquiry.** The advocate general or any OCA advocate staff may file a formal inquiry to request information relating to: the treatment of a client; the substance or application of any policy, rule, or regulation, of DHS or an agent or contractor of DHS; or any decision, behavior or action of a DHS employee, agent or contractor, or of another client.

(1) A formal inquiry is submitted directly to the administrator of a community services provider or the appropriate DDS area manager. An advocate general formal inquiry is submitted to the DDS director. The person to whom it is submitted has seven business days to respond in writing. The advocate general can grant an extension.

(2) When the response to the formal inquiry does not resolve the concern that prompted the formal inquiry, the matter may be treated as a formal grievance and processed as a contested grievance.

(3) The advocate general issues a report that sets forth the subject matter of the inquiry, the pertinent facts, and recommendations. An advocate general report is submitted to the administrator, when applicable, and the State Office administrator. A copy is submitted to the DHS Director.

(l) **Advocate grievances.** An OCA advocate may file a grievance on behalf of a class member even though a grievance was not filed by or on behalf of the class member.

(1) At the discretion of the advocate general or the advocate general's designee, an advocate grievance is submitted directly to the administrator of a provider agency or the appropriate DDS area manager using Form 15GR003E, Grievance - Hissom Class Member.

(2) An advocate general grievance is submitted directly to the DDS director or the administrator of the provider agency, as applicable.

(3) The person to whom it is submitted has seven business days to respond in writing. The advocate general can grant an extension.

(4) If the response to a grievance is not acceptable, or is not timely submitted, it is processed as a contested grievance per OAC 340:2-3-46.

(m) **Monitoring of grievance programs.** Providers submit their policies for review and approval by the advocate general. OCA provides training and technical assistance to providers, at their request, in the development of grievance forms and procedures. OCA, in cooperation with other monitoring entities to avoid unnecessary duplication, monitors provider grievance programs per OAC 340:2-3-45(d) through (h).

[Source: Transferred from 340:2-3-52 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-5-7. Grievances of clients receiving services from the Developmental Disabilities Services (DDS)

(a) **Application.** This Section describes processes relating to grievances of clients receiving services from DDS who are not residing in an Oklahoma Department of Human Services- (DHS) operated facility and are not Hisson class members. This Section includes minors and adults in specialized foster care. Subsections (h) through (k) apply to clients who were former residents of NORCE or SORC, upon the Oklahoma Commission for Human Services resolution to close the state operated resource centers November 1, 2012.

(b) **Definitions.** The definitions in Oklahoma Administrative Code (OAC) 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Notice of grievance rights.** The DDS case manager gives Form 15GR006E, Notice of Grievance Rights - DDS Clients (General), to the service recipient or guardian when applicable, at the initial plan of care meeting and at each annual plan of care meeting thereafter. When the service recipient does not have a DDS case manager, the provider gives Form 15GR006E to the service recipient within 30-calendar days of service initiation and annually thereafter. Form 15GR006E is used to identify the local grievance coordinator and to explain the client's right to grieve. After the client or guardian signs the form, the original is maintained in the client's permanent record.

(d) **Filing and grievance processing.** Provider and DHS grievances are filed and processed per OAC 340:2-3-45. When a grievance involves a decision of an individual's team, the first level respondent is the supervisor of the client's case manager unless the case manager participated in making or approved the decision being grieved.

(e) **Time limits on filing grievances.** The time limit set forth in OAC 340:2-3-45(g) does not apply to grievances filed by or on behalf of the clients listed in this Section.

(f) **Contested grievances.** When a grievant asks to appeal a DHS grievance, the appeal is processed per OAC 340:2-3-46.

(g) **Monitoring grievance programs.** In order to avoid unnecessary duplication, the Office of Client Advocacy (OCA), in cooperation with other monitoring entities, monitors provider grievance programs per OAC 340:2-3-45 (d) through (m).

(h) Provider grievances of DDS clients who were former residents at NORCE or SORC as of November 1, 2012.

(1) Each residential and vocational provider that contracts with DDS to provide services to DDS clients has a grievance system for resolution of grievances. The provider's written grievance policies, forms, and procedures are in compliance with OAC 340:2-3-45.

(2) Provider grievances are initiated by the DDS client, the assigned OCA advocate, or a person interested in the welfare of the client by using Form 15GR001P (paper version) or 15GR001E

(electronic version) or the provider's grievance form. The completed grievance form is submitted to the provider's grievance coordinator. Upon receipt of a provider grievance by or on behalf of a DDS client by anyone other than the OCA advocate or the client's DDS case manager, the local grievance manager promptly informs the DDS case manager and the advocate assigned to the client by email, fax, or phone. When a DHS employee initiates a grievance on behalf of a client, at the time the grievance is filed the employee sends a copy to the DDS case manager and the OCA advocate assigned to the client.

(3) When the subject matter of a grievance can be submitted for resolution as a provider grievance or a DHS grievance, the DDS client has the option to file it as a provider grievance, a DHS grievance, or both.

(i) **Contested grievances.** When the response to a DHS or provider grievance is contested by a DDS client or a grievant on behalf of a client, the contested grievance is processed per OAC 340:2-3-46 unless otherwise provided in this Section. The DDS director is the state office administrator responsible for responding to DDS client contested grievances.

(j) **Request for review by the Grievance and Abuse Review Committee (GARC).** When a DDS client requests a GARC review of the DDS director's response to a grievance, the OCA grievance liaison prepares a request for GARC review using the OCA-prescribed format that includes the information listed in subsection (i) of this Section.

(k) **Formal inquiry.** The advocate general or OCA advocate staff may file a formal inquiry to request information relating to:

- (1) the treatment of a client;
- (2) the substance or application of any DHS policy, rule, or regulation of DHS or an agent or contractor of DHS; or
- (3) any decision, behavior or action of a DHS employee, agent or contractor, or of another client.

(A) A formal inquiry is submitted directly to the community services provider administrator or the appropriate DDS area manager. An advocate general formal inquiry is submitted to the DDS director. The person to whom it is submitted has seven business days to respond in writing. The advocate general can grant an extension.

(B) When the response to the formal inquiry does not resolve the concern that prompted the formal inquiry, the matter may be treated as a formal grievance and processed as a contested grievance.

(C) The advocate general issues a report that sets forth the subject matter of the inquiry, the pertinent facts, and recommendations. An advocate general report is submitted to the administrator when applicable, and the State Office administrator. A copy is submitted to the DHS Director.

310:678-5-8. Grievances of residents of private group homes for individuals with developmental disabilities

(a) **Application.** This Section describes processes relating to grievances of residents of private group homes subject to Section 1430.01, et seq., of Title 10 of the Oklahoma Statutes. The Oklahoma Department of Human Services (OKDHS) legal authority includes Sections 1430.11 and 1430.20 of Title 10 of the Oklahoma Statutes.

(b) **Definitions.** The definitions in OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Notice of grievance rights.** Upon admission, each individual and, if appropriate, the resident's family or designated representative is given a copy of the group home's grievance procedure and a written notice which identifies the group home's grievance coordinator and explains the resident's right to file grievances. After the resident or the resident's guardian signs the notice form, a copy is made for the resident or the resident's guardian. A copy also is sent to the resident's DDSD case manager if one is assigned. The original is maintained in the resident's permanent record. The grievance procedure is reviewed with the resident or the resident's guardian at least one time a year. If the designated LGC changes, the group home notifies the residents and the residents' guardian or a responsible relative of the name and contact information of the new LGC within ten business days.

(d) **Grievance policies required.** Every private group home to which this Section applies is required to operate a system for resolution of grievances by residents using policies and procedures in compliance with OAC 340:2-3-45. If a grievance involves a decision of a resident's team and the resident has a DDSD case manager, the first level respondent is the supervisor of the client's case manager.

(e) **Contested grievances appealed to the state office.** When a grievant asks to appeal an OKDHS grievance, the appeal is processed in accordance with OAC 340:2-3-46.

(f) **Monitoring grievance programs.** The Office for Client Advocacy, in cooperation with other monitoring entities to avoid unnecessary duplication, monitors group home grievance programs in accordance with OAC 340:2-3-45(d) through (h).

[Source: Transferred from 340:2-3-54 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-5-9. DHS client grievances not covered by another grievance system

(a) **Application.** This Section describes the grievance policy for persons receiving Oklahoma Department of Human Services (DHS) services not covered by another grievance system or issues not specifically addressed by the DHS fair hearing process. A grievance or complaint is not processed under this Section if DHS has a formal administrative appeal or review process in place that addresses the grievance or complaint.

(b) **Definitions.** The definitions in Oklahoma Administrative Code (OAC) 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Notice of client bill of rights.** The DHS Client Bill of Rights poster, DHS Pub. No. 92-06, is posted in conspicuous view of the public in all offices and facilities. Applicants and recipients of benefits and services administered by DHS have the right to:

- (1) be treated with courtesy and dignity;
- (2) receive prompt service;
- (3) receive clear explanations of the laws and rules that determine eligibility for benefits and services;
- (4) have benefits and services explained in native language, when unable to understand English;
- (5) have benefits and services explained by an interpreter for the deaf, when unable to hear well;
- (6) have forms read and explained, when unable to read forms because of limited eyesight, or other inability to read;
- (7) receive fair and consistent consideration of any application for benefits or services;
- (8) have the opportunity for an appeal and a fair hearing in case of denial or reduction of benefits or services;
- (9) discuss with a local DHS supervisor any complaint regarding DHS benefits or services or treatment by DHS staff;
- (10) contact the DHS Office of Client Advocacy (OCA) at 1-800-522-8014, regarding any complaint that has been discussed with, but not resolved by, the local office supervisory staff; and
- (11) receive, upon request, a further explanation of applicant or client rights.

(d) **Filing a grievance.** Recipients of benefits and services administered by DHS, and persons acting on behalf of recipients, have the right to talk with a local DHS supervisor if they have a complaint about the way they were treated by DHS staff. Supervisory staff promptly seeks to resolve the matter with the client. Clients have the right to contact OCA, Attn. Grievance Liaison, PO Box 25352, Oklahoma City, OK 73125 (1-405-522-2720 or 1-800-522-8014, fax 1-405-522-2680) regarding any complaint that has been discussed with, but not resolved by, the local office supervisory staff.

(e) **Allegations of discrimination.** When a grievance or complaint alleges discrimination based on sex, age, national origin, religion, color, or disability, the client is referred to the DHS Office for Civil Rights for appropriate handling and resolution of the complaint. The local grievance coordinator immediately forwards the grievance to the DHS civil rights administrator and so informs the grievant.

(f) **Processing a grievance.** When a client contacts OCA for assistance in resolving a complaint, OCA contacts DHS supervisory staff who have the authority to resolve the grievance to request a response to the grievance within seven business days.

- (1) The advocate general may grant an extension for good cause, such as an unusually complex matter.
- (2) When a complete response is not timely received by OCA, the grievance may be considered unresolved and processed as a contested grievance.
- (3) After receiving a response to the grievance, OCA contacts the grievant to inform the grievant of the proposed resolution and the

right to contest the response to the grievance. When the grievant is not satisfied with the outcome and requests to appeal the decision, the grievance is processed as a contested grievance. When OCA does not obtain a reply from the grievant within 10 business days of actual notice to the grievant of the proposed response, the grievance may be deemed resolved.

(g) **Contested grievances.** Contested grievances of clients are processed per OAC 340:2-3-46.

[Source: Transferred from 340:2-3-55 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-5-10. Foster Care Ombudsman (FCO) services

(a) **Legal authority.**

(1) Section 1-9-112(D)(1) of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-112(D)(1)) requires the Office of Client Advocacy (OCA) investigate any complaint received by the Oklahoma Commission on Children and Youth (OCCY) Office of Juvenile System Oversight (OJSO) alleging that an Oklahoma Human Services (OKDHS) or child-placing agency employee threatened a foster parent with removal of a child from the foster parent, harassed a foster parent, refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination toward a foster parent who engaged in a protected activity.

(2) 10A O.S. § 1-9-120 requires OCA establish grievance procedures for foster parents with whom OKDHS or child-placing agencies contract.

(3) 10A O.S. § 1-9-120 (C) requires OCA to designate one employee to receive and process foster parent grievances. OCA designated the FCO. OCA conferred the FCO with responsibility for fulfilling the duties set forth in (e) of this Section.

(b) **Scope.**

(1) The FCO provides services relating to complaints brought by foster parents` against OKDHS or child-placing.

(2) This Section shall not be construed to include any complaint by the foster parent resulting from an administrative, civil, or criminal action taken by the employee or child-placing agency for violations of law or rules, or contract provisions by the foster parent, per 10A O.S. 1-9-120(E)(3).

(c) **Definitions.** The definitions used in this Section are located in Oklahoma Administrative Code (OAC) 340:2-3-2, 340:2-3-45, and 340:2-3-50.

(d) **Confidentiality.** Information in OCA records relating to complaints filed with the FCO by foster parents is confidential and protected from unauthorized use. Only authorized individuals are given access to case records or provided information from these records. A breach of confidentiality may result in criminal prosecution. Violations by OKDHS employees can also result in personnel action. The relevant confidentiality provisions are located at 10A O.S. § 1-6-107 and OAC 340:75-1-42.

(e) **Duties.** The FCO is responsible for:

- (1) overseeing and resolving grievances between foster parents and state agencies or child-placing agencies, per OAC 340:2-3-50;
- (2) referring complaints meeting the criteria for retaliation, per 10A O.S. § 1-9-112(D)(1) to the OCA Investigative Unit, per OAC 340:2-3-38;
- (3) referring cases for mediation, when appropriate, per OAC 340:2-3-50(g);
- (4) collecting and maintaining data necessary to identify systemic issues that may be addressed and resolved to improve the foster care system. In partnership with OCCY, prepares an annual report for the legislature based on collected data and makes recommendations as appropriate for improvements of procedures and policies to benefit children and families;
- (5) conducting training, education, and outreach activities for the benefit of those involved in, or potentially involved in foster care, and maintaining personal accessibility in order to address questions and concerns;
- (6) providing resources and referrals to interested parties; and
- (7) collaborating with foster parents, CWS, Developmental Disabilities Services, and OCCY OJSO in efforts to improve the foster care system.

(f) **Initial disposition of the complaint.** Upon receipt, the FCO or designee must examine the complaint to determine if it meets the criteria for a grievance, retaliation, harassment, discrimination investigation or if another disposition is appropriate. Foster parents may file grievances with respect to the provision or receipt of services.

(1) **Grievable issues.** Except for the limitations listed in OAC 340:2-3-50(h), matters that can be the subject of a grievance include:

- (A) the substance or application of any policy or rule of OKDHS or its agents; or
- (B) any decision or action by an OKDHS employee or its agents; or
- (C) a violation by an OKDHS or a child-placing agency employee of the Foster Parent Bill of Rights, per 10A O.S. § 1-9-119.

(2) **Non-grievable issues and intra-agency referrals.** When the FCO or designee determines the complaint is not grievable, and does not present an issue of retaliation, harassment, or discrimination suitable for investigation, the FCO or designee determines if an intra-agency referral is appropriate, makes any necessary referrals, and closes the file. Foster parent complaints subject to an intra-agency referral are deemed closed at the time any necessary follow-up is completed.

(3) **Information provision.** When the complaint meets none of the criteria above, but is resolvable through the provision of information readily obtainable by the FCO or designee, the FCO may, at his or her discretion, resolve the complaint by obtaining the necessary information.

(4) **Preliminary inquiry.** When the information contained in the complaint is insufficient to enable the FCO, to determine appropriate disposition, a preliminary examination may be completed.

[Source: Transferred from 340:2-3-56 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

SUBCHAPTER 7. GRIEVANCE AND ABUSE REVIEW COMMITTEE

310:678-7-1. Grievance and Abuse Review Committee (GARC)

(a) **Legal basis and authority.** The legal basis and authority for the rules in this Part are found in Section 1-9-112 of Title 10A of the Oklahoma Statutes (O.S. 10A § 1-9-112).

(b) **Definitions.** The definitions in Oklahoma Administrative Code (OAC) 340:2-3-2, 340:2-3-32, and 340:2-3-38 apply to this Part unless the context clearly states otherwise.

(c) **Purpose.** This Section establishes an administrative review committee to review:

- (1) unresolved contested grievances of Oklahoma Human Services (OKDHS) clients listed in OAC 340:2-3-45(a)(2) and processed per OAC 340:2-3-46 through 340:2-3-49 and 340:2-3-51 through 340:2-3-55;
- (2) unresolved grievances of foster parents filed per O.S. 10A § 1-9-120 and processed per OAC 340:2-3-50; and
- (3) an issue affecting the care and treatment of a minor in OKDHS custody placed in a private or public facility not operated by OKDHS, or in a foster home.

(d) **GARC composition.**

- (1) GARC is composed of at least three voting members the OKDHS Director appoints. The OKDHS Director designates one member to serve as chair and appoints substitute members as needed.
- (2) The advocate general is an ex officio member of GARC. The advocate general designates a member of his or her staff to attend GARC meetings in the advocate general's absence.

(e) **GARC responsibilities.** GARC meets as needed. The advocate general or designee establishes the date and time of each meeting. GARC members review the agenda material prior to the GARC meeting.

(f) **GARC meetings.**

- (1) The advocate general or designee coordinates GARC meetings. This includes:
 - (A) arranging the dates for GARC meetings;
 - (B) establishing the agenda for GARC meetings;
 - (C) eight-calendar days prior to a GARC meeting, notifying all involved administrators and state office administrators of the GARC meeting date;

- (D) transmitting agenda material to GARC members three-business days prior to a meeting;
 - (E) recording the GARC findings and recommendations;
 - (F) preparing GARC reports in consultation with GARC members;
 - (G) granting time extensions for good cause shown; and
 - (H) distributing GARC reports.
- (2) The GARC chair conducts a GARC meeting in the manner that in his or her discretion furthers the meeting's purposes.
- (3) At the GARC meeting's conclusion, the matter is taken under advisement and the GARC chair informs interested parties of the results in a written report.

[Source: Transferred from 340:2-3-61 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-7-2. Grievance and Abuse Review Committee (GARC) review of Office of Client Advocacy (OCA) investigation reports regarding foster parent complaints

(a) **Application.** At the request of the Oklahoma Department of Human Services (OKDHS) Director, GARC reviews an OCA investigation report involving allegations of discrimination and retaliation investigated by OCA in accordance with OAC 340:2-3-38.

(b) **Scope of GARC review.** GARC conducts a *de novo* paper review of the alleged incident(s) investigated by OCA.

(1) Within three business days of receiving a request for GARC review from the OKDHS Director, the advocate general or designee informs the foster parent(s), the applicable state office administrators and the administrator of any affected child placing agency.

(2) GARC does not consider prior unsubstantiated allegations.

(3) The foster parent, the applicable administrator, affected state office administrators, or their designees, may attend the GARC meeting. The level of participation of attendees is within the discretion of the chair of GARC.

(4) If a foster parent or an administrator wants to submit additional evidence not considered during the OCA investigation, it is submitted to the advocate general contemporaneously with the request for GARC review. For good cause shown, additional evidence can be submitted to the advocate general no later than eight business days before the GARC meeting.

(5) When additional information is needed in order for GARC to complete its review, GARC may continue its review of a case until its next meeting. GARC may request additional information from OCA, an administrator, or a state office administrator.

(c) **GARC report contents.** Within 15 business days of a GARC meeting to review a case, GARC prepares a report that includes:

(1) GARC's opinion whether the evidence is sufficient, based on a preponderance of the evidence standard, to confirm retaliation or discrimination occurred and the basis for GARC's opinion;

- (2) if in GARC's opinion the evidence is sufficient to confirm retaliation or discrimination, the report specifies whether retaliation, discrimination, or both occurred and the specific acts constituting the retaliation or discrimination; and
- (3) areas of concern identified by GARC during its review of the case regarding practices or procedures of the child placing agency or OKDHS.

(d) **OKDHS Director's response.** The advocate general submits to the OKDHS Director the GARC report, the corresponding OCA investigation report, and other pertinent documents.

(1) Within 15 business days of receipt of GARC's report, the OKDHS Director decides whether to:

- (A) adopt GARC's findings;
- (B) adopt GARC's findings with modifications;
- (C) return the matter to GARC for further consideration;
- or
- (D) reverse GARC's finding.

(2) If the OKDHS Director does not respond within 15 business days of receipt of a GARC report, GARC's opinion with regard to the finding(s) becomes final.

(e) **Notification of final result.**

(1) The advocate general provides notice of the final result of the OKDHS Director's request for GARC review to affected state office administrators and the applicable foster parent(s).

(2) Within two business days of receipt of this notification, a state office administrator responsible for an employee named in the allegation informs each such employee of the final result of GARC's review.

(3) Within 20 business days of receipt of this notification in a report which confirms retaliation or discrimination, the state office administrator informs the advocate general in writing if any personnel action has or will be taken with regard to an employee, and of any corrective action taken or to be taken with regard to areas of concern noted in the GARC report.

[Source: Transferred from 340:2-3-63 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-7-3. Grievance and Abuse Review Committee (GARC) review of unresolved contested grievances

(a) **GARC application.** GARC reviews unresolved contested grievances of children in Oklahoma Human Services (OKDHS) custody, Developmental Disabilities Services (DDS) service recipients, and approved or kinship foster parents when the advocate general receives a proper request for a GARC review, per Oklahoma Administrative Code (OAC) 340:2-3-46(k).

(b) **GARC worksheet.** When the grievance was filed by, or on behalf of, a DDS service recipient who receives Office of Client Advocacy (OCA) advocacy services, including residents of the Greer Center Facility (Greer), the OCA advocate prepares a GARC worksheet using a format prescribed by OCA that includes:

- (1) the grievance number and resident, grievant, guardian, parent(s), case manager, and OCA advocate names;
- (2) a grievance process summary, resolutions offered at each level, and the decision-makers' responses;
- (3) the applicable statutes, policies, and authorities;
- (4) the resolution sought by the grievant;
- (5) relevant documentation;
- (6) the OCA advocacy position with regard to the subject of the grievance; and
- (7) copies of Forms 15GR001E, Grievance Form, and 15GR002E, Local Grievance Coordinator (LGC) Worksheet.

(c) **GARC review summary.** For GARC reviewed DDS service recipient grievances reviewed by GARC, the OCA grievance liaison prepares a GARC review summary and includes it in the GARC file. For approved foster parents and children served by Child Welfare Services (CWS) the grievance is submitted on the GARC report summarizing all responses from initiation.

(d) **Scope of GARC review.** GARC conducts a *de novo* paper review of the grievance.

- (1) Within three-business days following receipt of a proper request for GARC review, per OAC 340:2-3-46(k), the advocate general or designee informs the affected State Office administrator of the GARC meeting date.
- (2) The grievant, State Office administrators, and designees may attend the GARC meeting to answer questions. When a grievance involves a Hisson Class Member, the OCA programs administrator for the community advocacy program may also attend.
- (3) When the grievant wants to submit additional evidence not considered during the processing of the grievance, it is submitted to the advocate general within five- business days of the request for GARC review, but not less than seven-business days prior to the GARC meeting. When the affected State Office administrator wants to submit additional evidence not considered during the processing of the grievance, or when the GARC review is the result of an untimely response, per OAC 340:2-3-46(I), or for good cause shown, evidence can be submitted to the advocate general seven-business days before the GARC meeting.
- (4) When additional information is needed in order for GARC to complete its review, GARC may continue the grievance review until the next meeting. GARC may request additional information from OCA or a State Office administrator.

(e) **GARC report contents.** Within 15-business days of a GARC meeting to review an unresolved grievance of a child being served by Child Welfare Services or a DDS service recipient, GARC prepares a report that includes the:

- (1) subject of the grievance and identifying information about the grievant and the State Office administrator;
- (2) grievance procedural history, and identifying proposed resolutions and responses at each level in the grievance process, prior to the GARC review;

- (3) resolution sought by the grievant and the resolution proposed by the State Office administrator;
- (4) GARC recommended grievance resolution;
- (5) facts on which GARC bases its recommendation;
- (6) information GARC considered in making its recommendation;
- and
- (7) areas of concern identified by GARC during its review of the grievance.

(f) GARC findings regarding approved foster parents and children being served by CWS. Within three-business days following the GARC meeting, GARC records the decision on the GARC report. The completed GARC report for foster parent and children being served by CWS grievances includes the:

- (1) subject of the grievance and identifying information about the grievant and the State Office administrator;
- (2) procedural history of the grievance including, but not limited to, proposed resolutions and responses at each level in the grievance process prior to the GARC review;
- (3) resolution sought by the grievant and the resolution proposed by the State Office administrator;
- (4) GARC recommended grievance resolution;
- (5) facts on which GARC bases its recommendation;
- (6) information GARC considered in making its recommendation;
- and
- (7) areas of concern identified by GARC during its review of the grievance.

(g) GARC report distribution. The advocate general forwards the GARC report to the applicable local grievance coordinator (LGC). Within three-business days following receipt of the GARC report, the LGC contacts the decision-maker to inform him or her of the GARC recommended resolution, and determines if the decision-maker is satisfied.

- (1) When the decision-maker needs time to decide whether to accept the proposed resolution, the decision-maker has three-business days to make a decision. When a decision is not communicated to the LGC within three-business days, the decision-maker is deemed to have accepted the proposed resolution.
- (2) When the decision-maker is satisfied, the LGC notifies the advocate general, and the advocate general notifies interested parties. An affected State Office administrator has three-business days following receipt of this notification to submit a written request for review by the OKDHS Director to the advocate general.
- (3) When the decision-maker is not satisfied with the GARC recommended resolution and elects to contest it, the LGC notifies the advocate general within four-business days following receipt of the GARC report. The advocate general or designee transmits the request and the GARC report for review by the OKDHS Director.

(h) Distribution of GARC report for approved foster parents and children being served by CWS. The advocate general forwards the final GARC resolution on the GARC report to the FCO. Within one-business day following receipt of the GARC report, the FCO notifies the decision-maker and affected State Office administrator of the GARC recommended resolution.

(1) The FCO upon notifying the decision-maker and affected State Office administrator of GARC's recommended resolution, advises the parties of their right to appeal the decision to the OKDHS Director. An affected State Office administrator or decision-maker has three-business days following receipt of this notification to submit a written request to the advocate general for review by the OKDHS Director.

(2) When the resolution of the grievance involves an action to be taken by an OKDHS employee by a future target date, the FCO monitors compliance with that target date. In the event the resolution is not implemented or not implemented within the time specified, the FCO informs the advocate general and he or she notifies the OKDHS Director in writing.

(3) When an appeal is not requested by the decision-maker or affected State Office administrator within three-business days following receipt of the recommended resolution, the FCO sends the closure notice to the grievant and State Office administrator.

(i) OKDHS Director's GARC recommendation review. Upon receipt by the advocate general of a proper and timely written request for review by the OKDHS Director, per (e) of this Section, the advocate general or designee transmits the request and the GARC report to the OKDHS Director.

(1) Within 15-business days following receipt of the GARC report, the OKDHS Director decides to:

- (A) adopt the GARC recommended resolution;
- (B) adopt the GARC recommendation with modifications;
- (C) return the matter to GARC for further consideration;
- or
- (D) direct another resolution.

(2) When the OKDHS Director does not respond within 15-business days, the grievance or appeal is deemed resolved, per the GARC recommended resolution.

(3) The advocate general notifies the grievant and other interested parties of the result of the OKDHS Director's review. The decision-maker is informed this concludes the grievant's administrative remedies. When the grievant is a foster parent or child being served by CWS, a copy of the grievance and related materials are forwarded to the Oklahoma Commission for Children and Youth Office of Juvenile Systems Oversight.

(j) Resolution monitoring for children in OKDHS custody and DDS recipients. When the resolution of the grievance involves an action to be taken by a OKDHS employee by a future target date, the OCA grievance liaison monitors compliance with that target date. In the event the resolution is not implemented or not implemented within the time specified, the OCA grievance liaison informs the advocate general, and

the advocate general notifies the OKDHS Director in writing.

[Source: Transferred from 340:2-3-64 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-7-4. Grievance and Abuse Review Committee (GARC) review of care and treatment of clients

- (a) The advocate general convenes a meeting of GARC at the request of the Oklahoma Department of Human Services (OKDHS) Director, an OKDHS chief, or an OKDHS division director to review and make recommendations with respect to any issue affecting the care and treatment of:
- (1) a client in an OKDHS operated facility; or
 - (2) a minor in OKDHS custody placed in a private facility, a public facility not operated by OKDHS, or in a foster home.
- (b) Issues affecting the care and treatment of clients and minors in OKDHS custody include:
- (1) OKDHS policy, programs, or practices; and
 - (2) employee actions which may affect care and treatment.
- (c) At least seven business days prior to the GARC meeting, the person requesting the meeting and any interested party submit to the advocate general documentary information to be considered during GARC's review.
- (d) At least seven business days before the GARC meeting, the person requesting the meeting and any interested party informs the advocate general who will attend the meeting to provide information.
- (e) The advocate general or the GARC chair can request the attendance of any OKDHS employee considered to have knowledge pertinent to the subject matter of the review.
- (f) When additional information is needed in order for GARC to complete its review, GARC may continue its review of a grievance until its next meeting. GARC may request additional information from the Office of Client Advocacy, an administrator, or a state office administrator.
- (g) Within 15 business days of a GARC meeting, GARC issues a report summarizing the issue(s) presented for review and GARC's recommendations. The advocate general submits the report to the person requesting the review and copies the OKDHS Director.

[Source: Transferred from 340:2-3-65 by SB 1709 (2024), eff 11-1-24]

SUBCHAPTER 9. ADVOCACY PROGRAMS

310:678-9-1. Office of Client Advocacy (OCA) general advocacy services

- (a) **Legal authority and scope.** OCA provides advocacy services to recipients of Developmental Disabilities Services (DDS) listed in this subsection, who are collectively referred to as "clients," per Oklahoma Administrative Code (OAC) 340:2-3-71 through 340:2-3-75.

(1) Section 1415.1(A)(2) of Title 10 of the Oklahoma Statutes (10 O.S. § 1415.1(A)(2)) requires the Oklahoma Department of Human Services (OKDHS) to establish an ombudsman program for each institution and residential facility for persons with intellectual disabilities operated by OKDHS. OKDHS conferred this responsibility on OCA. The advocacy services provided to Robert M. Greer Center (Greer) and Laura Dester Children's Center (SHIELD) residents are outlined in OAC 340:2-3-71 and 340:2-3-72.

(2) Orders of the United States District Court for the Northern District of Oklahoma in *Homeward Bound, Inc., et al. v. Hissom Memorial Center, et al.*, Case No. 85-C-437-TCK-SAJ, require OKDHS and OCA to provide advocacy services to individuals certified by the court as members of the plaintiff class, known as Hissom Class Members (HCM)s. These services are outlined in OAC 340:2-3-71 and 340:2-3-73.

(3) Former Northern Oklahoma Resource Center of Enid (NORCE) and the Southern Oklahoma Resource Center (SORC) residents, who transitioned after the Oklahoma Commission for Human Services resolution of November 1, 2012, which closed the facilities, are provided with advocacy services pursuant to that resolution and consistent with the obligation to serve persons with disabilities in the most integrated setting appropriate to their needs. 28 CFR §35.130(d). *Olmstead v. L.C.*, 527 U.S. 581 (1999). These services are outlined in OAC 340:2-3-71 and 340:2-3-73.

(4) Consistent with the requirements of *Olmstead*, OCA provides special advocacy services on an as-needed basis to other DDS clients. These services are outlined in OAC 340:2-3-71 and OAC 340:2-3-75 .

(b) **Definitions.** The following words and terms, when used in OAC 340:2-3-71 through 340:2-3-75 shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Capacity assessment"** means the process of determining an individual's ability to make informed decisions and the need for assistance with decision-making regarding personal and financial matters, per OAC 340:100-3-5.

(2) **"Human Rights Committee"** or **"HRC"** means the committee charged with the responsibility for external monitoring and advocacy to address protection of individual rights.

(3) **"Individual plan"** or **"IP"** means a written document developed by the Personal Support Team based upon assessment of need. The IP specifies outcomes pursued on behalf of the individual, steps taken to achieve outcomes, and all services and supports necessary to achieve outcomes.

(4) **"Informed consent"** means the ability to make and express voluntary decisions, given correct and sufficient information about the nature, purpose, risks, benefits, and alternatives of a proposed service or action. Individuals, 18 years of age and older, are presumed to have capacity to give informed consent except to the extent adjudicated incapacitated by the court. An individual is

not considered incapacitated solely by reason of his or her diagnosis. Individuals may be adjudicated incapacitated in one area, while being fully capable of understanding and exercising rights in other areas. Individuals have the right to exercise judgment in all areas of capacity.

(5) **"Personal Support Team (PST)"** means the participants in the individual's assessment and planning process. The PST includes the service recipient, case manager, legal guardian, OCA advocate, service providers, and others whose participation is necessary to achieve the outcomes desired by the service recipient.

(6) **"Program coordinator"** or **"PC"** means a person employed by a DDS residential or group home contract provider agency responsible for the supervision, coordination, and monitoring of services provided by the contract provider agency to a service recipient.

(7) **"Service review"** means an assessment by an OCA advocate of a client's health, living circumstances, and the delivery of supportive services. The service review documents the extent of services provided to an individual client and identifies problem areas in service delivery. Each service review is a snapshot of an individual's life at the time the review is completed.

(8) **"Statewide Behavior Review**

Committee" or **"SBRC"** means the committee established, per OAC 340:100-3-14 that reviews each protective intervention plan with restrictive or intrusive procedures. The review ensures the plan complies with DDS policy on the use of restrictive or intrusive procedures, per OAC 340:100-5-57.

(c) **Client records.** Information in OCA records relating to advocacy services provided to the clients listed in (b) of this Section is confidential and protected from unauthorized use. Only authorized individuals are given access to client records or provided information from those records.

(1) The confidentiality provisions of OAC 340:100-3-2 apply to OCA client files.

(2) The confidentiality provisions of OAC 340:5-1-5 apply to information in OCA records regarding allegations of abuse, neglect, and exploitation of a vulnerable adult, as those terms are defined in 43A O.S. §§ 10-103, 10-110, and 10-110.1.

(3) A breach of confidentiality may result in criminal prosecution. Violations by OKDHS employees may also result in personnel action.

(d) **OCA advocate training requirements.** New and tenured OCA advocates receive appropriate training consistent with background and experience. Training includes the rights of DDS clients under federal and state law.

(e) **Client representation.**

(1) OCA assigns OCA advocates to represent:

(A) Greer residents, per Title 10, Section 1415.1(A)(2); and

(B) specific DDS clients living in Oklahoma and former NORCE and SORC residents, per Part 9, OAC 340:2-3-71

through 340:2-3-75.

(2) An OCA advocate is knowledgeable about the clients he or she represents and seeks to understand each client's specific challenges and communication styles, needs, interests, and goals. An OCA advocate ascertains the client's preferences and choices and becomes familiar with a client by:

- (A) reviewing relevant client records and files;
- (B) conducting in-person visits and other contacts with the client at home, at work, and in other contexts; and
- (C) communicating with the client's program coordinator and provider staff, case manager, and others in the client's circle of support, such as relatives, loved ones, and guardians.

(f) OCA advocacy services.

(1) **Advocacy.** Advocacy is assisting an individual in voicing his or her interests. Clients are encouraged to engage in self-determination and are assisted to the extent they need and desire. When a client has a limitation in voicing his or her own interests, needs, and preferences, an OCA advocate seeks to speak on behalf of the client. Advocacy services provided by OCA advocates include, but are not limited to:

- (A) supporting the implementation of the least restrictive alternative in residential, vocational, therapeutic, and medical settings;
- (B) supporting the most appropriate living environment for each client consistent with the client's needs and objectives;
- (C) encouraging the development of natural supports including friends, coworkers, and neighbors in the community where the individual lives; and
- (D) bringing performance issues or service deficiencies to the attention of those who are responsible for correcting the situation.

(2) **Monitoring.** OCA monitors the well-being and provision of services to a client.

(A) Monitoring is done by means of:

- (i) visits and other forms of contact with the client, staff, family members, and those who know the client;
- (ii) reviewing records, documentation, contracts, and financial agreements between clients and providers of services, incident reports, and professional assessments; and
- (iii) attendance at IP and other PST meetings.

(B) OCA advocates cooperate with and, render assistance to outside monitoring and advocacy entities as provided for by federal and state laws, relating to client confidentiality and release of information protocols.

(C) The monitoring role of an OCA advocate ensures the client's:

- (i) individual needs, preferences, and choices are identified and met appropriately and consistently;
- (ii) health, safety, and welfare standards and safeguards are maintained; and
- (iii) problems and issues are addressed at the earliest juncture by appropriate persons and entities in a prompt manner.

(3) **Informal problem resolution.** An OCA advocate seeks to resolve issues and client concerns at the lowest level of administrative responsibility or decision-making. Informal problem resolution seeks to resolve issues and reach a consensus with the client on a plan of action. An OCA advocate seeks to apply an appropriate problem resolution activity that most effectively addresses the nature and imminence of the problem. An OCA advocate assists a client in the development of problem resolution skills and self-advocacy.

(4) **Grievances.** An OCA advocate advises clients and assists them in filing grievances on their own behalf. An OCA advocate may also file grievances on behalf of clients as circumstances require. Grievance policies are found in OAC 340:2-3-45 through 340:2-3-55.

(5) **Protection and safety.** OCA staff takes appropriate action to protect the client's health, safety, and welfare, including reporting allegations of abuse, neglect, maltreatment, and exploitation, per OAC 340:2-3-32 through 340:2-3-39.

(A) OCA advocates assist OCA staff, Adult Protective Services investigators, and law enforcement officers in obtaining information necessary to complete investigations when a client is an alleged victim.

(B) OCA advocates engage in appropriate follow-up activity in response to a referral from the OCA Intake Unit, per OAC 340:2-3-35.

(C) When an OCA advocate has a concern related to a client's health, safety, welfare, or program implementation, he or she advises the client's case manager or designated qualified intellectual disabilities professional (QIDP), as applicable, and others, such as DDS staff, provider or facility staff, treatment staff, or health care professionals as circumstances warrant.

(D) Immediately upon becoming aware of concerns regarding imminent risk of harm, an OCA advocate advises the applicable residential or vocational provider and the client's case manager.

(E) An OCA advocate ensures that abuse, neglect, maltreatment, and/or exploitation allegations are reported to the OCA Intake Unit, per OAC 340:2-3-33.

(6) **Promoting informed choice.** An OCA advocate promotes informed decision-making, consistent with a client's unique strengths, resources, priorities, concerns, abilities, capabilities, and interests through provision of necessary information and assistance to a client to understand his or her options and

potential consequences of a decision. When a client is unable to make an informed choice, the OCA advocate seeks to provide the client's legal guardian, guardian ad litem, volunteer advocate, and other representative(s) with access to information to assist him or her to make an informed decision on the client's behalf. The advocate general does not provide legal advice to clients but may provide information about the law.

(7) **Protection of rights.** An OCA advocate promotes the full exercise of legal rights guaranteed clients under federal and state laws. An OCA advocate takes appropriate steps to protect a client's rights including ensuring those rights are considered in PST decisions and in the manner PST decisions are carried out. An OCA advocate seeks to ensure the application of due process in administrative, quasi-judicial, and judicial proceedings involving a client that might result in a rights restriction or a reduction in services. When a rights restriction is absolutely necessary, OCA supports the least restriction necessary for the shortest period of time possible, with a plan to remove the restriction as soon as possible.

(8) **Access to services.** An OCA advocate promotes client access to the full range of supports per federal and state requirements. Although an OCA advocate takes a position with regard to services needed by a client, an OCA advocate does not have authority to approve services.

(9) **Guardianship issues.** The Oklahoma Guardianship and Conservatorship Act promotes the participation of persons as fully as possible in the decisions that affect them, in the development of maximum self-reliance and independence, and the appointments of guardians and others, only to the extent necessitated by the mental and adaptive limitations or other conditions of individuals, per 30 O.S. § 1-103. Because a full guardianship of the person and his or her estate is the most restrictive intrusion on an individual's decision-making, OCA advocates for the least restrictive alternative to a full guardianship feasible under the circumstances including, but not limited to:

- (A) a limited guardianship;
- (B) a representative payee for financial benefits;
- (C) a volunteer advocate;
- (D) a supportive friends and family;
- (E) a health care proxy;
- (F) a durable power of attorney; and
- (G) advance directives.

(10) **Promoting inclusion.** An OCA advocate:

- (A) promotes the realization of active citizenship and inclusion in the community. This includes, but is not limited to, encouraging clients to:
 - (i) learn the rights and responsibilities of good citizenship;
 - (ii) vote;
 - (iii) take classes;

- (iv) participate in volunteer services organizations;
- (v) attend religious services of his or her choice;
- (vi) attend recreational, cultural, and social events;
- and
- (vii) join citizen advocacy organizations that promote inclusion in the community;

(B) encourages the development of friends who can serve as natural supports for a client; and

(C) assists a client in locating relatives who are not currently active in the client's life and encourages relationship building between him or her and family members.

(11) **End-of-life issues.** End-of-life issues for an individual with a developmental or intellectual disability do not differ from those of other individuals. Regardless of the medical circumstance that brought end-of-life issues to the forefront, an OCA advocate seeks to have a client's physicians, guardians, and loved ones adhere to Oklahoma laws relating to do-not-resuscitate orders, withdrawal or denial of nutrition or hydration, and withdrawal or termination of medical treatment. In the absence of clear and convincing evidence of a client's choices, an OCA advocate presumes the client would choose life-sustaining measures.

(g) **Contacting an OCA advocate.** When an OCA advocate is not available during office hours, his or her supervisor serves as back-up. Information about the name of the OCA advocate assigned to a client, the OCA advocate's contact information, and the name of the advocate's supervisor is obtained by phoning OCA at 1-800-522-8014.

(h) **OCA access to client records and information.** OCA staff is provided access to all records, files, documents, and information needed to fulfill OCA responsibilities regarding a client. DDS case managers, employees, and provider agency staff send the assigned OCA advocate copies of documents and notices sent to the client.

[Source: Transferred from 340:2-3-71 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-9-2. Office of Client Advocacy (OCA) services specific to residents of Robert M. Greer Center (Greer) and Laura Dester Children's Center (SHIELD)

(a) **Representation.** OCA advocacy services are provided to Greer and SHIELD residents consistent with Oklahoma Administrative Code (OAC) 340:2-3-71 and 340:2-3-72.

(b) **Grievance coordination.** OCA advocates serve as grievance coordinators for resident grievances, per OAC 340:2-3-51.

(c) **Abuse and neglect reporting.**

(1) OCA advocates provide training to Greer and SHIELD employees regarding their obligation to report suspected incidents of abuse, neglect, verbal abuse, exploitation, and caretaker misconduct, per OAC 340:2-3-33.

(2) Suspected incidents of abuse, neglect, verbal abuse, exploitation, and caretaker misconduct are immediately

transmitted to OCA intake, per OAC 340:2-3-33.

(d) **OCA advocacy and monitoring.** OCA advocates provide advocacy and monitoring to ensure compliance with rules, regulations, and policies applicable to residents' health, safety, and welfare. In addition to activities, per OAC 340:2-3-71, advocacy and monitoring activities for Greer residents include:

- (1) a face-to-face visit with each resident at least once every six months, and more frequently as needed, to assess and address the resident's advocacy needs;
- (2) periodic site visits to facility buildings frequented by residents, including residential units, vocational programs locations, canteens, and therapy departments, at least quarterly, and more frequently as warranted to monitor compliance with health and safety requirements and protection of client rights including, but not limited to, privacy rights;
- (3) a visit with a resident, at the resident's request, the resident's guardian, or another person concerned about the resident's welfare, unless contraindicated;
- (4) a review of relevant documentation within seven-calendar days of receipt including, but not limited to: individual plan (IP) and interim IPs; accident and incident reports; OCA investigation findings; behavior-data collection forms, guardianship assessments, and other professional reports and assessments;
- (5) serving as a member of a resident's Personal Support Team (PST);
- (6) participating in capacity assessment meetings and annual reviews;
- (7) attending facility Behavior Review Committee (BRC) and Human Rights Committee (HRC) meetings as required or indicated;
- (8) attending mortality review meetings, per OAC 340:100-3-35;
- (9) reporting policy violations, for administrative action and correction, to the facility director or quality assurance designee;
- (10) promoting (PST) discussion of alternatives to living in the facility, and consulting with PST members regarding community supports and community residential placement alternatives; and
- (11) providing transition advocacy assistance for 90-calendar days from the date the resident moves out of Greer or SHIELD. The 90-calendar days may be extended by the advocate general or designee as warranted. Transition advocacy assistance includes:
 - (A) participating in discharge planning meetings;
 - (B) visiting the identified home prior to the move and ensuring Form 06CB034E, Residential Pre-service Checklist, is completed, any identified issues are resolved, and everything is in place before the resident moves out of Greer or SHIELD;
 - (C) visiting the home within seven-calendar days when a resident moves out of Greer to determine if there are OCA advocacy needs. Making phone contact with the community case manager, program coordinator, resident and/or guardian, and at least one staff person in the home

to determine if there are OCA advocacy needs; and
(D) visiting the home monthly to assist with resolution of advocacy needs until the case is closed.

[Source: Transferred from 340:2-3-72 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-9-3. Office of Client Advocacy (OCA) advocacy services specific to Hisson Class Members (HCM)s and former Northern Oklahoma Resource Center of Enid (NORCE) and Southern Oklahoma Resource Center (SORC) residents

(a) **Representation.** OCA provides ombudsman and advocacy services to former HCMs and NORCE and SORC residents of the facilities, per Oklahoma Administrative Code (OAC) 340:2-3-71. An OCA advocate is assigned to act as an independent resource to ensure the client's needs are met and ensure that he or she is provided with the information, skills, opportunities, and support to:

- (1) make informed choices and decisions about their lives;
- (2) live in homes and communities where individuals can exercise full rights and responsibilities as citizens;
- (3) pursue meaningful and productive lives;
- (4) contribute to their family, community, state, and nation;
- (5) have interdependent friendships and relationships with others;
- (6) live free from abuse, neglect, financial and sexual exploitation, and other legal rights violations; and
- (7) achieve maximum health and full integration and inclusion in society; in an individualized manner consistent with unique strengths, resources, and priorities.

(b) **OCA advocate assignment.** OCA assigns an advocate to each HCM living in Oklahoma and to each former resident of NORCE and SORC. These OCA advocates are assigned for the client's lifetime, so long as they are residing in Oklahoma. Clients are provided choices regarding the OCA advocate assigned to represent them to the extent feasible considering the geographic location of the client's residence and OCA advocate caseloads. Requests for a change in the OCA advocate representing an individual are made to the advocate general or designee.

(c) **Personal Support Team (PST) membership.** As a representative of a HCM or of a Developmental Disabilities Services (DDS) client living in a community residential placement, an OCA advocate is a member of the client's PST.

- (1) As a PST member, the OCA advocate receives from the client's DDS case manager, timely notice of all PST meetings, including emergency PST meetings.
- (2) The OCA advocate attends the client's:
 - (A) annual individual plan (IP) meetings;
 - (B) person-centered planning meetings;
 - (C) interim meetings;
 - (D) follow-up planning meetings;
 - (E) emergency PST meetings;
 - (F) PST guardianship assessment meetings;

(G) other PST meetings when significant issues are addressed, including when a rights restriction or an intrusive behavior intervention strategy is contemplated or recommended;

(H) PST capacity assessments; and

(I) other PST meetings, at the client's, guardian's, or involved family's or friend's request.

(3) Within the PST context, the OCA advocate assists the client and represents the client's interests without relinquishing priority to client safety and rights.

(d) **Guardianship issues.** The OCA advocate ensures a client has a current capacity assessment and attends capacity assessment meetings. When a client with a full guardianship has sufficient capacity to require no guardian or only a limited guardian, the OCA advocate promotes the filing of a petition with the guardianship court to terminate or limit the guardianship appointment. When the current capacity assessment for the client who does not have a guardian recommends a guardian or volunteer advocate, the OCA advocate participates with the PST to identify persons who might serve as the client's guardian or volunteer advocate. An OCA advocate encourages the development of friends in the community who might become the client's guardian or volunteer advocate. The OCA advocate monitors the implementation of the recommendations in the capacity assessment and advocates for timely achievement. When a guardian is needed and a suitable guardian is identified, the OCA advocate promotes the filing of a petition with the guardianship court to appoint a guardian.

(e) **OCA advocacy and monitoring.** OCA provides advocacy and monitoring to ensure compliance with rules, regulations, and policies, applicable to their client's health, safety, and well-being. In addition to the services described in OAC 340:2-3-71(h), OCA advocacy and monitoring activities on behalf of each client, include:

- (1) verifying that Form 06CB034E, Residential Pre-Service Checklist, was completed and everything on the checklist is in place prior to any change in residence;
- (2) visiting the client's home within 30-calendar days after the client moves into a new residence;
- (3) conducting a face-to-face visit with the client at least once every three months and, more frequently as indicated;
- (4) completing a meaningful contact regarding each client served, at least monthly;
- (5) completing a service review at least once every six months;
- (6) verifying that direct contact staff completed required training in connection with each service review;
- (7) requesting that DDS Quality Assurance staff conduct an administrative inquiry of suspected provider contract violations, per OAC 340:100-3-27;
- (8) assisting the client and his or her guardian or representative with proposed financial agreements and contracts reviews between the client and the provider;
- (9) reviewing documents and electronic files including, but not limited to:

- (A) assessments, IP, and interim IP documents;
- (B) incident reports;
- (C) Adult Protective Services and OCA investigation findings; and
- (D) behavior data collection forms;
- (10) attending mortality review meetings, per OAC 340:100-3-35;
- (11) attending legal proceedings involving the client, including guardianship proceedings, as circumstances warrant;
- (12) providing an annual copy of Form 15GR007E, Notice of Grievance Rights, Hissom Class Members, or of Form 15GR006E, Notice of Grievance Rights: DDS Service Recipients, as appropriate, to each client and/or guardian;
- (13) monitoring the water temperature in homes every six months, using a thermometer to ensure the water does not exceed 120 degrees Fahrenheit;
- (14) verifying that appropriate records are kept with regard to an individual's personal finances, at least once every six months; and
- (15) advocating for the provision of adequate staff to be present in the hospital with HCMs only, prior to and during a hospitalization, as circumstances warrant.

(f) Advocacy and monitoring services specific to HCMs and former residents of NORCE and SORC, who reside in private intermediate care facilities for individuals with intellectual disabilities (ICF/IID).

- (1) The assigned OCA advocate conducts a face-to-face visit with a client living in a private ICF/IID at least once every 90-calendar days and more frequently, as warranted.
- (2) Service reviews are not completed.
- (3) The OCA advocate maintains a helping relationship with the client, assessing the realization of desired and targeted outcomes, and initiating change through referral or grievance as needed. During client contacts, the OCA advocate inquires about the client's satisfaction with current supports and provides information regarding available options for community supports.
- (4) The OCA advocate, at least once every six months, contacts the client's guardian when one is appointed. The OCA advocate, in response to a client's expression of dissatisfaction with the current residential arrangements, contacts the guardian. These contacts reaffirm the availability of service options to clients for support in community settings. Contacts with the guardian occur in person, by phone or mail as circumstances warrant.
- (5) The OCA advocate contacts the private ICF/IID case manager, informs the case manager of the OCA advocate's intent to attend yearly planning meetings, and requests notification in advance of yearly planning, interim, and emergency meetings.
- (6) The OCA advocate participates in annual planning meetings at the private ICF/IID. The OCA advocate provides advocacy assistance regarding the client's expressed preferences. The OCA advocate brings the individual's expressed desires and any concerns expressed by him or her, the guardian, or other family members to the attention of the PST. The OCA advocate

participates in interim meetings and addresses significant changes in the client's residence, work, health, or important relationships.

(7) The OCA advocate assesses the client's welfare and determines if OCA advocacy is needed. The OCA advocate develops a working knowledge of the facility's grievance procedure as well as other problem resolution processes and resources for change. The OCA advocate provides assistance, either directly or through referral, resolving concerns identified by the client or by others on the client's behalf, which may include contacting the Office of the State Long-Term Care Ombudsman.

(8) The OCA advocate provides information and encouragement to the client to consider community residential settings.

(g) OCA advocacy and monitoring services specific to HCMs and former residents of NORCE and SORC who are in Oklahoma Department of Corrections (DOC) or county sheriff custody. OCA advocacy and monitoring services for clients, who are in DOC or county sheriff custody, except those who are detained pre-trial, are contained in this subsection. The assigned OCA advocate:

(1) contacts the client at least once every six months. These contacts are in person unless contraindicated by the individual;

(2) obtains copies of court documents that reflect the sentence the client is serving;

(3) assesses the client's welfare and determines if OCA advocacy assistance is needed. The OCA advocate provides assistance, either directly or through referral, resolving concerns identified by the client or by others on the client's behalf. OCA advocacy assistance is provided to enforce the rights of clients under the Americans with Disabilities Act and other federal and state laws, to the extent they are applicable to persons who are in custody; and

(4) provides OCA advocacy assistance with the DDS case manager to commence transition planning when the client has less than a year remaining to serve in custody. The OCA advocate participates in and monitors transition planning, representing the client's interests.

(h) Services specific to HCMs and former residents of NORCE and SORC who decline DDS services. Clients and their legal representatives have the right to refuse DDS services, per OAC 340:100-3-11. The OCA advocate for a client, who has declined DDS services contacts the individual at least once every six months and remains available to assist him or her, when requested with OCA advocacy regarding non-specialized assistance. If the OCA advocate determines the client's need or desire for specialized supports has changed, he or she takes appropriate follow-up action with DDS case management.

(i) OCA advocate services specific to HCMs on the Focused Advocacy List (FAL). Pursuant to court order, OCA formally assumed the responsibility of acting as advocate for plaintiff class-members identified in *Homeward Bound, et al. v. The Hissom Memorial Center, et al.* [85-C-437]. In response, OCA created the Focused Advocacy program to provide increased OCA advocacy supports to HCMs with limited or no

family involvement. In addition to the activities described in (e) & (f) of this Section and OAC 340:2-3-71(h), OCA advocacy and monitoring activities on behalf of each client include:

- (1) ensuring the assigned DDS representative is invited to the PST meetings when warranted to review and update progress in securing a volunteer advocate or guardian for all clients on the FAL;
- (2) visiting each member on the FAL at least once every two months, and more frequently when warranted. Visits include home visits, worksite visits, and other face-to-face contacts;
- (3) placing a priority on expanding HCM's circles of support to include persons, who are not paid to be involved in the HCM's life, which includes identifying relatives, not involved in the HCM's life who might be encouraged to become more involved;
- (4) identifying HCMs who have the greatest immediate need of a volunteer advocate or guardian. OCA advocates must promptly inform the OCA Focused Advocacy manager when a HCM is identified as having a priority need; and
- (5) ensuring a Team Review of Advocate/Guardian Participation (TRAGP) document is prepared for each HCM assigned to them at least annually and one is completed much more frequently whenever there is a significant change in circumstances warranting review of the involvement of persons who are not paid to be involved in the HCM's life. The TRAGP form includes information documenting the need for the individual to remain on, be added to, or be removed from the FAL. The Focused Advocacy Committee meets regularly to review TRAGP forms and determine if HCMs remain on the FAL or require prioritized identification of a volunteer advocate or guardian.

[Source: Transferred from 340:2-3-73 by SB 1709 (2024), eff 11-1-24; Amended at 42 Ok Reg, Number 7, effective 11-1-24 (emergency)]

310:678-9-4. Office of Client Advocacy (OCA) services specific to clients with special advocacy needs

(a) **Application.** This Section describes advocacy services OCA may provide to Developmental Disabilities Services (DDS) clients who are not otherwise eligible for OCA advocacy services but have a special short-term need for OAC advocacy assistance.

(b) **Scope.** Upon a determination that good cause exists, OAC advocacy services may be provided to individuals eligible to receive DDS services and to children with an identified intellectual or developmental disability, who are in Oklahoma Department of Human Services custody.

(c) **Requests for services.** Any person may submit a request seeking short-term OAC advocacy services on behalf of a DDS client, by contacting the OCA Intake Unit. Verbal requests are accepted; however, written requests that explain the advocacy need are encouraged.

- (1) When the OCA Intake Unit identifies a special advocacy need, a special advocacy request may be made.
- (2) Factors considered in granting requests include:
 - (A) whether the matter is within OCA's jurisdiction;

(B) the existence of other resources to meet the client's need; and

(C) the urgency of the need.

(d) **OCA advocacy provided.** When a request for short-term advocacy is granted, the assigned OCA advocate provides the support and advocacy appropriate, given the nature of the problem and the risk of imminent harm.

(1) The OCA advocate, in consultation with his or her supervisor, prepares a time-limited plan for achieving advocacy need goals.

(2) Short-term advocacy assistance is provided for up to 30-calendar days. The OCA advocate's supervisor may, based upon written justification, extend the special advocacy assignment for up to three months. When necessary, the OCA advocacy programs administrator may, based upon additional written justification, further extend the special advocacy assignment.

(3) The OCA advocate has full access to the client's case record and is a member of the client's PST for the duration of the special advocacy assignment.

[Source: Transferred from 340:2-3-74 by SB 1709 (2024), eff 11-1-24]

CHAPTER 679. LONG-TERM CARE ADMINISTRATORS

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 1. GENERAL PROVISIONS

310:679-1-1. Purpose

This Chapter has been adopted for the purpose of implementing the provisions of the "Long-Term Care Administrator Licensing Act" 63 O.S. § 1-1949.1. The Commissioner of Health, carries out statutory authority for developing, imposing and enforcing standards that must be met by individuals in order for them to receive, maintain, or renew a long-term care administrator's license/certification. These rules are written to execute the aforementioned statutory responsibilities for licensing and/or certifying administrators.

[Source: Transferred from 490:1-1-1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-1-2. Definitions

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

"Accredited college" or **"university"** means a college or university that is domiciled within the United States and that is accredited by: the North Central Association of Colleges and Schools, The Higher Learning Commission; the Southern Association of Colleges and Schools, Commission on Colleges; the Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities; the New England Association of Schools and Colleges, Commission on Institutions of Higher Education; the Middle States Association of Colleges and Schools, Middle States Commission on Higher Education; or the Northwest Commission on Colleges and Universities.

"Administrator in Training" or **"AIT"** means an individual participating in a Department-approved internship within the facility type for which the intern is seeking licensure or certification under the supervision of a Department-approved preceptor. These individuals may also be referred to as an intern or trainee.

"Administrator" means any individual licensed or certified to operate as a long-term care facility administrator by the Department.

"Administrator of Record" or **"AOR"** means the administrator licensed by this Department who has the authority and responsibility for the total operation of the facility, subject only to the policies adopted by the governing authority.

"Adult Day Care (ADC) Center" means such term as defined in the Adult Day Care Act, Title 63 O.S. Section 1-870 *et seq.*

"Adverse action" means revocation or suspension of a license, reprimand, censure or probation; any other loss of or restriction placed upon the license, including, but not limited to the right to apply for, or

renew a license; voluntary surrender in lieu of discipline, non-renewal (excluding nonrenewal due to non-payment of fees, or retirement); administrative fines and any other negative action or finding by the Department.

"Assisted Living Center" means the same term as defined in the Continuum of Care and Assisted Living Act, Title 63 O.S. Section 1-890.1 *et seq.* Also known as an Assisted Living Facility (ALF).

"Certification" means the written authorization from the Department granting a person the ability to serve as a long-term care administrator, for a specific period of time, which requires the person to adhere to the rules, regulations and statutes which govern the certificate.

"Certified Assistant Administrator (CAA)" or "Assistant Administrator" means an individual who has been certified by the Department as having met the minimum qualifications established by the Department to be able to serve as a full-time, Certified Assistant Administrator in a licensed long-term care nursing facility, and who acts under the direction, supervision and license of a licensed long-term care administrator.

"Complaint" means an allegation against an individual subject to applicable statutes and/or rules.

"Continuum of Care Facility" means the same term as defined in the Continuum of Care and Assisted Living Act, Title 63 O.S. Section 1-890.1 *et seq.*

"Degree equivalency evaluation" means an equivalency evaluation of a degree that was earned from a college or university not domiciled in the United States against a degree earned from an accredited college or university that is performed by one of the following:

- (A) Educational Credential Evaluators (ECE)
- (B) Educational Records Evaluation Service (ERES)
- (C) International Education Research Foundation Credentials Evaluation Service (IERFCES)
- (D) World Education Services (WES)

"Department" means the Oklahoma State Department of Health (OSDH)

"Endorsement" means the applicant has met all requirements for reciprocity.

"Good Standing" means a current license/certification/registration is not expired, suspended, revoked, surrendered, conditioned or otherwise restricted.

"Health Services Executive" or "HSE" means a broad-based NAB qualification that allows administrators to practice along the senior living and health services continuum and increases the portability of licensure.

"Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)" means a facility with the primary purpose of providing health and rehabilitative services for individuals with intellectual disabilities and otherwise meets the Conditions Of Participation (COPs) found at 42 CFR §483.400 *et seq.*

"Intermediate Care Facility for Individuals with Intellectual Disabilities, 16 Beds and Less (ICF/IID-16)" means a facility with

sixteen (16) or fewer licensed resident beds that serves individuals with intellectual disabilities and that otherwise meets the Conditions Of Participation (COPs) found at 42 CFR §483.400 *et seq.*

"License" means the written authorization of the Department granting a person the ability to serve as a long-term care administrator for a specific period of time, which requires the person to adhere to the rules, regulations and statutes which govern the license.

"Long-Term Care" means care given at facilities where a licensed long-term care administrator is required such as a nursing facility, assisted living facility, residential care facility, an adult day care center, or intermediate care facility.

"Long-term care administrator" *means a person licensed or certified as a Tier 1 long-term care administrator or Tier 2 long-term care administrator under ... the Long-Term Care Administrator Licensing Act. A long-term care administrator must devote at least one-half (1/2) of such person's working time to on-the-job supervision of a long-term care facility; provided that this requirement shall not apply to an administrator of an intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16), in which case the person licensed by the state may be in charge of more than one ICF/IID-16, if such facilities are located within a circle that has a radius not more than fifteen (15) miles, and the total number of facilities and beds does not exceed six facilities and sixty-four beds. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF/IID-16 may be independently owned and operated or may be part of a larger institutional ownership and operation.* [Title 63 O.S. § 1-1949.2]

"National Association of Long-Term Care Administrator Boards" ("NAB") means an organization composed of state boards and agencies responsible for licensing long-term care administrators.

"NAB Domains of Practice" means the content areas of tasks, knowledge, and skills necessary for administration of a long-term care facility. The NAB Domains of Practice can be found on the National Association of Long-Term Care Administrator Boards (NAB) website at www.nabweb.org.

"Nursing Home and Nursing Facility" means both a "Nursing Facility" and "Specialized Facility" also referred to as "rest home" or "specialized home" as such terms are defined in the Nursing Home Care Act, Title 63 O.S. Section 1-1901 *et seq.* and/or as defined at 42 CFR §483.1 *et seq.*

"Preceptor" means an individual qualified by training and experience, who is currently licensed as a long-term care administrator in Oklahoma, is authorized by the Department as a qualified preceptor and is charged with coordinating the training of an individual authorized to operate as an administrator in training.

"Probation" is a condition(s) imposed for a specified period of time at the initial issuance of a license or contained in an order resulting from a complaint against the administrator.

"Provisional license" means the temporary authority to serve as a long-term care administrator as granted by the Department to an

individual who meets the requirements for provisional licensure.

"Reciprocity" means the licensure process through which candidates licensed in other states may be granted a license in Oklahoma once they have demonstrated the requirements for licensure for the state in which they are currently licensed, have substantially equivalent requirements to those in this state and meet any residency requirements.

"Residential Care Home" or "Residential Care Facility (RCF)" means the same as such term is defined in the Residential Care Act, Title 63 O.S. Section 1-819 *et seq.*

"Revocation or Revoked License" means an enforcement imposed upon a license or certificate by the Department that results in termination of license or certificate and all privileges attendant thereto and requires holder to surrender the license or certificate to the Department.

"Specialized facility" means the same as such term is defined in the Nursing Home Care Act, Title 63 O.S. Section 1-1901 *et seq.*

"Suspension or Suspended License" means an enforcement imposed upon a license or certificate holder by the Department for a designated period of time where the individual is not authorized to work in the capacity of an administrator until all the requirements for reinstatement of the licensure are met.

"Tier 1 long-term care administrator" *means a person licensed by this state to perform the duties of an administrator serving in a skilled nursing or nursing facility or an intermediate care facility for individuals with intellectual disabilities with seventeen or greater beds (ICF/IID).* [63 O.S.§ 1-1949.2] Licensed Tier 1 long-term care administrators may serve as administrator over all long-term care facility types.

"Tier 2 adult day care (ADC) administrator" means a tier 2 long-term care administrator licensed by the Department to serve in an Adult Day Care Center.

"Tier 2 ICF/IID-16 administrator" means a tier 2 long-term care administrator licensed by the Department to serve in an intermediate care facility for individuals with intellectual disabilities with sixteen or fewer bed (ICF/IID-16).

"Tier 2 long-term care administrator" *means a person licensed or certified by this state to perform the duties of an administrator serving in an assisted living facility, residential care facility, adult day care center, or intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16.;* [63 O.S.§ 1-1949.2]

"Tier 2 residential care/assisted Living (RC/AL) administrator" means a tier 2 long-term care administrator licensed by the Department to serve in a residential care facility or an assisted living facility.

"Upper-level management" means an individual who has had supervisory experience over multiple staff and who has been actively involved with strategic decision-making and planning.

SUBCHAPTER 3. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS [REVOKED]

310:679-3-1. Organization [REVOKED]

[Source: Transferred from 490:1-3-1 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-3-2. Officers and committees [REVOKED]

[Source: Transferred from 490:1-3-2 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-3-3. Meeting of the Board [REVOKED]

[Source: Transferred from 490:1-3-3 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-3-8. Executive Director [REVOKED]

[Source: Transferred from 490:1-3-8 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 5. INVESTIGATIVE PROCEDURES

310:679-5-2. Filing a Complaint

Any person or agency may file a complaint against a long-term care administrator by contacting the Oklahoma State Department of Health.

[Source: Transferred from 490:1-5-2 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-5-2.1. Action on referrals and reports [REVOKED]

[Source: Transferred from 490:1-5-2.1 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-5-3. Complaints

- (a) Upon receipt of a complaint against a long-term care administrator, the Department shall initiate an investigation within ninety (90) days. All information and records collected by the Department as part of a complaint investigation shall be kept in a confidential investigation file.
- (b) Upon completion of a complaint investigation, if the Department finds that sufficient evidence exists to initiate an individual proceeding against a long-term care administrator, a notice of the violation will be served upon the long-term care administrator in compliance with Chapter 2 of

this Title and the Administrative Procedures Act. The notice of violation shall include the nature of the violation(s) found, the provisions of state law or rule alleged to have been violated, the Department's assessed administrator penalty resulting from the alleged violation, and the administrator's right to seek an informal dispute resolution or hearing.

[Source: Transferred from 490:1-5-3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-5-6. Notice [REVOKED]

[Source: Transferred from 490:1-5-6 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-5-6.1. Hearings

- (a) An administrator may submit a request for hearing with the Department within thirty (30) days of receipt of the Notice of Violation.
- (b) If a hearing is requested, the Department shall promptly schedule a hearing and serve the administrator with a Notice of Hearing in compliance with 75 O.S. §309(B).
- (c) The hearing shall be conducted in accordance with the Administrative Procedures Act and Chapter 2 of this Title.
- (d) The Commissioner of Health or designee shall issue a decision within fifteen (15) working days following the close of the hearing record. The decision shall include Findings of Fact and Conclusions of Law separately stated. The final order resulting from a hearing shall comply with the requirements of the 75 O.S. §312 and be served upon each party.
- (e) An appeal of the Final Order shall be perfected pursuant to 75 O.S. Section 318 of the Administrative Procedures Act.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-5-7. Informal dispute resolution

- (a) An Administrator may request, in writing, an informal dispute resolution within thirty (30) days from the date of notice from the Department.
- (b) *The impartial decision-making panel shall be a group of six (6) individuals who meet the following criteria:*
 - (1) *Three members shall be impartial volunteers who have experience in the operation of the same type of long-term facility as the administrator who is the subject of the complaint. Such volunteers may include, but not be limited to, an administrator, assistant administrator, owner, operator, director of nursing, or compliance executive of an appropriate long-term care facility, but shall not include any person with a direct financial interest in any facility that employs or contracts with the administrator who is the subject of the complaint; and*
 - (2) *Three members shall be persons representing the aging or disabled community, as appropriate for the type of long-term facility whose administrator is the subject of the complaint.*

(c) *Each party shall submit to the impartial decision-making panel all documentary evidence that the party believes has a bearing on or relevance to the violation or violations alleged by the Department in the complaint.*

(d) *The Department shall present initial arguments. The administrator shall then present his or her arguments. The informal dispute resolution shall be limited to no more than two (2) hours in length, with each party being permitted one (1) hour to present its arguments; however, the impartial decision-making panel may grant each party additional equal time for good cause as determined by the impartial decision-making panel.*

(e) *Rules of evidence or procedure shall not apply to the informal dispute resolution except as provided in this section. The impartial decision-making panel may:*

(1) Accept any information that the impartial decision-making panel deems material to the issue being presented; and

(2) Reject any information that the impartial decision-making panel deems material to the issue being presented.

(f) *The informal dispute resolution may not be recorded; however, the impartial decision-making panel may make written or recorded notes of the arguments.*

(g) *Only employees of or health care providers contracted by the facility where the administrator who is the subject of the complaint is employed may appear or participate in the informal dispute resolution on behalf of the administrator, except that the administrator may call one character witness to appear and testify on his or her behalf.*

(h) *Only employees of the Department may appear or participate at the meeting for, or on behalf of, the Department for the purpose of presenting arguments. In addition to such employees, one or more employees of the Department may provide technical assistance to the impartial decision-making panel at the panel's request. Any employee of the Department who participates in the informal dispute resolution process as described in this paragraph shall have no current involvement in long-term care facility surveys including but not limited to the informal dispute process described in Section 1-1914.3 et seq. of Title 63 of the Oklahoma Statutes or the alternative informal dispute resolution process described in Section 1-1914.11 et seq. of Title 63 of the Oklahoma Statutes for long-term care facilities. This paragraph shall have no resolution process.*

(i) *The State Long-Term Care Ombudsman or designee may appear or participate in the informal dispute resolution.*

(j) *No party may be represented by an attorney in the informal dispute resolution.*

(k) *The informal dispute resolution process is limited to violations alleged by the Department in the complaint. If the impartial decision-making panel finds that matters not subject to the informal dispute resolution are presented, the impartial decision-making panel shall strike all documentary evidence related to or presented for the purpose of disputing the matter not subject to the informal dispute resolution. The impartial decision-making panel may not include in the statement of findings described in subsection 1 of this section any matter not subject to*

the informal dispute resolution.

(l) Upon the conclusion of all the arguments by the parties at the informal dispute resolution, the impartial decision-making panel shall issue a written statement of findings, which shall be provided to all parties and which shall include:

- (1) A summary of any alleged violations;*
- (2) A statement of whether the impartial decision-making panel agrees that the alleged violation or violations occurred;*
- (3) The facts and persuasive arguments that support the finding of the impartial decision-making panel for each alleged violation;*
and
- (4) A recommendation on appropriate disciplinary action against the administrator, if any.*

(m) If the impartial decision-making panel cannot reach a majority decision on the findings of the informal dispute resolution as described in subsection l of this section, the State Commissioner of Health may intervene for the purpose of breaking a tie.

(n) The Department shall review the findings of the impartial decision-making panel and shall take such findings into consideration when determining whether to pursue further disciplinary action against the administrator. [Title 63 O.S. §1-1949.7]

[Source: Transferred from 490:1-5-7 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-5-7.1. Administrative fines

(a) The Department may impose administrative fines, in an amount to be determined by the Department, against persons whom the Department has determined have not complied with the provisions of the Oklahoma statutes and OAC 310:679.

(b) Administrative fines shall not exceed One Thousand Dollars (\$1,000.00) per violation.

(c) In assessing a fine, the Commissioner shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the scope, severity and repetition of the violation and any additional factors deemed appropriate by the Commissioner.

[Source: Transferred from 490:1-5-7.1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-5-8. Reporting

(a) The Department shall report final adverse actions to the National Practitioner Data Bank (NPDB), in accordance with requirements at Title 45, Code of Federal Regulations, Part 60.

(b) Disciplinary action taken against a license/certificate holder and reported to the NPDB shall be reported on the state registry as provided in 63 O.S. §330.64.

(c) The Department may report disciplinary action taken against a license or certificate holder to other jurisdictions where the Department has knowledge that a license or certificate holder possesses a license or certificate.

(d) The Department may make referrals to other regulatory authorities as necessary.

[Source: Transferred from 490:1-5-8 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 7. FEES AND DEPOSITS

310:679-7-1. Fees and deposits [REVOKED]

[Source: Transferred from 490:1-7-1 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-7-2. Schedule of fees

(a) Initial and Provisional Long-Term Care Administrator License - \$200.00

(1) This licensure fee applies to all original licensures, registrations/registration renewals and certifications.

(2) The initial license will expire on December 31st of the year it was effective.

(b) Renewal fees

(1) Tier 1 Long-Term Care License - \$200.00 per year;

(2) Certified Assistant - \$75.00 per year;

(3) Tier 2 RC/AL License - \$175.00 per year;

(4) Tier 2 ADC License - \$100.00 per year;

(5) Tier 2 ICF/IID-16 License - \$100.00 per year

(c) Late Fee - \$100.00 for each calendar week, or portion thereof.

(d) Pre-Licensing File Origination and Maintenance fee - \$100.00

(e) State Standards Review (per person) - \$100.00

(f) State Standards Examination Packet - \$50.00

(g) State Standards Examination administered by the Department - \$100.00 per examinee

(h) State Standards Examination, unscheduled examination - \$500.00 per examinee

(i) Department-Sponsored Educational Workshop (per day) - up to \$1,000 per attendee.

(j) Administrator in Training (AIT) Program: Internship Permit (per applicant) - \$350.00

(k) Continuing Education Program Application Fee (per credit hour) - \$55.00

(l) Returned Check Fee or Fee related to Non-Sufficient Funds (NSF) to cover an Electronic Funds Transfer (EFT) - \$30.00

(m) Fee for Administrator Training - Not to exceed \$200.00 per day

(n) A convenience fee may be charged by the online processing vendor in an amount determined by the processor.

(o) Conduct a background check to identify barrier offenses \$50.25

(p) License Application processing fee - \$100.00 (valid for one year).

[Source: Transferred from 490:1-7-2 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 9. CONTINUING EDUCATION

310:679-9-1. General provisions for continuing education programs

- (a) Continuing education programs requests for credit recognition must be submitted to the Department for approval prior to presentation.
- (b) The continuing education program is responsible for providing proof of participation and credit amount awarded to each participant. At a minimum, proof of participation must include:
 - (1) Name of attendee;
 - (2) Number of clock hour credits;
 - (3) Subject matter of training; and
 - (4) Facility type addressed by the training if facility-specific
- (c) Administrators shall be responsible for submitting proof of continuing education that meets CE requirements upon renewal.
- (d) All programs approved by the National Continuing Education Review Service (NCERS), National Association of Long Term Care Administrator Boards (NAB) that receive a NCERS/NAB approval number will count towards CE requirements with proper documentation.
- (e) Attendees may be awarded partial credit, at the discretion of the sponsor, for partial participation, late arrival, or early departure from the program.
- (f) The Department may deny or revoke program approval if the program sponsor fails to issue hours appropriately.

[Source: Transferred from 490:1-9-1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-9-2. Criteria for continuing education programs

- (a) A correctly completed application must be submitted to the Department at least thirty (30) days in advance of the program;
- (b) The application shall contain documentation demonstrating the following requirements:
 - (1) The program shall relate to Long-Term Care Administration and be designed to promote continued knowledge, skills and attitudes consistent with current standards in long-term care administration.
 - (2) The program shall be designed to assist administrators to improve their professional competencies.
 - (3) The program shall be open and available to all long-term care administrators in Oklahoma.
 - (4) The program location must be adequately equipped and have enough space to accommodate attendees.
 - (5) Instructors must have long-term care supervision or administration experience, have instructional expertise and/or have suitable academic qualifications in a relevant academic field.
 - (6) The program objectives must:

- (A) have reasonable and clear objectives with defined outcome expectations;
 - (B) be consistent with the program content; and
 - (C) identify the mechanism through which they will be taught
- (7) Clearly stated program methods appropriate to the subject matter with an identified timeframe for teaching concepts.
- (8) Instructional aids and resource materials used in the program.
- (9) Sponsors are qualified in the subject matter presented.
- (10) The registration fee for the program and the location where the fee will be published on promotional material.
- (11) The program evaluation form.
- (12) The method used to capture accurate attendance or on-line completion.
- (13) Information indicating the instructional hours are based on clock hours (60 minutes= 1 clock hour).
- (14) An agenda showing all educational activities.
- (15) No more than seven (7) clock hours included in the program per day. In the event there is a required, onsite, coursework-specific presenter during the lunch hour, eight (8) hours may be included in the program description.
- (16) Licensed administrators who are "presenters" of approved CE programs may receive credit one time annually for the clock hour value of the class(es) they present. If the material is presented multiple times, credit is only awarded once per licensure year for the same educational material.
- (17) Licensed administrators who present in a Department-approved entry level training such as Tier 2 RC/AL, Adult Day Care or ICF/IID-16 initial licensure training, will receive CE credit one time annually for the clock hour value of the material they present.
- (18) Providers of continuing education courses must provide the template for the documentation that will be provided to attendees to include, at a minimum, the following requirements:
- (A) The name of the attendee;
 - (B) the number of clock hour credits awarded for the training;
 - (C) the subject matter of the training; and
 - (D) if applicable, the type of facility the training addressed.
- (19) The Department may revoke approval of a continuing education course if it is determined the course no longer meets continuing education requirements.

[Source: Transferred from 490:1-9-2 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-9-3. Disapproval of continuing education programs

(a) Upon disapproval, the sponsor:

- (1) will be notified of missing requirements; and

- (2) may submit additional information and/or documentation to address missing requirements.
- (b) Approved programs will be notified of approval by the Department.

[Source: Transferred from 490:1-9-3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-9-4. Continuing education requirements

- (a) Each licensee shall be responsible for identifying and seeking continuing professional education requirements.
- (b) Licensees shall complete Continuing Education Units (CEUs) as follows:
- (1) Tier one (1) licensees and certified CAAs shall complete twenty-four (24) clock hours of CEUs each license year.
 - (2) Tier 2 RC/AL administrators shall successfully complete sixteen (16) clock hours of continuing education during each license year.
 - (3) Licensed Tier 2 Adult Day Care Administrators shall successfully complete sixteen (16) clock hours of continuing education during each license year.
 - (4) Licensed Tier 2 ICF/IID-16 administrators shall successfully complete sixteen (16) clock hours of continuing education during each license year.
- (c) License and certificate holders are responsible for maintaining their own CEU records.
- (d) Required CEUs must be completed within the licensure period.
- (e) Credit will only be given once per approved program for each licensure period; duplication of credit for the same course is not permissible in the same licensure year.
- (f) A written request for an extension may be submitted to the Department when a license or certificate holder cannot meet the requirements for continuing education due to illness, emergency, or other hardship. Extension requests will be reviewed by the Department and determinations made on a case-by-case basis.
- (g) CEU documentation must be uploaded in the online renewal portal at the time of renewal for review by the Department. Renewal applicants must complete CEUs prior to the Department issuing a renewal to the renewal applicant. .
- (h) All licensees, even those subject to enforcement action, are required to complete continuing education.
- (i) Continuing education requirement hours will be required for first year license and certificate holders are:
- (1) Tier 1 administrators and certified CAAs shall be required to complete six (6) hours of continuing education for each quarter in which they hold a license.
 - (2) Licensed Tier 2 administrators shall be required to complete four and a half (4 1/2) hours of continuing education for each quarter in which they hold a license.

[Source: Transferred from 490:1-9-4 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-9-5. Auditing of continuing education hours

The Department may request continuing education information from sponsors of approved programs for audit purposes.

[Source: Transferred from 490:1-9-5 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 10. LICENSING OF LONG-TERM CARE ADMINISTRATORS

PART 1. LICENSING OF LONG-TERM CARE ADMINISTRATORS

310:679-10-1. Purpose [REVOKED]

[Source: Transferred from 490:10-1-1 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-2. Definitions [REVOKED]

[Source: Transferred from 490:10-1-2 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-2.1. General requirements for licensure

- (a) Applicants must be at least twenty-one (21) years of age at the time the license is issued.
- (b) Applicants must be a United States citizen, or a qualified alien under the Federal Immigration and Naturalization Act and lawfully residing in the United States. An affidavit of lawful presence must be submitted with the application.
- (c) Each administrator applicant must establish that the applicant is of reputable and responsible character and otherwise suitable and qualified to serve because of training or experience in institutional administration. Each provisional applicant must be of good character, otherwise suitable, and meet any other standards established.
- (d) A background check will be conducted on each applicant. The Department will not issue or renew a license to any applicant if the results of a criminal background check reveal the applicant has been convicted of or pleaded guilty or *nolo contendere* or no contest, or received a deferred sentence for any felony or misdemeanor offense for any of the following offenses in any state or federal jurisdiction:
 - (1) abuse, neglect or financial exploitation of any person entrusted to the care or possession of such person,
 - (2) rape, incest or sodomy,
 - (3) child abuse,
 - (4) murder or attempted murder,
 - (5) manslaughter,
 - (6) kidnapping,

- (7) aggravated assault and battery,
- (8) assault and battery with a dangerous weapon, or
- (9) arson in the first degree.

(e) The Department will not issue or renew a license for any applicant if less than seven (7) years have passed since the completion of sentence , and the criminal history check reveals the applicant has been convicted of, or pled guilty or nolo contendere or no contest to, a felony or misdemeanor offense for any of the following offenses in any state or federal jurisdiction:

- (1) assault,
- (2) battery,
- (3) indecent exposure and indecent exhibition, except where such offense disqualifies the person as a registered sex offender,
- (4) pandering,
- (5) burglary in the first or second degree,
- (6) robbery in the first or second degree,
- (7) robbery or attempted robbery with a dangerous weapon, or imitation firearm,
- (8) arson in the second degree,
- (9) unlawful manufacture, distribution, prescription, or dispensing of a Schedule I through V drug as defined by the Uniform Controlled Dangerous Substance Act ,
- (10) grand larceny, or
- (11) petit larceny or shoplifting.

(f) To be eligible for a license, applicants must be able to effectively communicate with all individuals and entities related to all required administrator functions.

(g) Each applicant must meet all other requirements prescribed by the Department.

(h) Each applicant must disclose, for the Department to consider when making a determination on the issuance of a license, all other jurisdictions in which:

- (1) A license has been applied for;
- (2) A license has been issued; and
- (3) Any disciplinary or enforcement action taken by another licensing authority.

(i) The required fee and a correctly completed application form demonstrating all requirements are met must be submitted to the Department by the applicant before a license may be issued.

(j) The Department will notify the applicant when an application is missing any requirements. An applicant may submit additional documentation demonstrating compliance with licensure requirements for the Department to review. If an applicant is not eligible for a license, the Department will issue a denial letter specifying the reasons for the denial. Licensing denials will be reported to NPDB.

(k) In accordance with 59 O.S. 4100.4(A) The Department will review education, training, and experience completed by the individual as a member of the Armed Forces or Reserves of the United States, National Guard of any state, or the Naval Militias of any state, and apply it in the manner most favorable toward satisfying the qualifications of issuance of the requested license or certification or approval for license examination

in this state.

(l) In accordance with 59 O.S. 4150.1, the Department will honor the requirements in the Universal Licensing Act.

[Source: Transferred from 490:10-1-2.1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-3. Tier 1 administrator requirements

(a) Applicants must meet all general requirements for licensure.

(b) Each applicant must provide documentation demonstrating the successful completion of one of the following:

(1) Baccalaureate degree from an institution of higher education;
or

(2) Associate degree in a health- or business-related field or other relevant field and not less than five (5) years of experience in upper-level management of a long-term care facility.

(c) Unless granted a waiver for one or more of the requirements, applicants must successfully complete the following within twenty-four (24) months of submitting an application for initial licensure:

(1) A Department or NAB-approved training;

(2) The required internship; and

(3) Passing score on the following required examinations:

(A) The Oklahoma State Standards examination;

(B) The NAB Core examination; and

(C) The NAB NHA Line of Service examination;

(d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.

(e) A waiver for the required training may be granted by the Department if:

(1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or

(2) the applicant was previously licensed in Oklahoma as a Tier 1 administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or

(3) the applicant provides evidence of the completion of a training that meets or exceeds NAB recommendations for training from another jurisdiction.

(f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

(g) An applicant with a verified HSE qualification may be issued a license upon submission of correctly completed application with the required application fee once the applicant has passed the State Standards examination and has had a favorable background check completed.

;

(h) The Department may waive the administrator training requirement, the internship requirement, or both if the applicant was previously licensed in Oklahoma as a long-term care administrator, was in good

standing with the Department while applicant was previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years.

[Source: Transferred from 490:10-1-3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-3.1. Tier 2 (RC/AL) administrator requirements

- (a) Applicants must meet all general requirements for licensure. Administrators holding a Tier 2 RC/AL license may serve as an administrator in either an RCF or AIF.
- (b) Each applicant for initial licensure as a Tier 2 RC/AL administrator shall provide documentation of one of the following:
 - (1) high school diploma;
 - (2) GED; or
 - (3) a higher level of education.
- (c) Unless an applicant qualifies for a waiver as outlined in 310:679-10-3, the applicant must successfully complete and pass:
 - (1) Department or NAB-approved training;
 - (2) The required internship; and
 - (3) Passing scores on the following required examinations:
 - (A) The Oklahoma RCAL State Standards examination;
 - (B) The NAB RCAL Lines of Service examination; and
 - (C) The NAB Core examination.
- (d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.
- (e) A waiver for the required training may be granted by the Department if:
 - (1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or
 - (2) the applicant was previously licensed in Oklahoma as a Tier 2 RCAL administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or
 - (3) the applicant provides documentation showing adequate experience in the field of institutional administration that is applicable to long-term care administration.
- (f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

[Source: Transferred from 490:10-1-3.1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-3.3. Tier 2 ICF/IID-16 administrator requirements

- (a) Applicants must meet all general requirements for licensure. Administrators holding a Tier 2 ICF/IID-16 license may serve as an administrator in an ICF/IID-16 facility. .

- (b) Each applicant for initial licensure as a Tier 2 ICF/IID-16 administrator shall provide documentation of one of the following:
- (1) high school diploma;
 - (2) GED; or
 - (3) a higher level of education.
- (c) Unless an applicant qualifies for a waiver as outlined in 310:679-10-3 they must successfully complete the following:
- (1) Department-approved training;
 - (2) The required internship; and
 - (3) Passing scores on the following required examinations:
 - (A) The Oklahoma ICF/IID-16 State Standards examination; and
 - (B) The NAB Core examination;
- (d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.
- (e) A waiver for the required training may be granted by the Department if:
- (1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or
 - (2) the applicant was previously licensed in Oklahoma as a Tier 2 ICF/IID-16 administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or
 - (3) the applicant provides evidence of the completion of a training that meets or exceeds NAB recommendations for training from another jurisdiction.
- (f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

[Source: Transferred from 490:10-1-3.3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-3.5. Tier 2 Adult day care administrator requirements

- (a) In addition to the general requirements found in this Chapter, each applicant for initial licensure as an ADC administrator shall meet the requirements in this Section. Applicants must meet all general requirements for licensure. Administrators holding a Tier 2 ADC license may serve as an administrator in an ADC facility.
- (b) Each applicant for initial licensure as a Tier 2 ADC administrator shall provide documentation of one of the following:
- (1) high school diploma;
 - (2) GED; or
 - (3) a higher level of education.
- (c) Unless an applicant qualifies for a waiver as outlined in 310:679-10-3, the applicant must successfully complete and pass:
- (1) Department-approved training;
 - (2) The required internship; and

- (3) Passing scores on the following required examinations:
 - (A) The Oklahoma ADC State Standards examination; and
 - (B) The NAB Core examination;
- (d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.
- (e) A waiver for the required training may be granted by the Department if:
 - (1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or
 - (2) the applicant was previously licensed in Oklahoma as a Tier 2 ADC administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or
 - (3) the applicant provides documentation showing adequate experience in the field of institutional administration that is applicable to long-term care administration.
- (f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

[Source: Transferred from 490:10-1-3.5 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-4. Endorsement and reciprocity requirements

- (a) Applicants must meet all general requirements for licensure.
 - (1) The Department may endorse a candidate for licensure reciprocity from other jurisdictions when the applicant has submitted documentation with evidence meeting the following requirements:
 - (A) Proof of successful completion of a formal program of study;
 - (B) Proof of passing score on applicable NAB examination(s);
 - (C) Copy of current license(s) from other jurisdictions;
 - (D) Proof of full-time service as administrator-of-record for the past two (2) consecutive years or service as licensed administrator for the specific license type the applicant is applying for at least two (2) of the last three (3) years;
 - (E) Disclosure of any pending or past disciplinary actions, enforcements, investigations, reprimand, suspension, and revocation or voluntary surrender of license(s); and
 - (F) Attestation to the truthfulness of information provided;
 - (2) The Department will determine if past actions by regulatory authorities disqualify an applicant from eligibility for Oklahoma licensure in alignment with standards and requirements for Oklahoma licensure.
- (b) The applicant shall indicate on the licensure application if applying under the 59 O.S. 4100.5 et seq military reciprocity pathway. The Department will comply with all military reciprocity requirements.

(c) Endorsement will be given to the applicant by the Department if the reciprocity process shows the applicant completed substantially equivalent requirements in the state in which they are currently licensed.

[Source: Transferred from 490:10-1-4 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-4.1. Requirements for registration for licensure reciprocity for long term care administrators [REVOKED]

[Source: Transferred from 490:10-1-4.1 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-5. Provisional license requirements

(a) The Department may grant one (1) provisional license for a single period not to exceed six (6) months to fill an unexpected vacancy at a facility. Once a provisional license has been granted, the Department may not grant additional provisional licenses for the same facility within a one-year period of issuance.

(b) Provisional license applicants must meet all general licensure requirements outlined in OAC 310:679-10-2.1.

(c) A provisional license may be granted to a person who may not meet all training and testing requirements established by the Department, but who:

- (1) Has successfully completed a formal program(s) of study and holds a bachelor's degree;
- (2) Has documentation that a currently-licensed Oklahoma long-term care administrator, with a minimum of two (2) years experience as a licensed administrator in Oklahoma in the same facility type as the provisional licensee, will act as an on-site consultant to the provisional licensee;
- (3) Has provided documentation showing at least two (2) years experience in a long-term care facility;
- (4) Has received a passing score on the current applicable Oklahoma State Standards examination;
- (5) Has submitted a correctly completed application; and
- (6) Paid the applicable application fee.

(d) A provisional license shall not be issued to a current AIT unless the applicant previously passed the NAB NHA exam.

(e) The consultant administrator to a provisional licensee shall:

- (1) Provide direct supervision of the provisional licensee for at least eight (8) hours per week with no more than 10 calendar days lapsing between consultant visits to the provisional licensee's facility;
- (2) Alert the Department within 3 days if the provisional licensee is unable to fulfill the administrator requirements; and
- (3) Notify the Department if they are no longer able to provide supervision to the provisional licensee.

[Source: Transferred from 490:10-1-5 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-5.1. Requirements for a provisional license as a residential care administrator [REVOKED]

[Source: Transferred from 490:10-1-5.1 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-5.2. Requirements for a provisional license as an adult day care administrator [REVOKED]

[Source: Transferred from 490:10-1-5.2 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-6. Restoration of a suspended license or certificate

A suspended license or certificate may be restored once all conditions for restoration have been met.

[Source: Transferred from 490:10-1-11 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 3. APPLICATION FOR LONG-TERM CARE ADMINISTRATOR LICENSURE

310:679-10-10. Application timeline

(a) Applicants will have twenty-four (24) months to complete all licensure requirements.

(b) Reciprocity applicants will have one year to complete any licensure or certification requirements to qualify for endorsement.

[Source: Transferred from 490:10-3-1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-11. Documentation requirements

(a) If submitting documentation for long-term care work history, the applicant must submit a letter, signed by a licensed long-term care administrator, medical director, director of nursing, or registered nurse on company letterhead attesting to the applicant's long-term care work history.

(b) A signed affidavit of lawful presence must be submitted with each application.

(c) For bachelor's or associate's degree documentation, an official copy of the transcript is required.

[Source: Transferred from 490:10-3-1.1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-12. National examinations

- (a) The NAB Core examination consists of questions related to the Domains of Practice and is relevant to all licensed administrators. It is required for all long-term care administrator applicants.
- (b) The Line of Service module examination is required for certain license types and contains questions related to the Domains of Practice specific to a line of service.
- (c) HSE applicants as well as reciprocity applicants who provide evidence of a previous passing score and meet all other reciprocity requirements will be exempt from taking NAB tests prior to the issuance of a license.
- (d) Provisional license applicants will not be required to pass the NAB examination before becoming provisionally licensed, if all other provisional licensure requirements are met.
- (e) Fees for all national examinations are prescribed by and payable to the NAB or its authorized designee.

[Source: Transferred from 490:10-3-2 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-13. Required examinations

- (a) Applicants must pass the applicable State Standards examination prior to a license being issued. Each license type requires a specific State Standards examination. Applicants for licensure by reciprocity, applicants for a provisional license and applicants for initial licensure who have previously held an Oklahoma long-term care administrator license must pass the current, applicable State Standards examination.
- (b) The application must be complete and correct before the applicant may begin training or being granted approval to take the applicable examination(s).
- (c) The Department will publish dates and times for testing on the Department website. Applicants may take the exam at a Department-designated location or through a testing center if the examinations are administered through the same methods and procedures as the NAB examinations.
- (d) A passing score for all State Standards examinations is Seventy-Five percent (75%) or greater.
- (e) Fees for the State Standards examination administered by the Department shall be in an amount prescribed by the Department. All examination fees must be paid prior to examination.

[Source: Transferred from 490:10-3-3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-14. Confidentiality of examinations

Applicants shall not disclose any information, questions, or answers from licensure examinations.

[Source: Transferred from 490:10-3-4 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-15. Renewal requirements

(a) The renewal applicant shall submit an application with the following information and supporting documentation:

- (1) Updated contact information;
- (2) Current location where operating as an administrator;
- (3) If applicable, a list of interns to whom they have served as a preceptor with dates; and
- (4) An affidavit of lawful presence.

(b) The renewal applicant shall submit the required fee at the time of renewal.

[Source: Transferred from 490:10-3-5 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-16. Provisional licensure term

A provisional license shall expire six (6) months from the effective date of the provisional license. Provisional licenses are non-renewable.

[Source: Transferred from 490:10-3-6 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 5. DISCIPLINE

310:679-10-20. Disciplinary action

(a) The following reasons may disqualify an initial or renewal applicant from licensure or certification and could result in enforcement by the Commissioner of Health:

- (1) Obtaining or attempting to obtain a license, registration or certificate by fraud, deceit, or misrepresentation; or misrepresenting oneself as holding a license or certification when they do not.
- (2) Conviction of or a plea of guilty or *nolo contendere* to any felony or to any misdemeanor involving moral turpitude, or any barrier offense as outlined in this chapter.
- (3) Use of legally-prescribed or illegal drugs (narcotics or other dangerous drugs) or alcohol or the dependence on legally-prescribed drugs or illegal drugs or alcohol, or gambling, if such use or dependence, or such gambling, or the behaviors related to or resulting from such use or dependence compromise the individual's ability or capacity to fulfill his duties or responsibilities in the long-term care facility, or if the same constitute(s) a criminal offense.
- (4) Commitment to a mental institution or judicial determination of incompetence.
- (5) Gross negligence, or negligence that constitutes a danger to the health, welfare or safety of the residents or the public.
- (6) Physical or verbal abuse of a resident or misappropriation of a resident's funds or property; failure to report an allegation of physical or verbal abuse of a resident or misappropriation of a

resident's funds or property to appropriate state authorities as required by law.

(7) Fraudulent, deceptive or dishonest conduct in the management of a long-term care facility, or other conduct unbecoming to a person licensed or subject to licensure under this law when, in the judgment of the Department, such conduct is detrimental to the best interest of the long-term care field, the long-term care administrator profession and/or the public.

(8) Except as otherwise permitted in this Chapter, concurrently serving or acting as the administrator of more than one nursing facility or assisted living facility; or exceeding the conditions placed on administrators of ICF/IID facilities with 16 beds or less as stated in this Chapter; or otherwise serving as an administrator beyond the scope of their licensed authority.

(9) Failure to comply with State or federal requirements applicable to the facility.

(10) Failure to comply with rules and requirements for administrators established by the Department, including the Administrator Code of Ethics and Administrator Responsibilities adopted by the Department.

(11) Evidence that the administrator has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of long-term care facility patronage.

(12) Intentional retaliation or discrimination against any resident or employee for contacting or providing information to any State official, licensing agency or regulatory agency.

(13) Failure to provide verification of continuing education hours.

(14) Sexual abuse, sexual harassment, or sexual exploitation of any resident, employee, trainee, volunteer, consultant, or visitor to the facility in which the licensee practices.

(15) Falsification of any records or documents relating to the operation of a long-term care facility; falsification of records or documents submitted to the Department or any other state or federal agency; falsification of a resident's records, or causing a resident's records to be falsified.

(16) Use of the licensee's professional status, title, position, or relationship as a long-term care facility administrator to coerce, improperly influence, or obtain money, property, or services from a resident, resident's family member, employee, visitor, or any person served by or doing business with the facility that employs the administrator.

(17) Interfering with, refusing to participate in, or impeding any investigation, inspection, or disciplinary proceeding authorized by Statute.

(18) Violation of any disciplinary order, consent agreement, term of suspension, condition, stipulation, or any other limitation imposed on the licensee by the Department.

(19) Unlicensed practice, practice on a revoked, suspended, or lapsed license; or practice on a provisional license without the use

of an on-site consultant or practice as a Certified Assistant Administrator without the oversight of an Administrator-of-Record.

(20) Failure to pay fees or fines established or imposed by the Department.

(21) Knowingly aiding, assisting, or advising a person to unlawfully practice as an administrator without a required license.

(22) Failure to adequately supervise an assistant administrator and/or failure to assure that the assistant administrator complies with state and federal requirements applicable to the facility.

(23) Conduct that violates the security of any licensure examination materials.

(24) Coercion or harassment, or the attempt to coerce or harass, or the use of any other form of uninvited solicitation directed toward a resident of a long-term care facility or toward a member of the resident's family or the resident's guardian for the purpose of attempting to persuade the resident to change long-term care facilities.

(25) Failure to notify the Department of a change of name, business or personal mailing address(es), or change of employment within fifteen (15) calendar days of the occurrence.

(26) Coercion or harassment of, or the attempt to coerce or harass, a member of the Department, a Department employee or an authorized agent or representative of the Department as related to any matter or issue over which the Department has authority.

(27) Exclusion by the Department of Health and Human Services Office of Inspector General from participation in any capacity in the Medicare, Medicaid, and all Federal health care programs as defined in section 1128B(f) of the Social Security Act.

(b) If a Long-term Care Administrator violates any requirement in OAC 310:679, the Oklahoma Long-Term Care Administrators Act, or any other rule or law relevant to the duties and responsibilities of the Administrators, the Department may impose one or more of the following sanctions:

- (1) license or certificate revocation;
- (2) license or certificate suspension;
- (3) denial of application for license or certificate renewal;
- (4) assessment of an administrative penalty;
- (5) written letter of reprimand;
- (6) participation in continuing education;
- (7) probation;
- (8) denial of authorization to perform as a preceptor; or
- (9) revocation of preceptor authorization.

[Source: Transferred from 490:10-5-3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-21. Summary suspension

In the course of an investigation, the Department may order a summary suspension of an administrator's license or certification or an Administrator in Training (AIT) permit if, in the course of an investigation, it is determined that a license, certificate holder, or AIT candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm. The Department shall immediately notify the licensee, certificate holder, or AIT candidate upon issuance of the order. The licensee, certificate holder, or AIT candidate shall have the right to contest the order at a hearing as provided by law.

[Source: Transferred from 490:10-5-5 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 7. ADMINISTRATOR TRAINING REQUIREMENTS

310:679-10-25. General provisions

- (a) If a waiver is not granted according to specifications in this chapter, applicants are required to complete Department-approved trainings prior to being eligible for a license or certification. NAB-approved trainings may be taken at any time to satisfy the training requirement.
- (b) Internships are required for license types that require internships as outlined in this chapter and who have not been granted a waiver according to 679-10-3.

[Source: Transferred from 490:10-7-3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 8. ADMINISTRATOR IN TRAINING (AIT) INTERNSHIP PROGRAM FOR LONG-TERM CARE ADMINISTRATORS AND CERTIFIED ASSISTANT ADMINISTRATORS

310:679-10-29. Application requirements

- (a) An application shall be submitted to the Department, containing the following information and documentation:
 - (1) Name;
 - (2) Contact Information;
 - (3) Educational history as required by license type;
 - (4) Signed letter outlining applicable work history if required by license type; and
 - (5) Affidavit of Lawful Presence.
- (b) A background check will be completed on all applicants.
- (c) A fee as prescribed by the Department shall be submitted with the application.

(d) An applicant will have twenty-four (24) months to complete the required training and internship. A one-time extension may be granted by petitioning the Department if the applicant submits a formal request outlining the reasons for the delay. The Department has discretion to approve or deny extension requests and will notify the applicant of the decision.

[Source: Transferred from 490:10-8-2 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-30. Required internship

(a) Internship permits may be granted to applicants who have been approved by facilities which are:

- (1) licensed by the Oklahoma State Department of Health as a long-term care facility; and
- (2) in substantial compliance with the rules and regulations governing licensure and operation of long-term care facilities.

(b) Interns must submit all required documentation to the Department.

[Source: Transferred from 490:10-8-3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-31. Identification of preceptor

(a) Applicants are required to submit information on a proposed preceptor for review by the Department.

(b) Applicants must submit required documentation for their selected preceptor to include:

- (1) Name of preceptor;
- (2) License number of preceptor;
- (3) Name of the facility where the preceptor is an administrator;
- (4) Address of facility where the preceptor is an administrator;
- (5) Phone number of preceptor;
- (6) Email address of preceptor; and
- (7) Signature of the preceptor on preceptor attestation form.

(c) If a change in preceptor becomes necessary after the start of an internship, interns are required to notify the Department. Any new preceptor must be Department-approved.

(d) Preceptors who discontinue any internship must provide the Department and the intern with the following information within 30 days of the discontinuation of the preceptorship:

- (1) the number of internship hours the intern has completed; and
- (2) the Domains of Practice that have been covered during the internship.

(e) Applicants may access a list of authorized preceptors from the Department website if they do not have a preceptor identified.

[Source: Transferred from 490:10-8-4 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-32. Preceptor qualifications

(a) A licensed administrator interested in being a preceptor for an administrator intern must:

- (1) Hold a current Oklahoma administrator license;
- (2) Have been operating as a licensed administrator for the twenty-four (24) months immediately preceding the internship or thirty-six (36) of the last sixty (60) months;
- (3) Be currently working as an administrator in a licensed Oklahoma facility;
- (4) Have not had an enforcement action against their license by the Department in the thirty-six (36) months immediately prior to the start of the internship; and
- (5) Is not currently subject to disciplinary or enforcement action in another state.

(b) A licensed administrator interested in becoming a preceptor, must fill out all required information on the preceptor section of the renewal application.

(c) Authorization to serve as a preceptor may be revoked by the Department

[Source: Transferred from 490:10-8-5 by HB 2824 (2023), eff 11-1-23]; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-33. Preceptor requirements

To be designated as a preceptor for an intern, a licensed long-term care administrator must:

- (1) be the full-time administrator-of-record of the facility where the internship will take place, , OR be a licensed administrator and the direct supervisor of the administrators(s)-of-record at the facility(s) where the internship will take place ;
- (2) agree to give the intern an opportunity to observe and take part in the managerial tasks associated with the operation of a facility, acquaint the intern with the organization and operation of all the various departments of the facility by permitting the intern to observe and participate in department activities which align with the intern's Department-approved training program;
- (3) regularly meet with the intern to discuss progress to date, potential refinements to hours spent in each module/domain of practice (in preparation for the NAB NHA exam), and review the interns strengths and weaknesses; and
- (4) complete the Department-required attestation form once the intern has satisfactorily completed all internship hours.

[Source: Transferred from 490:10-8-5.1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-34. Individualized internship requirements

(a) The preceptor, in conjunction with the intern, will assess and evaluate the intern's background, training and experience to determine specific areas of concentration within the domains of practice and departmental rotations.

(b) The preceptor will keep track of the training for each NAB training module and provide written documentation upon request by the Department.

[Source: Transferred from 490:10-8-6 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-35. Documentation of internship requirements

(a) The preceptor will document the intern's progress through each NAB module of training.

(b) NAB module completion will be documented on the checklist submitted by the preceptor to the Department and that accompanies the final preceptor intern review form.

[Source: Transferred from 490:10-8-7 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-36. Preceptor CEUs

(a) Preceptors for nursing home interns may be awarded:

- (1) 3 CEUs for every 560 hours completed; or
- (2) 4 CEUs per each 700 hour trainee completed; and
- (3) Up to 12 CEUs per calendar year (credited for a maximum of 3 students in any one calendar year.

(b) CEU credit is awarded for the year the training was completed.

[Source: Transferred from 490:10-8-8 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-37. Preceptor's checklist

(a) The preceptor will maintain a current program completion checklist in the facility on the intern on a form approved by the Department to be reviewed by the Department upon request.

(b) The program completion checklist will be submitted to the Department with the final evaluation form.

[Source: Transferred from 490:10-8-9 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-38. Preceptor concerns

If disciplinary or enforcement action is taken against an administrator serving as a preceptor , the Department shall determine if there is a need to reassign the intern to a different preceptor.

[Source: Transferred from 490:10-8-10 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-39. Intern concerns

When a preceptor has concerns about an intern's ability to complete the internship requirements or ethical concerns that may affect the intern's ability to become a licensed administrator, the preceptor must notify the Department within ten (10) days.

[Source: Transferred from 490:10-8-11 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-40. Compensation for interns

The facility or facilities may compensate an intern, but is/are not required to do so. The Department does not regulate compensation agreements on behalf of the intern or the preceptor.

[Source: Transferred from 490:10-8-12 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-41. Internship requirements

- (a) Tier 1 administrator applicants must complete at least a 1,000 hour internship with a Department-approved preceptor.
- (b) Tier 2 administrator applicants must complete at least a 500 hour internship with a Department-approved preceptor.
- (c) CAA applicants must complete at least a 500 hour internship with a Department-approved preceptor.
- (d) Applicants have twenty-four (24) months to complete the required internship and cannot complete greater than 40 internship hours per week.
- (e) Applicants completing an internship who are called to active military duty may request stoppage on the twenty-four (24) month timeline. The Department may halt the timeline for military members called to active duty if the pause in the timeline is not likely to impede the applicant's ability to perform the required administrator duties once they are a licensed administrator.
- (f) An applicant may apply for a one-time extension for the twenty-four (24) month timeline. Approval is at the discretion of the Department.
- (g) The internship must be completed in a facility or facilities licensed in Oklahoma for the level of care equivalent to the license or certification being sought.

[Source: Transferred from 490:10-8-13 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-42. Internship exemption

The Department may waive the internship requirement, wholly or in part, for applicants who have provided documentation demonstrating the successful completion of a formal internship program that meets or exceeds Department requirements, such as in another state or in a NAB accredited long-term care degree program.

[Source: Transferred from 490:10-8-14 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-43. Refusal to approve or renew preceptor or intern assignment

The Department may withdraw preceptor approval or disapprove the preceptor selection of an intern. .

[Source: Transferred from 490:10-8-16 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-44. Maximum preceptor oversight

A preceptor may not oversee more than two (2) interns at a time.

[Source: Transferred from 490:10-8-17 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 10. STANDARDS FOR ADMINISTRATORS

310:679-10-50. Administrator Ethics

(a) Long-term care administrators and AITs are encouraged to participate in a professional association. CEUs may be approved when offered by a professional organization related to the field of licensure.

(b) Ethical standards such as those found in the American College of Health Care Administrators Code of Ethics shall be used as a minimum threshold for ethical standards.

(c) Licensed administrators must report any unethical conduct to the appropriate licensure boards.

(d) Licensed administrators have a fiduciary duty to the facility and cannot serve as a guardian of the person or the estate, or hold durable power of attorney for any resident of a facility of which they are an administrator.

(e) Administrators must post their license or certificate in a conspicuous location where it is easily visible by residents, clients, family members, and guardians.

[Source: Transferred from 490:10-13-1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-51. Administrator responsibilities

(a) The long-term care administrator will manage the planning, organization, direction, and control of the day-to-day functions of the facility in which they are the licensed administrator. The administrator must comply with laws, rules, and regulations related to the management of the facility.

(b) Long-term care administrators licensed by the Department shall not concurrently serve as the administrator-of-record (AOR) of more than one

long-term care facility except as otherwise permitted in this Chapter. A licensed long-term care administrator may serve as the administrator of more than one intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16), only if such facilities are located within a circle that has a radius of not more than fifteen (15) miles, and the total number of facilities and beds does not exceed the lesser of six (6) facilities or total licensed capacity of sixty-four (64) beds. A Long-Term Care Administrator may not concurrently serve as the Director of Nursing (DON) of a facility while serving as the facility's AOR.

(c) Tier 2 RCAL Administrators are limited to serving concurrently as AOR of two (2) Assisted Living Facilities. The facilities must be located within sixty (60) miles of each other and have less than one hundred and thirty (130) occupied beds.

(d) Tier 1 Administrators may concurrently serve as the AOR of a SNF/NF and one other facility (Assisted Living, Residential Care or Adult Day Care) if the two facilities have the same owner, the facilities are within 15 miles, and the number of occupied beds (or occupied beds and participants) does not exceed 130.

(e) Every licensed or certified administrator and assistant administrator designated as the "Administrator-of-Record" (AOR) shall display the license or certificate in a conspicuous place.

(f) Licensed/certified administrators shall update their information with the Department within fifteen (15) calendar days for each of the following:

- (1) Name change;
- (2) Business address change;
- (3) Personal address change;
- (4) Change in employment status; and/or
- (5) Change of employer.

(g) Legal proof of a name change will be required prior to a replacement document being issued with the new name.

(h) Administrators may not contact any individual currently residing in a long-term care facility, or the family or guardian of an individual currently residing in a long-term care facility, for the purpose of persuading a move by the resident to another long-term care facility.

(i) An administrator shall not engage in or allow an employee to engage in the coercion or harassment to solicit clients for a long-term care facility.

(j) Administrators and administrator applicants must:

- (1) Respond to requests for information made by the Department, other governmental agencies with authority, or a designated representative thereof;
- (2) Be truthful in all responses to inquiries by the Department, other governmental agencies with authority, or a designated representative thereof; and
- (3) Disclose all facts and information necessary for all matters under investigation.

(k) All administrators and CAAs must register with the NAB CE Registry.

[Source: Transferred from 490:10-13-2 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-52. Serving as the Administrator-of-Record for two (2) or more licensed long-term care (nursing) facilities employing Certified Assistant Administrators

(a) The Administrator-of-Record must ensure all minimum requirements for individuals wishing to serve as a Certified Assistant Administrator (CAA) in this rule and the Nursing Home Care Act (see Title 63, Section 1-1943.1) are met prior to the delegation of duties and responsibilities to the CAA.

(b) The Administrator-of-Record shall delegate authority and responsibility to the CAA for all operational aspects of the facility for which they will be responsible.

(c) The Administrator-of-Record shall maintain a clear formal job description for the CAA, which will include duties and responsibilities.

(d) The Administrator-of-Record shall provide supervision, training and direction, and delegate duties and responsibilities which may safely be performed by the CAA.

(e) The licensed Administrator-of-Record, is legally responsible for the management and operation of the facility and shall maintain sufficient on-site presence in the facility to effectively supervise the CAA.

(f) The Administrator-of-Record shall ensure the CAA does not concurrently serve as CAA of more than one (1) long-term care facility.

(g) The Administrator-of-Record shall spend at least ten (10) hours per calendar week on-site in the facility, providing guidance and direction to the CAA. On-site supervisory visits shall not be more than ten (10) calendar days apart.

(h) Residents and their family members or guardian must be provided a policy on who can be called when the Administrator of Record is absent from the facility. At a minimum, the policy should include when and how this contact can be made.

(i) The Administrator-of-Record may not delegate any responsibilities or duties required by State or Federal law, statute, rule or regulation that are required to be performed by a licensed Administrator.

(j) The Administrator of Record must not allow individuals to serve as a CAA if:

- (1) They hold a license or certificate that has been suspended, revoked, or otherwise restricted by the Department; and/or
- (2) The license or certificate holder has been sanctioned or formally excluded from participation in federally-funded health programs by the U.S. Department of Health and Human Services (DHHS) or the Office of Inspector General (OIG).

(k) The Administrator-of-record shall ensure that no individual serves as a CAA if the facility at which the Assistant Administrator is to serve is not one of two-or-more facilities at which the Administrator serves as the Administrator-of-Record, that have a total bed complement not to exceed one-hundred-twenty (120) occupied beds and that are located with a fifty (50) mile radius of each other.

SUBCHAPTER 15. LONG-TERM CARE CERTIFIED ASSISTANT ADMINISTRATORS

PART 1. CERTIFICATION OF LONG-TERM CARE ASSISTANT ADMINISTRATORS

310:679-15-1. Purpose [REVOKED]

[Source: Transferred from 490:10-15-1 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-15-2. Definitions [REVOKED]

[Source: Transferred from 490:10-15-2 by HB 2824 (2023), eff 11-1-23]; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-15-3. Minimum qualifications for a Certified Assistant Administrator (CAA)

In addition to the general requirements for administrators , each applicant seeking certification as a CAA must provide evidence satisfactory to the Department to include:

- (1) High school diploma or G.E.D.;
- (2) Successful completion of Department-approved training, within 24 months prior to certification;
- (3) A passing score on the applicable Oklahoma State Standards examination;
- (4) A passing score on the NAB Core examination ; and
 - (A) One (1) year of current management, leadership or supervisory experience in a long-term care facility; OR
 - (B) Completion of a Department-approved Administrator in Training (AIT) program.

[Source: Transferred from 490:10-15-3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-15-3.1. Evidence requirements

To satisfy the requirement for evidence indicating experience, the CAA applicant may submit a declaration in the form of a letter on company letterhead, signed by a licensed administrator, medical director, director of nursing, or registered nurse of a long-term care facility attesting to the number of employees and length of time the applicant supervised.

[Source: Transferred from 490:10-15-3.1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-15-4. Certified Assistant Administrator Scope of Practice

(a) A Certified Assistant Administrator (CAA) under the supervision and direction of a licensed Administrator-of-Record may have the responsibility to plan, organize, direct, and control day-to-day functions of a facility delegated to him and to maintain the facility's compliance with applicable laws, rules, and regulations during the absence of the licensed administrator.

(b)

A CAA:

- (1) May serve at only one (1) nursing facility at a time;
- (2) Must spend at least 80% of working time on-site at the facility;
- (3) Must equitably distribute on-site time throughout each calendar week at the facility;
- (4) Place emphasis on weekdays, Monday through Friday, between 9:00 a.m. and 5:00 p.m. for on- site hours.

[Source: Transferred from 490:10-15-4 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 3. APPLICATION FOR CERTIFICATION AND REQUIREMENTS FOR CONTINUED ELIGIBILITY

310:679-15-8. Application process

CAA applicants must complete required training, fill out the online application completely and correctly, upload required documentation, and pay the applicable application fee.

[Source: Transferred from 490:15-3-1 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-15-9. Approval process [REVOKED]

[Source: Transferred from 490:15-3-2 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-15-10. Requirements for certified assistant administrators

(a) A certified assistant administrator is required to renew their certification annually during the annual renewal period

(b) CAAs who are not working as certified assistant administrators must complete the minimum annual CEU requirements to remain qualified and to renew their certification.

[Source: Transferred from 490:15-3-3 by HB 2824 (2023), eff 11-1-23; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

CHAPTER 680. RESIDENTIAL CARE HOMES

[Authority: 63 O.S., §§ 1-104 and 1-819 et seq.]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:680-1-1. Purpose

These Standards and Regulations are promulgated as provided for by the Residential Care Act, 63 O.S. Section 1-820 through 1-840 to establish the minimum criteria for the issuance or renewal of a residential care home license. In addition, these standards and regulations provide the criteria which will be used in enforcing the provision of the Act as necessary to protect the health, safety and welfare of the residents and to assure respect for their rights, dignity and comfort.

310:680-1-2. Definitions

When used in this Chapter the following words or terms shall have the following meaning unless the context of the sentence requires another meaning.

"Abuse" means any intentional or negligent act or omission, directly and proximately resulting in physical or mental injury to a resident of a facility.

"Access" means the right of a person to enter a home to communicate privately and without unreasonable restriction.

"Administration" means the removing of a single dose of medication from a labeled container and preparing that dose for distribution.

"Administrator" means the person who is in charge of a home and denotes one-third (1/3) of his/her full working time to on-the-job supervision of such home.

"Ambulatory" means any resident who is capable of self-movement, including in and out of wheelchairs, to all areas of the home.

"Department" means the State Department of Health.

"Dispensing" means transferring one or more doses of medication from one labeled container to another labeled container.

"Habilitation" means procedures and interventions designed to assist a mentally ill, drug dependent or alcohol-dependent person eighteen (18) years of age or older to achieve greater physical, mental and social development by enhancing the well-being of the person and teaching skills which increase the possibility that the resident will make progressively independent and responsible decisions about social behavior, quality of life, job satisfaction and personal relationships.

"Home" means residential care home.

"Institution of higher learning" means an institution which provides post-secondary school programs.

"Licensee" means a person, corporation, partnership, or association who is the owner of a home which is licensed pursuant to the

provisions of the Residential Care Act.

"Maintenance" means meals, shelter, and laundry services.

"Medication" means a prescription drug or an over-the-counter drug prescribed by a person licensed to prescribe.

"Monitor" means watch, observe, check and keep track of for a special purpose.

"Neglect" means any act of omission or commission by any owner, operator, administrator, licensee or any agent, servant, employee or other person under the employment, supervision or control of any one or more of the owners, operators or administrators, and which act is a direct and proximate cause of any physical or mental injury to a resident.

"Owner" means a person, corporation, partnership, association or other entity which owns a home or leases a home. The person or entity who stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the homes.

"Personal care" means 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 who is capable of maintaining a private, independent residence, or who is incapable of managing his person whether or not a guardian has been appointed for such person.

"Representative of a resident" means a court-appointed guardian, or if there is no court-appointed guardian, the parent of a minor, a relative or other person designated in writing by the resident. An owner, agent, or employee of a home shall not be a representative of a resident unless such person is appointed by the court.

"Residential Care Home" means

(A) Any establishment or institution other than a hotel motel, fraternity or sorority house, or college or university dormitory which offers or provides residential accommodations, food service and supportive assistance to any of its residents or houses any resident requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care.

(B) Transitional Living facility and halfway houses are defined in section 3-403 of Title 43A of Oklahoma Statutes.

(C) A residential care home may consist of a series of units or buildings which are not connected or part of the same structure if:

(i) Such buildings or units are owned by the same owner or operator.

(ii) All residents of the units or buildings are fully capable of ambulation to and from buildings or units.

(iii) The location and construction of the building or units ensure the health, safety and protection from fire hazards and other hazards and provide for the convenience and accessibility of the residents to

each residential building or unit.

(iv) Any out-of-doors premise or thoroughfare is adequately maintained to ensure the health and safety of the residents.

(v) The building or units are within one hundred seventy-five (175) feet of the building housing the main kitchen and dining room.

(vi) The units or buildings must be located in the most convenient and accessible location for residents.

"Residential Care Certification" means a program in a residential care home certified by and contracted with the Department of Mental Health to provide specialized services to residents who are mentally ill.

"Self-administration" means the administration of resident's medication by the resident with periodic staff review.

"Supportive assistance" means the service rendered to any person which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. The term "supportive assistance" shall not be interpreted or applied so as to prohibit the participation of residents in housekeeping or meal preparation tasks as a part of the written treatment plan for the training, habilitation or rehabilitation of the resident prepared with the participation of the resident, the mental health or drug or alcohol services case manager assigned to the resident and the administrator of the facility, or his designee. Supportive assistance shall not include medical service.

"Transfer" means a change in location of living arrangements of a resident from one home to another home.

[Source: Amended at 18 Ok Reg 2550, eff 6-25-01]

310:680-1-3. Purpose, authority and indoor tobacco smoke

(a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]

(b) The Commissioner of Health has conducted a study and is recommending these measures to the Board of Health under his authority as stated in section 1-106 of the Public Health Code. [63 O.S. § 1-106] The Board has the authority to establish prevention programs for non-communicable disease and to promulgate rules for the control of causative or toxic substances, which can cause disease under section 1-

502b of the Public Health Code. [63 O.S. § 1-502b] The Board is adopting this rule under its authority in sections 1-104 and 1-1526 of Title 63 of the Oklahoma Statutes. [63 O.S. §§ 1-104 & 1-1526]

(c) Smoking or possessing a lighted tobacco product is prohibited in a home and within fifteen (15) feet of each entrance to a home and of any air intakes; provided however, the home may provide a smoking room not available to the public for use by residents.

(d) An indoor smoking room may be provided if:

(1) It is completely enclosed;

(2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;

(3) It allows for visual observation of the residents from outside of the smoking room; and

(4) The plans are reviewed and approved by the Department.

(e) To enable better observation and supervision of residents who wish to smoke outside, a facility may designate a smoking area outside an entrance other than the main entrance which may be closer than fifteen (15) feet to the entrance providing consideration is given to minimizing the possibility of smoke entering the building.

(f) The walkway to the main entrance shall also be smoke free.

(g) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room or a designated outdoor smoking area under paragraph "c" above.

(h) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.

(i) The facility's tobacco use policy shall be clearly posted near the main entrance, and prospective residents or their legal representatives shall be notified of the policy prior to the residents' acceptance for admission.

[Source: Added at 19 Ok Reg 2119, eff 7-1-02]

SUBCHAPTER 3. LICENSURE REQUIREMENTS

310:680-3-1. License required

(a) It shall be unlawful for any person or organization to operate a residential care home without first obtaining a license from the Oklahoma State Department of Health.

(b) All licenses shall be on a form prescribed by the Commissioner of Health. The license may be issued only for the premises named in the license application and shall not be transferable or assignable.

310:680-3-2. Licenses

(a) **Regular license.** A regular license is valid for 36 months from date of issue. A license may be issued upon receipt of completed application, payment of license fee, and verification by the Department that the home is in compliance with this Chapter and the Act. A nonrefundable \$75 fee must be included with a regular license application. [63 O.S. § 1-822(A)]

(b) **Renewal license.** *Renewal licenses may be issued for a period of more than twenty-four (24) months, but not more than thirty-six (36) months, for the license period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates.*

[63 O.S. § 1-822(A)] Thereafter, all renewal licenses will be for 36 months. A nonrefundable fee of \$25 per year for the renewal license must be included with the renewal application. [63 O.S. § 1-822(A)].

(c) **Probationary license.** Before an applicant is eligible to apply for a regular license, it must first apply and receive a probationary license. A probationary license shall be valid for one hundred twenty (120) days unless sooner suspended or revoked by the Department. A nonrefundable \$50 fee must be included with a probationary license application. [63 O.S. § 1-822(A)]. Prior to issuance of a probationary license, the Department shall:

(1) Ascertain whether or not the applicant is qualified to be licensed.

(2) Inspect the home and inform the applicant of any condition which requires correction prior to issuance of a license. If the home is a new home, the Department shall also inform the applicant of any conditions which require correction prior to acceptance of residents into the home.

(3) If the home is an existing home whose ownership is being transferred, the probationary license issued to the transferee, in addition to any corrections required as a result of the inspection, shall be subject to any plan of correction submitted by the previous owner and approved by the Department.

(d) **Conditional license.**

(1) If the Department finds that a residential care home is in violation of the Residential Care Act or this Chapter, then it may revoke the residential care home's regular license and issue it a conditional license. There is no fee associated with this change in license status.

(2) Prior to the issuance of a conditional license, the Department shall review and approve a written plan of correction. The Department shall specify the violations which prevent full licensure and shall establish a time schedule for correction of the violation. Written notice of the decision to issue a conditional license shall be sent to the residential care home, together with the proposed plan of correction. The notice shall inform the home of the right to an informal conference prior to issuance of the conditional license, and its right to a full hearing.

(3) A conditional license shall be issued for a period specified by the Department, but in no event for more than one (1) year.

(4) The Department shall periodically, but not less than semiannually, inspect any home operating under a conditional license. If the Department finds substantial failure by the residential care home to follow the plan of correction, the conditional license may be revoked.

(5) If the Department determines that a conditional license shall expire without renewal or replacement of the conditional license by a regular license, the Department shall notify the licensee at

least thirty (30) days prior to expiration of the license. The licensee is entitled to a hearing if requested prior to expiration of the conditional license.

[Source: Amended at 39 Ok Reg 1394, eff 9-11-22]

310:680-3-3. Applications

(a) An applicant for probationary license, regular license or renewal thereof to operate a residential care home shall submit to the Department a completed application along with the appropriate fee, and documents required by the Commissioner to determine that the applicant is of reputable and responsible character and otherwise demonstrates the skill and fitness to provide the necessary services. In addition, the applicant shall have appropriate business or professional experience in dealing with the type of residents in the home.

(b) A license fee of twenty dollars (\$20.00) shall accompany any application for modification of a license.

(c) An application for license, or renewal, shall include a copy of all agreements with the professional consultants utilized by the home.

(d) An application for an initial license to operate a residential care home shall include documentation that the State Fire Marshal or the State Fire Marshal's representative has inspected and approved the home. Each application for renewal of a license for a residential care home with more than six beds shall include documentation of annual inspection and approval by the State Fire Marshal or the State Fire Marshal's representative.

(e) The following items must be renewed annually:

(1) An agreement with a physician, physician assistant or advanced practice registered nurse to provide clinical consultation.

(2) Agreements with registered nurse, registered dietitian, and registered pharmacist, as required based on the needs of the residents.

(3) Licensed plumber or building inspector's report.

(4) Licensed electrician or municipal inspector's report.

(f) *Each initial application shall be accompanied by a statement from the unit of local government having zoning jurisdiction over the location of the home stating that the location is not in violation of a zoning ordinance.* [63:1-822(C)]

(g) Each application shall be accompanied by an attested statement from the applicant assuring that the applicant complies with 63 O.S. Section 1-822(D). If the applicant is a firm, partnership or corporation, the application shall include an attested statement from each member of the firm or partnership and from each officer and major stockholder of the corporation.

[Source: Amended at 17 Ok Reg 2074, eff 6-12-00 ; Amended at 18 Ok Reg 2550, eff 6-25-01 ; Amended at 34 Ok Reg 1314, eff 10-1-17 ; Amended at 39 Ok Reg 1394, eff 9-11-22]

310:680-3-4. Inspections

- (a) Each residential care home shall be periodically inspected by a duly appointed representative of the Department.
- (b) The Department shall at least three times a year and whenever it deems necessary inspect, survey, and evaluate each home to determine compliance with applicable licensure and certification requirements and standards. The annual inspection shall occur within one hundred twenty (120) days prior to license renewal.
- (c) Any inspection, investigation, survey or evaluation may be conducted without prior notice to the home. At least one inspection per home shall be unannounced. Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to enter and inspect the home in accordance with the provisions of the Residential Care Act. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension, or revocation of a license.
- (d) A notice of violation shall be sent to any residential care home when violations are cited as a result of an inspection. The home has ten (10) days after receipt of the notice of violation in which to prepare and submit a plan of correction. The plan of correction shall include a fixed time period not in excess of thirty (30) calendar days, within which the violations are to be corrected. An additional thirty days may be requested and approved by the Department.

310:680-3-5. Sanctions

- (a) The Department may deny, refuse, suspend, or refuse to renew a license to a residential care home on the following grounds:
 - (1) Failure to meet the provisions of the standards, rules, or regulations for licensure or the provisions of the Residential Care Act.
 - (2) The residential care home has a history of noncompliance or incomplete or partial compliance with the provisions of the Residential Care Act, or the standards, rules, or regulations, or other evidence which demonstrates that the applicant or licensee is unlikely to manage or operate a home or to provide appropriate services to the residents of the home.
 - (3) The applicant has insufficient financial or other resources to the extent that the applicant or licensee is incapable of assuring or providing adequate services to the residents of the home.
 - (4) An applicant, licensee administrator or operator has been convicted of a misdemeanor or felony in connection with the management or operation of a home or facility, or the care and treatment of a resident of a residential care home or other long term care facility.
 - (5) The applicant or licensee has permitted, aided, or abetted the commission of an illegal act in connection with the management or operation of a home or the care of treatment of a resident of a home.
 - (6) Failure to make corrections of violations as required in a plan of correction submitted by the home.

(b) The Department may issue a conditional license to any residential care home that violations exist. The issuance of a conditional license shall revoke any license held by the home.

(c) The Department may initiate an emergency transfer of residents in any home where an immediate health or safety hazard exists.

(d) The Department may petition the court to place the home under the control of a receiver to ensure that the residents receive adequate care if the Commissioner determines that proper cause exists. Whatever steps necessary shall be taken to protect the health, welfare, and safety of the residents.

(e) Any person who has been determined by the Department to have violated any provisions of the Residential Care Act or any rule, regulation, or order issued pursuant to the provisions of the Residential Care Act may be liable for a civil penalty of not more than one hundred dollars (\$100.00) for each day that the violation continues. The maximum civil penalty shall be ten thousand dollars (\$10,000.00) for any related series of violations.

(f) The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Residential Care Act or any rule, regulation, or order issued pursuant to the Residential Care Act.

(g) Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Residential Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Residential Care Act may be brought by:

(1) the district attorney of the appropriate court of the State of Oklahoma.

(2) the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma; or

(3) the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

(h) The court has jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

[Source: Amended at 17 Ok Reg 2074, eff 6-12-00]

310:680-3-6. Records and reports

(a) Every residential care home shall conspicuously post in an area of its offices accessible to residents, employees, and visitors, the following:

(1) Its current license.

(2) The name of the current administrator and their license posted.

(3) A copy of Residents' Rights.

(4) Complaint procedure, established by the Nursing Home Care Act and provided by the Department which includes name, address, and telephone number of a person within the

Department who is authorized to receive complaints.

(5) A copy of any order pertaining to the home issued by the Department or a court, which is currently in effect.

(b) Every residential care home shall retain the following for public inspection:

(1) A complete copy of every inspection report of the residential care home received from the Department during the past three (3) years.

(2) A copy of every order pertaining to the residential care home issued by the Department or a court during the past three (3) years.

(3) A description of the services provided by the residential care home, the rates charged for those services, and items for which a resident may be separately charged.

(4) A copy of the statement of ownership.

(5) A list of personnel who are licensed, certified, or registered and employed or retained by the residential care home, including area in which individual is credentialed.

(c) Reports of communicable disease shall be made in accordance with 63 O.S. Section 1-501, et seq.

(d) The Department shall be notified of all incidents pertaining to fire, storm damage, death other than natural, residents missing, or utility failure for more than eight (8) hours. The home shall report to the Department incidents that result in: fractures, injury requiring treatment at a hospital, a physician's diagnosis of closed head injury or concussion, or head injuries that require more than first aid. Notice shall be made no later than the next working day. In lieu of making incident reports during an emergency response to a natural or man-made disaster, the home may coordinate its communications, status reports and assistance requests through the home's local emergency response coordinator, and file a final report with the Department within ten (10) days after conclusion of the emergency response.

(e) An evacuation plan shall be developed and permanently displayed in the hallways and sitting room. Fire drills shall be conducted at least quarterly.

(f) The home shall have a written plan for temporary living arrangements in case of fire, climatic conditions that warrant evacuation and/or other natural disasters that may render the home unsuitable.

[Source: Amended at 27 Ok Reg 2548, eff 7-25-10 ; Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-3-7. Resident records

(a) All current documents which relate to the residents must be kept in the residential care home. Other records may be kept in the central business office or other location, but must be made available upon request by the Department.

(b) Every resident record shall be written in ink and include as a minimum, the following information:

(1) Resident's name.

(2) Date of Birth.

- (3) Person to contact in case of emergency.
- (4) Written authorization for emergency medical/dental services signed by the resident or responsible party.
- (5) Medical summary to include quarterly weight of resident, medications, and dosages.
- (6) The name, address, and telephone numbers of resident's physician and dentist.
- (7) A record of the resident's illnesses, accidents, and unusual occurrence while a resident of the home.
- (8) The legal status of the resident.
- (9) An accounting of the resident's funds received and/or distributed by the residential care home.
- (c) All persons having access to the records shall strictly adhere to confidentiality of records.
- (d) Resident records shall be maintained in a lockable container or a specific lockable area.
- (e) Only individuals authorized by the residential care home shall have access to resident records.

310:680-3-8. Residents' council

- (a) Each residential care home shall establish a residents' advisory council. The administrator shall designate a member of the residential care home staff to coordinate the establishment of and render assistance to the council. No employee or affiliate of the home shall be a member of the council.
- (b) The council shall consist of not less than 10 people or 50% of the residents or residents' family.
- (c) The council shall meet at least monthly.
- (d) A staff member shall assist in preparing a report of each meeting and make a copy available to the residents, the administrator, and staff.
- (e) Reports of the council meetings shall be maintained in the home.
- (f) Names of all residents attending the meeting shall be recorded in the reports.
- (g) The residents' advisory council shall be a forum for:
 - (1) Obtaining and disseminating information.
 - (2) Soliciting and adopting recommendations for residential care home programming and improvements and to strengthen the home's policies and procedures as they affect residents' rights and home responsibilities.
 - (3) The residents' advisory council may present complaints on behalf of a resident to the Department.

310:680-3-9. Complaints

- (a) **Complaints to the residential care home.** The home shall make available to each resident or the resident's representative a copy of the home's complaint procedure. The home shall ensure that all employees comply with the home's complaint procedure. The home's complaint procedure shall include at least the following requirements.
 - (1) The home shall list in its procedures and shall require to be posted in a conspicuous place outside the administrator's office

area the following information:

(A) The names, addresses and telephone numbers of staff persons designated to receive complaints for the home;

(B) Notice that a good faith complaint made against the home shall not result in reprisal against the person making the complaint; and

(C) Notice that any person with a complaint is encouraged to attempt to resolve the complaint with the home's designated complaint staff, but that the person may submit a complaint to the Department without prior notice to the home.

(2) If a resident, resident's representative or home employee submits to the administrator or designated complaint staff a written complaint concerning resident abuse, neglect or misappropriation of resident's property, the home shall comply with the Protective Services for Vulnerable Adults Act, Title 43A O.S. Sections 10-101 through 10-110.

(b) Complaints to the Department. The following requirements apply to complaints filed with the Department.

(1) The Department shall provide to each home a notice identifying the telephone number and location of the Department's central call center to which complaints may be submitted. The home shall post such notice in a conspicuous place outside the administrator's office area.

(2) Any person may submit a complaint to the Department in writing, by phone, or personally. The Department shall reduce to writing a verbal complaint received by phone or in person.

(3) If the complainant is a resident, the resident's representative, or a current employee of the home, the Department shall keep the complainant's identity confidential. For other complaints, the Department shall ask the complainants preference regarding confidentiality.

(4) The Department shall receive and triage complaints at a central call center. The complaints shall be classified and investigated according to the following priorities:

(A) A complaint alleging a situation in which the home's noncompliance with state requirements relating to residential care homes has caused or is likely to cause serious injury, harm, impairment or death to a resident shall be classified as immediate jeopardy and shall be investigated by the Department within two (2) working days;

(B) A complaint alleging minimal harm or more than minimal harm to a resident but less than an immediate jeopardy situation shall be classified as actual harm and shall be investigated by the Department within ten (10) working days; and

(C) A complaint alleging other than immediate jeopardy or actual harm shall be scheduled for an onsite survey and investigated during the next onsite survey or sooner if deemed necessary by the Department; and

(D) A complaint alleging a violation that caused no actual harm but the potential for more than minimal harm to a resident, that repeats a violation cited by the Department within the preceding twelve (12) months, and that is alleged to have occurred after the Department determined the facility corrected the previous violation, shall be classified as continuing and investigated the earlier of the next onsite survey or ninety (90) calendar days.

(5) In addition to scheduling investigations as provided in paragraph (4) of this subsection, the Department shall take necessary immediate action to remedy a situation that alleges a violation of the Residential Care Act or any rules promulgated under authority of the Act if that situation represents a serious threat to the health, safety and welfare of a resident.

(6) In investigating complaints, the Department shall:

(A) Protect the identity of the complainant if a current or past resident or resident's representative or designated guardian or a current or past employee of the home by conforming to the following:

(i) The investigator shall select at least three (3) records for review, including the record of the resident identified in the complaint. The three records shall be selected based on residents with similar circumstances as detailed in the complaint if possible. All three (3) records shall be reviewed to determine whether the complaint is substantiated and if the alleged deficient practice exists; and

(ii) The investigator shall interview or observe at least three (3) residents during the home observation or tour, which will include the resident referenced in the complaint if identified and available in the home. If no resident is identified, then the observations used of the three residents shall be used to assist in either substantiating or refuting the complaint;

(B) Review surveys completed within the last survey cycle to identify tendencies or patterns of non-compliance by the home;

(C) Attempt to contact the State or Local Ombudsman and the complainant, if identified, prior to the survey; and

(D) Interview the complainant, the resident, if possible, and any potential witness, collateral resource or affected resident.

(7) The Department shall limit the complaint report to the formal report of complaint investigation. The formal report of complaint investigation shall be issued to the home and the complainant, if requested, within ten (10) business days after completion of the investigation. The formal report of investigation shall include at least the following:

(A) Nature of the allegation(s);

- (B) Written findings;
- (C) Deficiencies, if any, related to the complaint investigation;
- (D) Warning notice, if any;
- (E) Correction order, if any; and
- (F) Other relevant information.

[Source: Amended at 18 Ok Reg 2550, eff 6-25-01 ; Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-3-10. Abuse or neglect

- (a) The residential care home shall have a written policy statement that expressly prohibits the abuse or neglect of the individuals it serves. The policy shall include the home's investigative procedures and actions to be taken when incidents of abuse or neglect occur.
- (b) Any individual who becomes aware of abuse or neglect of a resident shall report the matter immediately to the Department and comply with other reporting requirements provided in O.S. Title 43A section 10-104.
- (c) The administrator of the residential care home who becomes aware of abuse or neglect of a resident shall immediately act to rectify the problem and shall make a report of the incident and its correction to the Department.
- (d) The residential care home shall provide staff training in the identification of abuse and neglect, and the home's policies and procedures concerning the same. Verification of the provision of the training shall be written, signed by staff attending, and retained in the personnel files.

310:680-3-11. Transfer of ownership

- (a) Whenever ownership of a residential care home is transferred from the person named in the application to another person or entity, who does not have a current license for the home, the transferee must obtain a probationary license.
- (b) The transferee shall notify the Department of the transfer and apply for a license no less than thirty days prior to final transfer.
- (c) The transferor shall notify the Department of the transfer no less than thirty (30) days prior to final transfer and shall remain responsible for the operation of the home until such time as a probationary license is issued to the transferee. The transferor shall remain liable for all penalties assessed which are imposed for violations occurring prior to transfer of ownership.

310:680-3-12. Voluntary closing

- (a) Any owner of a residential care home shall give ninety (90) days' notice to the residents and the Department prior to voluntarily closing a home or closing any part of a home if the closing will require the transfer or discharge of more than ten percent (10%) of the residents. The notice shall include the proposed date of closing and the reason for closing.
- (b) The home shall offer to assist the resident in securing alternate placement.

(c) The Department shall be notified if there is need for relocation assistance.

310:680-3-13. Temporary Managers

The provisions of OAC 310:675-15 shall apply to the qualification and selection of a temporary manager, except that the temporary manager shall be or employ a residential care home administrator.

[Source: Added at 18 Ok Reg 2550, eff 6-25-01]

310:680-3-14. Appropriate occupancy

The residents of a residential care home shall be ambulatory and essentially capable of participating in their own activities of daily living, but shall not routinely require nursing services [63 O.S. Section 1-820(a)]. The resident may receive nursing services that an individual otherwise may receive in their private home provided by an individual or agency qualified under state or federal law.

[Source: Added at 27 Ok Reg 2548, eff 7-25-10 ; Amended at 34 Ok Reg 1314, eff 10-1-17]

SUBCHAPTER 5. CONSTRUCTION REQUIREMENTS AND PHYSICAL PLANT

310:680-5-1. General criteria

Residential care homes must meet or exceed the following requirements:

- (1) Plans for construction or remodeling must be submitted to the Department for review and approval prior to the start of construction.
- (2) Mobile homes shall not be approved.
- (3) The residential care home shall be constructed or remodeled to provide an adequate living arrangement for residents.
- (4) On and after the effective date of this subsection, each residential care home that undergoes design changes or construction and each newly licensed residential care home shall be designed and constructed in conformity with requirements for accessibility to physically disabled persons as specified in Chapter 11 of the International Building Code, 2003 Edition, published by the International Code Council.
- (5) Any first-time residential care home shall have a minimum of fifty (50) square feet of outside yard space for each licensed bed up to 100 beds (5,000 sq. ft.) For each additional licensed bed, a minimum of twenty-five (25) square feet shall be provided.
- (6) A multiple building residential care home shall be considered as a unit and be subject to the provisions of these regulations as if the home was a single building. Each building of a multiple building unit shall be no more than 175 feet from the building housing the kitchen and dining room.

- (7) All first-time licensed homes shall have seating capacity at dining room tables for the number of licensed beds.
- (8) Each residential care home shall maintain sufficient equipment and furnishings to provide for the needs of all residents.
- (9) Each residential care home shall be maintained in good repair for operation and appearance.
- (10) Each residential care home shall be free from safety hazards.

[Source: Amended at 21 Ok Reg 2809, eff 7-12-04]

310:680-5-2. Plumbing and electrical systems

- (a) Electrical, heating, and plumbing facilities must be certified by a licensed plumber, licensed electrician, or municipal building inspector as being in good working order, of safe design and installation, and meet local code requirements.
- (b) Water shall be from a public water supply or meet the standards of a public water supply.
- (c) Fuel-fire and water heaters must be vented to the outside and have adequate combustion air. They shall not be installed in habitable areas and must be enclosed. Water heaters must have pressure and temperature relief valves. Water heaters and surrounding areas must be kept clean.

310:680-5-3. Heating, cooling and ventilating systems

- (a) Heating systems shall maintain temperatures of not less than 65° Fahrenheit and shall be operating efficiently and in good repair. Open faced, unvented combustion heaters and electrical heaters with exposed heating elements shall not be used.
- (b) Refrigerated air conditioning shall be provided to each resident's room. Refrigerated air conditioning units and vents shall be kept clean and in good repair.
- (c) Ventilation must be provided and the air shall be circulated to assure an environment that will not jeopardize the health and/or safety of the resident.
- (d) Maximum temperature in all areas occupied by residents shall not exceed 85° Fahrenheit, unless authorized or recommended by a physician.

[Source: Amended at 17 Ok Reg 425, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2074, eff 6-12-00]

310:680-5-4. Location

- (a) Each residential care home shall be conveniently located to the following services:
 - (1) Safe water supply that complies with rules and regulations adopted by the Board of Health.
 - (2) Sanitary sewage disposal system that complies with rules and regulations adopted by the Board of Health.
 - (3) Sanitary garbage disposal.
 - (4) Electrical services.

- (b) The residential care home shall be located in an area where the local fire department will respond to emergencies
- (c) The residential care home shall be located adjacent to an all-weather road.
- (d) The residential care home shall be located on property that meets the requirements of local zoning regulations. A letter of approval from the zoning authority shall be submitted to the Department.

310:680-5-5. Fire safety

Each residential care home shall provide documentation that the State Fire Marshal or the State Fire Marshal's representative has inspected and approved the home prior to issuance of an initial license. Each residential care home with more than six beds shall provide documentation of annual inspection and approval prior to issuance of a license renewal.

310:680-5-6. Building elements

- (a) Each residential care home shall have its address clearly visible from the street.
- (b) At least two (2) flashlights in working order shall be maintained for emergency lighting.
- (c) All doors and windows opening to the outside for ventilation shall be screened. Screens shall be well fitted and in good repair.
- (d) Adequate enclosed secure storage space shall be provided for items belonging to residents.
- (e) Each residential care home shall have one toilet facility for every six (6) residents. Toilet facility shall contain one (1) stool and one (1) lavatory.
- (f) Bathtubs or showers shall be provided at the rate of one (1) for each ten (10) residents.
- (g) Hot water temperatures at faucets accessible to residents shall be maintained within a range of 100° to 120° Fahrenheit.
- (h) Laundry equipment, if on premises, shall be housed in a safe, well-ventilated and clean area. Laundry equipment shall be kept clean and dryer shall be vented to outside.
- (i) Linen storage areas shall be provided and be clean and organized.
- (j) Cleaning supplies and equipment shall be stored in a separate, clean, and locked area.
- (k) Telephone service must be available within the building. Pay phones are not acceptable as the only telephone service.

[Source: Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-5-7. Resident rooms

- (a) Each resident shall be provided with clean, comfortable orderly, and reasonably private living accommodations.
- (b) Each resident's room shall have direct access to exits and other areas of the home without passing through another resident's room, the kitchen, laundry, or bathroom.

- (c) Each single resident room shall contain a minimum of 80 square feet of floor space.
- (d) Each resident room containing multiple beds shall provide a minimum of 60 square feet per bed.
- (e) Each resident room shall have at least one (1) outside operable window installed in a vertical wall which can be used as an emergency exit. However, if a home has a sprinkler system approved by the State Fire Marshall, it shall be exempt from the requirement of an outside operable window in each resident room useable as an emergency exit but shall be required to have a window. Minimum dimension of this window shall be 22 inches and the area shall be minimum of 5 square feet. Windows shall have adjustable coverings to provide privacy.
- (f) Each resident room shall have a full door which can be closed to provide privacy.
- (g) Male and female residents shall not be housed in the same or adjoining rooms which do not have a full floor-to-ceiling partition and door which can be locked, except immediate family may occupy the same room.
- (h) Each resident room shall have an electrical outlet.
- (i) Each resident room shall have a minimum of 20 foot candle power of lighting.
- (j) Unless the resident elects otherwise, each resident shall have a comfortable chair, a bedside table and a bureau or its equivalent for storing personal belongings.
- (k) When residents' personal furniture is used, it shall be clean and in good repair.
- (l) Each resident's bed shall have a comfortable mattress and bed linens which are clean and in good condition.
- (m) Clean towels and wash cloths shall be available to meet the needs of all residents. Towels and wash cloths shall be in good condition.

[Source: Amended at 9 Ok Reg 3123, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1677, eff 6-1-93 ; Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-5-8. Lounge area

A clean and comfortably furnished sitting room of adequate size shall be provided for residents. Furnishings shall be in good repair.

[Source: Amended at 19 Ok Reg 2119, eff 7-1-02]

310:680-5-9. Submission of plans and specifications and related requests for services

(a) **Submission of plans.** Before construction is begun, plans and specifications covering the construction of new buildings or major alterations to existing buildings shall be submitted to the Department for review as provided in OAC 310:680-5-10 or OAC 310:680-5-11.

(1) Plans and specifications are required for the following alterations:

- (A) Changes that affect path of egress;
- (B) Change of use or occupancy;
- (C) Repurposing of spaces;

- (D) Structural modifications;
- (E) Heating, ventilation and air conditioning (HVAC) modifications;
- (F) Electrical modifications that affect the essential electrical system;
- (G) Changes that require modification or relocation of fire alarm initiation or notification devices;
- (H) Changes that require modification or relocation of any portion of the automatic fire sprinkler system;
- (I) Replacement of fixed medical equipment if the alteration requires any work noted in (A) through (H) of this paragraph;
- (J) Replacement of or modifications to any required magnetic or radiation shielding;
- (K) Changes to or addition of any egress control devices or systems.

(2) Plans and specifications are not required for the following alterations:

- (A) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work provided that the new finishes shall meet the requirements of this Chapter;
- (B) Ordinary repairs and maintenance;
- (C) Modifications to nurse call or other signaling/communication/information technology systems provided the modifications meet the requirements of this Chapter; or
- (D) Replacement of fixed or moveable medical equipment that does not affect electrical, HVAC, or shielding requirements noted above.

(b) **Fees.** Each construction project submission shall be accompanied by the appropriate review fee based on the cost of design and construction of the project. Fees for plan and specification reviews and related Department services are as follows:

- (1) Design and construction plans and specifications fee: two one-hundredths percent (0.02%) of the cost of design and construction of the project, with a minimum fee of Fifty Dollars (\$50.00) and a maximum fee of One Thousand Dollars (\$1,000.00);
- (2) Request for exception or temporary waiver fee: Five Hundred Dollars (\$500.00);
- (3) Application for self-certification fee: Five Hundred Dollars (\$500.00);
- (4) Courtesy construction inspection fee: Five Hundred Dollars (\$500.00);
- (5) Professional consultation or technical assistance fee: Five Hundred Dollars (\$500.00) for each eight hours or major fraction thereof of staff time. For technical assistance requiring travel, the fee may be increased to include the Department's costs for travel.

(c) **Fees when greater than two (2) submittals required.** The fee for review of design and construction plans and specifications shall cover the cost of review for up to two (2) stage one and two (2) stage two submittals and one final inspection. If a stage one or stage two submittal

is not approved after two (2) submissions, another review fee shall be required with the third submittal. Fast-track projects shall be allowed two reviews for each package submitted. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project shall be required with the third submittal of the package.

(d) **Review process.** Design and construction plans and specifications shall be reviewed in accordance with the following process.

(1) Unless otherwise provided in this Subchapter, the Department shall have ten (10) calendar days in which to initially determine if the filed application is administratively complete

(A) Upon determining that the application is not administratively complete, the Department shall immediately notify the applicant in writing and shall indicate with reasonable specificity the inadequacies and measures necessary to complete the application. Such notification shall not require nor preclude further review of the application and further requests for specific information. If the Department fails to notify the applicant as specified in this Paragraph, the period for technical review shall begin at the close of the administrative completeness review period. Upon submission of correction of inadequacies, the Department shall have an additional ten (10) calendar days to review the application for completeness.

(B) Upon determination that the application is administratively complete, the Department shall immediately notify the applicant in writing. The period for technical review begins.

(2) The Department shall have forty-five (45) calendar days from the date a completed application is filed to review each application for technical compliance with the relevant regulations and reach a final determination.

(A) The time period for technical review is tolled (the clock stops) when the Department has asked for supplemental information and advised the applicant that the time period is tolled pending receipt.

(B) To make up for time lost in reviewing inadequate materials, a request for supplemental information may specify that up to 30 additional calendar days may be added to the deadline for technical review, unless the request for supplemental information is a second or later request that identifies new deficiencies not previously identified.

(C) Failure by an applicant to supplement an application within 90 calendar days after the request shall be deemed to be withdrawn unless the time is extended by agreement for good cause.

(D) Extensions may be made as provided by law.

310:680-5-10. Preparation of plans and specifications

(a) **Stage one.** Preliminary plans and outline specifications shall be submitted and include sufficient information for approval by the Department of the following: scope of project; project location; required fire-safety and exiting criteria; building-construction type, compartmentation showing fire and smoke barriers, bed count and services; the assignment of all spaces, areas, and rooms for each floor level, including the basement. A residential care home has the option, at its own risk, to bypass the stage one submittal and proceed directly to submittal of stage two documents.

(b) **Stage two.** A proposed construction document shall be submitted that includes final drawings and specifications adequate for proposed contract purposes. All final plans and specifications shall be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and shall be submitted timely.

(c) **Special submittals.**

(1) **Fast-track projects.** The fast track process applies only to stage two submittals. A stage one submittal and functional program must be approved before entering the fast track process.

(A) Equipment and built-in furnishings are to be identified in the stage one submittal.

(B) The residential care home has the option to submit two packages: civil, landscaping and structural in stage one, and the balance of the components in stage two.

(C) Fast-track projects shall have prior approval and be submitted in no more than four (4) separate packages.

(i) Site work, foundation, structural, underslab mechanical, electrical, plumbing work, and related specifications.

(ii) Complete architectural plans and specifications.

(iii) All mechanical, electrical, and plumbing plans and specifications.

(iv) Equipment and furnishings.

(2) **Radiation protection.** Any project that includes radiology or special imaging equipment used in medical diagnosis, treatment, and therapy of residents, shall include plans, specifications, and shielding criteria, prepared by a qualified medical physicist.

These plans shall be submitted and approved by the Department prior to installation of the equipment.

(d) **Floor plan scale.** Floor plans are to be submitted at a scale of one-eighth (1/8) inch equals one (1) foot, with additional clarifying documents as required.

(e) **Application form.** The submittal shall be made using a Department application form which requests information required by this Chapter and specifies the number of copies and format for document submittal.

310:680-5-11. Self-certification of plans

(a) The Department shall make available consultation and technical assistance services covering the requirements of this section to a residential care home considering self-certification of plans. The consultation and technical assistance is subject to the fees specified in OAC 310: 680-5-9, The consultation is optional and not a prerequisite for filing a request through the self-certification review process.

(b) The residential care home and the project architect or engineer may elect to request approval of design and construction plans through a self-certification review process. The residential care home and the project architect or engineer shall submit a self-certification request on a form provided by the Department, along with the review fee specified in OAC 310:680-5-9. The form shall be signed by the residential care home and the project architect or engineer attesting that the plans and specifications are based upon and comply with the requirements of this Chapter. The form shall require information necessary to demonstrate compliance with OAC 310:680-5-11(c).

(c) To be eligible for self-certification, projects must comply with the following requirements:

- (1) The project involves any portion of the residential care home where residents are intended to be examined or treated and the total cost of design and construction is two million five hundred thousand dollars (\$2,500,000) or less; or
- (2) The project involves only portions of the residential care home where residents are not intended to be examined or treated; and
- (3) The project architect or engineer attesting the application has held a license to practice architecture or engineering for at least five (5) years prior to the submittal of the application, is licensed to practice in Oklahoma; and
- (4) The residential care home owner/operator acknowledges that the Department retains the authority to:
 - (A) Perform audits of the self-certification review program and select projects at random for review;
 - (B) Review final construction documents;
 - (C) Conduct on-site inspections of the project;
 - (D) Withdraw approval based on the failure of the residential care home or project architect or engineer to comply with the requirements of this Chapter; and
- (5) The residential care home agrees to make changes required by the Department to bring the construction project into compliance with this Chapter.

(d) Within twenty-one (21) calendar days after receipt of a complete application, the Department shall approve or deny the application for self-certification and send notification to the residential care home. If the application is denied, the residential care home shall have thirty (30) calendar days to submit additional or supplemental information demonstrating that the application complies with the requirements for self-certification of plans and specifications. The Department shall have fourteen (14) calendar days after receipt of supplemental information to reconsider the initial denial and issue a final approval or denial of the

self-certification request.

(e) After denial of the application for self-certification and prior to the start of construction, the residential care home shall pay the applicable fee for plan review specified in OAC 310:680-5-9. Upon receipt of the plan review fee, the Department shall review the residential care home's plans in accordance with the process in OAC 310:680-5-9.

[Source: Added at 34 Ok Reg 1314, eff 10-1-17]

SUBCHAPTER 7. ENVIRONMENTAL HEALTH AND SANITARY REQUIREMENTS

310:680-7-1. Control of premises

The administrator shall have access to and authority over the entire premises. The person in charge shall be specifically designated in writing by the administrator and shall have authority to act in his/her absence and have access to the home's records if the owner or operator is not immediately available.

310:680-7-2. Premises (sanitation and cleanliness)

Surroundings shall be kept clean and neat and free from accumulated rubbish, weeds, ponded water or other characteristics of a similar nature which would have a tendency to create a health hazard.

310:680-7-3. Insect and rodent control

Methods shall be employed to prevent the entrance and harborage of insects, spiders, and rodents. Homes shall be kept free of insects, and rodents.

310:680-7-4. Garbage disposal

- (a) All garbage shall be properly stored and safely disposed of in accordance with local ordinance.
- (b) All garbage waste containers shall have tight-fitting covers and shall be insect and rodent resistant.
- (c) Approved containers shall be kept clean by washing and airing as needed. Outside storage of garbage in plastic bags is prohibited.
- (d) Trash cans in resident areas shall be kept clean.

310:680-7-5. Housekeeping

- (a) The interior and exterior of the home shall be safe, clean and sanitary.
- (b) Practices and procedures shall be utilized to keep the home free from offensive odors, accumulation of dirt, rubbish, dust, and safety hazards.
- (c) Floors and floor coverings shall be clean and in good condition. Floor polishes shall provide for a non-slip finish.
- (d) Walls and ceilings shall be in good condition and shall be cleaned regularly. All homes shall have walls capable of being cleaned.
- (e) Deodorizers shall not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.

(f) Home and surrounding areas shall be kept free from refuse, discarded furniture, and old newspaper. Combustibles such as cleaning rags and compounds must be kept in closed metal containers in areas away from residents' rooms. No items shall be stored in the hot water heater closet or furnace closet.

(g) General laundry shall be placed in linen hampers, carts, laundry bags, or similar containers suitable for laundry not soiled by body fluids.

(h) Soiled linens or clothing shall be placed in bags or nonporous containers with lids tightly closed.

[Source: Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-7-6. Residential and visiting pets

(a) Each home that allows residential or visiting animals shall adopt and comply with policies that meet or exceed 310:680-7-6(a) and 310:680-7-6(b). The facility's policies shall describe the schedule of animal care and zoonotic infection control for the respective facility. The facility shall not allow any animal to reside in the facility until all of the following requirements are met:

(1) The animal is a dog, cat, fish, bird, rabbit, or guinea pig. If a home desires to include other types of animals in their program, the home shall submit a supplemental request accompanied by its policies, procedures, and guidelines to the Department and receive written approval from the Department prior to implementation.

(2) For residential pets, excluding fish, the number of animals in a home shall be limited to no more than one dog per 50 residents; 1 cat, rabbit, or guinea pig per 30 residents; or 1 bird per 20 residents, unless the home has received the Department's prior approval of a greater number of pets through a supplemental request pursuant to 310:675-7-19(a)(1).

(3) The home adopts policies ensuring non-disruption of the home.

(4) All pets are housed and controlled in a manner that ensures that neither the pet nor the residents are in danger. A pet cage or container must not obstruct an exit or encroach on the required corridor width.

(5) The following veterinary medical services are obtained for each pet, when applicable to species, and a record of service is maintained on file at the home:

(A) A health certificate from a veterinarian licensed to practice in Oklahoma stating the animal is healthy on physical exam and of acceptable temperament to be placed in the home;

(B) Proof of evaluation by a veterinarian licensed to practice in Oklahoma for presence of internal parasites on a semi-annual basis and for the presence of external parasites as needed;

(C) Proof of current rabies immunization for dogs and cats, and leptospirosis immunization for dogs administered by a licensed veterinarian;

- (D) Proof of spaying/neutering for dogs and cats over six months of age; and
- (E) Statement from a licensed veterinarian certifying that each bird tested negative for *Chlamydia psittaci* infection (psittacosis) within 30 days prior to placement in the home. Birds equal in size to or larger than a parakeet shall receive a serologic test. Culture from fresh droppings or cloacal swab will be acceptable test in smaller birds, such as canaries and finches.
- (6) The pet's skin appears normal, and its coat or feathers are free of ectoparasites, matted hair, feces, and other debris.
- (7) Residential pets shall be the responsibility of the administrator, who shall designate at least one attendant to supervise the care and maintenance of resident animals. The administrator and the designated attendants shall at least annually review the home's policy on residential and visiting pets, and shall document that they have read and understood the policy.
- (8) The home provides for the cleaning and disinfecting of any areas contaminated by urine or excrement, and for the regular cleaning of aviaries, aquariums, and animal cages. Water in aquariums and fish bowls shall be appropriately maintained to prevent bacterial growth in the water.
- (9) Residential dogs and cats shall not be allowed to remain in the resident areas after visiting hours. No animal shall be allowed in an area used for food storage or preparation, dining, medication preparation or administration, or clean or sterile supply storage.
- (10) If there is more than one resident per room, permission shall be obtained from each resident in the room before allowing animal visitation.
- (b) The home may allow other animals to visit the home. Visiting animals shall be under the control of the person bringing the pet into the home. The attendant of visiting animals shall adhere to the home's policies and procedures for residential pets. Proof of current rabies immunization must be provided to the administrator before any dog, cat or ferret can be allowed as a visiting pet in the home.
- (c) The Department shall publish and distribute to homes recommended husbandry and veterinary care guidelines for residential pets. The guidelines shall include but not be limited to recommendations for housing, cleaning needs, exercise, diet, fecal examinations, grooming, attendant training on animal care and nutrition, and preventive health care. The guidelines shall be used for the information and education of homes.
- (d) Section 310:680-7-6 does not supersede any local or state rules that regulate animals.

[Source: Added at 14 Ok Reg 3145, eff 7-25-97 ; Amended at 16 Ok Reg 2526, eff 6-25-99 ; Amended at 18 Ok Reg 2550, eff 6-25-01]

SUBCHAPTER 9. DIETARY REQUIREMENTS

310:680-9-1. Food service

- (a) A residential care home shall have available a minimum of three (3) meals per day, constituting a palatable, nutritionally adequate general diet and should include the basic four (4) food groups in the recommended amounts.
- (b) There shall be no more than fourteen (14) hours between the substantial evening meal and the following morning meal. Between meal snacks shall not replace regular meals.
- (c) Fresh drinking water shall be available and easily accessible to the residents. Ice from an approved source shall be available.
- (d) Menus shall be planned, dated, and posted at least one (1) week in advance. Menus are to be retained in the home for one (1) year.
- (e) Three (3) days supply of food shall be in the home at all times, including cold storage.
- (f) Dining room seating capacity shall be a minimum of 15 square feet per resident.
- (g) A residential care home having residents requiring special diet(s) prescribed by a physician shall contract with a consulting registered/licensed dietitian to provide services to institute and monitor these special diets. Special diet menus shall be approved and signed by a registered/licensed dietitian.
- (h) A residential care home licensed for twenty (20) beds or more, and/or having residents who require special diets, shall designate an employee who is properly trained to supervise menu planning, food preparation, food inventory, food distribution, and health issues related to diet.
- (i) A residential care home providing special diets shall ensure that each resident is offered the correct diet.
- (j) A residential care home shall be in compliance with Chapter 257 of this Title, regarding storage, preparation, and serving of food (including milk and ice). A residential care home may use residential equipment provided that the equipment must maintain hot and cold temperatures as required in OAC 310:257.

[Source: Amended at 27 Ok Reg 2548, eff 7-25-10]

SUBCHAPTER 11. STAFFING REQUIREMENTS

310:680-11-1. Requirements

Residential care homes shall employ sufficient personnel appropriately qualified and trained to provide the essential services of the home.

(1) Sufficient number of persons.

- (A) Each residential care home shall have one (1) person who is administratively responsible for the home.
- (B) There shall be at least one (1) person in charge of the home and its operation on duty in the home whenever residents are present.

(C) There shall be a minimum of 3/4 hour of personnel per day per resident based on average daily census.

(D) All residential care homes shall have a signed, written agreement with a registered nurse to act as a consultant. Documentation of the use of the nurse consultant shall be maintained in the home.

(2) Staff qualifications.

(A) Each residential care home shall have a person designated as "Administrator," who is licensed in accordance with Title 63 O.S. Section 330.51 et seq.

(B) All personnel who have the responsibility for administering or monitoring medication to residents shall obtain a certificate of training in medication administration from an institution of higher learning whose program has been reviewed by the Department. (Currently licensed physicians, registered nurses and licensed practical nurses shall be deemed to meet the medication administration training requirement.)

(C) All other staff shall have training and/or experience relevant to their job description.

(D) Personnel responsible for providing professional services must be appropriately certified, registered, or licensed.

(3) Staff training. In order to ensure all homes maintain a level of competency necessary to meet the needs of each individual served in the home, personnel must complete the following training requirements.

(A) At all times there shall be in the home at least one staff person currently trained in first-aid and cardiopulmonary resuscitation that is Red Cross training or equivalent training with a hands-on component. Proof of training shall be kept on file in the home. First-Aid and CPR training shall be kept current.

(B) Administrators shall obtain continuing education training as required to maintain an administrator's license pursuant to Title 63 O.S. Section 330.51 et seq. All training shall be documented and the record kept in the home.

(C) Direct care staff who are responsible for administering or monitoring medication shall annually be required to receive at least eight (8) hours of training by the administrator of the home in patient reporting and observation, record keeping, independent or daily living skills, leisure skills and recreation, human relations and such other training relevant to residential care program and operation.

(D) All direct care staff shall begin eight (8) hours of inservice by the administrator of the home or other person designated by the administrator of the home within ninety (90) days of employment and completed within twelve (12) months of employment. Eight (8) hours of inservice shall

be required annually thereafter.

(E) All residential care programs shall provide a new employee orientation program which includes instruction in policies and procedures regarding the areas of abuse and neglect, resident rights, confidentiality, procedure for handling emergencies, and job descriptions.

(4) Personnel practices.

(A) Residents shall not supervise other residents.

(B) The behavior of staff reflects sensitivity to the needs of the individuals served for privacy and dignity. For example, confidentiality and normal sensibility are exercised in speaking about an individual, and undignified displays, exhibitions, or exposure of individuals served, whether deliberate or unintentional, do not occur.

(C) The home shall have written personnel policies and procedures which address such issues as: job description, terms of employment, authorized leave procedures, grievance procedures, and professional conduct.

[Source: Amended at 34 Ok Reg 1314, eff 10-1-17]

SUBCHAPTER 13. MEDICATION STORAGE AND ADMINISTRATION

310:680-13-1. Medications

Correct medication and pharmacy techniques and principles shall be used when medications are administered or monitored. The home shall comply with the following:

(1) Storage and Maintenance.

(A) Medications shall be stored in an area that is locked, is well lighted, and room temperature not to exceed 86° Fahrenheit.

(B) Medications requiring refrigeration shall be kept in a refrigerator with a temperature range of 36° Fahrenheit (2° C) to 48° Fahrenheit (8° C) and separate from food and other items. A method of locking these medications shall be provided.

(C) Medications shall not be stored with any other non-drug item.

(D) Each individual's medications shall be kept separate.

(E) Externally applied medications shall be stored separately from medications taken internally.

(F) The medication of each resident shall be kept or stored in the original container.

(G) The medication area shall have a work counter and shall be kept clean and well organized.

(H) Hand washing facilities with hot and cold water shall be in close proximity to the medication area.

(I) Any unusual resident reaction to medication shall be reported to the physician at once and documented in the resident's record.

(J) No prescribed medication or over-the-counter medication for one (1) resident may be administered to or allowed in the possession of another resident.

(K) All prescription medication shall be clearly labeled to include the resident's full name, physician's name, prescription number, strength of drug, dosage, directions for use, date of issue, quantity, and name, address, and phone number of pharmacy or physician dispensing the drug.

(L) Resident's first and last name shall be on all over-the-counter drugs used. The home shall have a written policy to identify resident ownership of over-the-counter medication.

(M) All drugs shall be kept locked, and documented when taken by the resident.

(N) Documentation of medication ordered by the physician to be administered as circumstances may require (p.r.n.) shall be done immediately after administration and shall include date, time, dose, drug, route, and person responsible for administration.

(O) Only the person responsible for administering or monitoring medications shall have possession of the key to the locked medication area.

(P) Labels on containers shall be legible and firmly affixed.

(Q) No one shall alter labels on prescription containers. If a medication dosage change is made by the physician, then the container must be flagged at that time showing a label change is to be made.

(R) An individual inventory record and documentation for accountability shall be maintained for each Schedule II drug prescribed for each resident.

(S) Schedule II drugs shall be kept in a separate locked box within the locked medication area.

(T) All new or refilled prescription medication shall be counted upon receipt in the home and documented in each resident's medication record.

(U) Discontinued medications may be kept up to three (3) months and must be separated from the current medications within the locked medication area.

(V) The home shall have a written policy for safe disposal of discontinued medications and it shall be an approved method by the State Department of Health.

Documentation shall be retained in the individual resident's record. Over-the-counter medications shall be destroyed in the presence of two (2) residential care home staff persons. Documentation shall include the name of the medication, the amount destroyed, the method of destruction, and shall be retained in the individual

resident's record.

(W) When a resident is admitted to a home, or returns to a home from a temporary leave, the medications brought into the home shall be counted and documented by the person admitting the resident and countersigned by the resident or responsible party.

(X) When a resident is discharged, moves, or goes on a temporary leave from the home, the unused prescription shall be sent with the resident or with the responsible party. The resident record shall contain documentation of quantities of medication sent, as well as the signature of the resident or the responsible party receiving the drugs and of the staff person of the home that counted them.

(Y) Unused drugs prescribed for residents who have died shall be kept for one (1) month and then shall be destroyed in accordance with Item (V) of this subsection.

(Z) The R.N. shall do a documented medication review on every resident in the home quarterly.

(AA) Each residential care home shall have a first-aid kit for emergency use.

(2) Administration of medications.

(A) Only persons who meet requirements for administration of medications shall administer medications.

(B) The person responsible for medication administration must personally prepare the dosage, observe the resident swallowing the medication, and chart the medication.

(C) The person administering the medication shall maintain an accurate written record of medications administered.

(D) Charting the administration of medications shall be done within an hour after it is taken and correct procedures followed to assure that medications are not documented by memory.

(E) All medications shall be administered according to label directions.

(F) A resident who has been determined by his physician as capable of self-administering medication may retain the medications in a safe location in the resident's room. The facility shall develop and follow policies for accountability. Scheduled medications shall not be authorized for self-administration. A resident who has been declared legally incompetent is not eligible for self-administration of medications.

(3) Monitoring of medications.

(A) Only persons who have completed an approved course in medication administration shall monitor medications.

(B) An accurate written record of medication monitoring shall be made by the individual monitoring the medication. This record must identify the individual responsible for the drug monitoring.

(C) Charting the monitoring of medication shall be done within an hour after it is taken and correct procedure followed to assure that medications are not documented by memory.

(D) All medications monitored shall be taken according to label directions.

[Source: Amended at 11 Ok Reg 911, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2649, eff 6-25-94]

310:680-13-2. Bulk nonprescription drugs

A facility may maintain nonprescription drugs for dispensing on an as needed basis from a common or bulk supply as *ordered or otherwise authorized by a physician currently licensed to practice medicine in this state* [63:1-1950(B)] if all of the following are accomplished.

(1) **Policy of facility.** The facility must have and follow a written policy and procedure to assure safety in dispensing and documentation of medications given to each resident.

(2) **Acquisition.** The facility shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for all medications maintained in bulk.

(3) **Dispensing.** Only licensed nurses, physicians, pharmacists or medication aide technicians (MAT) may dispense these medications.

(4) **Storage.** Bulk medications shall be stored in the medication area and not in resident rooms.

(5) **Records.** The facility shall maintain records of all bulk medications which are dispensed on an individual signed medication administration record (MAR).

(6) **Labeling.** The original labels shall be maintained on the container as it comes from the manufacturer or licensed repackager or on the unit-of-care (blister packs) package.

(7) **Package size.** The maximum size of packaging shall be established by the facility in its policy and procedures and shall insure that each resident receives the correct dosage; provided however, that no liquid medication shall be acquired nor maintained in a container larger than 16 fluid ounces.

(8) **Allowed nonprescription drugs.** Facilities may have drugs from each of the following categories for bulk dispensing. No other categories may be maintained as bulk medications.

(A) Oral analgesics.

(B) Antacids.

(C) Laxatives.

[Source: Added at 11 Ok Reg 911, eff 12-17-93 (emergency); Added at 11 Ok Reg 2649, eff 6-25-94 ; Amended at 33 Ok Reg 1533, eff 9-11-16]

SUBCHAPTER 15. RESIDENTS' FUNDS

310:680-15-1. Resident's contract

(a) A written contract shall be executed between a resident or his/her guardian or responsible party, or if the resident is a minor, his parent, and a home or its agent within one hundred twenty (120) days from the time a resident is admitted to a home, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, or when the terms of the contract are changed.

(b) A copy of the contract form shall be given to the resident and to the resident's representative, if any, at the time of the resident's admission to the residential care home.

(c) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support.

(d) The contract shall be written in clear and unambiguous language and shall be printed in type no smaller than standard typewriter pica or elite type. The general form of the contract shall be prescribed by the Department.

(e) The contract shall specify:

(1) The terms of the contract.

(2) The services to be provided under the contract and the charges for the services.

(3) The services that may be provided to supplement the contract and the charges for the services.

(4) The sources liable for payments due under the contract.

(5) The amount of deposit paid.

(6) The rights, duties, and obligations of the resident, except that the specification of a resident's right may be furnished on a separate document.

(f) The contract shall designate the name of the resident's representative, if any.

(g) The contract shall provide that if the resident dies, or is compelled by a change in physical or mental health to leave the residential care home, the contract and all obligations under it shall terminate immediately. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident.

310:680-15-2. Protection of residents' funds

To protect each resident's funds, the residential care home:

(1) Shall reserve a portion of each resident's monthly income in an amount not less than twenty-five dollars (\$25.00) as a personal needs allowance for use by the resident, or for use on behalf of the resident by his guardian or other representative designated by the resident.

(2) Shall at the time of admission, provide each resident and his representative with a written statement explaining the resident's rights regarding personal funds and listing services for which the resident will be charged, and obtain a signed acknowledgment from each resident and his representative that he has received

the statement.

(3) May accept funds from a resident for safekeeping and managing, if the home receives written authorization from the resident or his guardian; such authorization shall be attested to by a witness who has no pecuniary interest in the facility or home or its operations, and who is not connected in any way to the home personnel or the administrator in any manner whatsoever,

(4) Shall maintain and allow each resident and responsible party access to a written record of all financial arrangements and transactions involving the individual resident's funds.

(5) Shall provide each resident and his representative with a written itemized statement on request, of all financial transactions involving the resident's funds.

(6) Shall keep any funds received from a resident for safekeeping in an account separate from the home's funds and shall maintain such funds as required by the Department and other regulations.

(7) Shall return to the resident, upon written request by the resident or his guardian, if court appointed, all or any part of the resident's funds given the home for safekeeping, including the interest accrued from deposits.

(8) Shall place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the home has written authorization from the resident or the resident's guardian or, if the resident is a minor, to handle it differently.

(9) Unless otherwise provided by State Law, upon the death of a resident, shall provide the administrator or executor of the resident's estate with a complete accounting of all the resident's personal property including any funds of the resident being held by the residential care home.

(10) If the residential care home is sold, shall provide the buyer a written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner.

310:680-15-3. Guardianship

Any owner, operator, administrator or employee of a facility subject to the provision of the Residential Care Act shall not be appointed guardian of a resident of such facility unless the owner, operator, administrator or employee is the spouse of the resident or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment.

SUBCHAPTER 17. INVOLUNTARY TRANSFER OR DISCHARGE OF RESIDENT

310:680-17-1. Transfer or discharge of resident

A residential care home shall not involuntarily transfer or discharge a resident except for medical reasons, for the resident's safety, or for the safety of other residents, or for nonpayment for the resident's stay, unless limited by the Federal Social Security Act.

310:680-17-2. Notice of involuntary transfer or discharge

(a) Involuntary transfer or discharge of a resident from a residential care home shall be preceded by a minimum written notice of ten (10) days.

The ten-day requirement shall not apply in any of the following instances:

(1) When an emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the attending physician.

(2) When the transfer or discharge is necessary for the physical safety of other residents as documented in the resident's record.

(b) The written notice of involuntary transfer or discharge shall contain an explanation of the reasons for transfer or discharge and inform the resident and resident's representative, if any, of the right to request a hearing by the Department if they are aggrieved by the decision.

(c) Written notice of involuntary transfer shall be sent to the resident and to an advocate for the resident if no resident's representative exists

310:680-17-3. Hearing on involuntary transfer or discharge

A resident who is aggrieved by an involuntary transfer or discharge may request a hearing by the Department within five (5) days of receipt of the notice. Decisions reached in a hearing shall be binding on all parties, unless appealed to the Commissioner of Health.

310:680-17-4. Transfer by the department

(a) The Department shall initiate the transfer or discharge of a resident in any of the following situations:

(1) When the resident's health care needs are not being met according to a licensed medical authority.

(2) When the transfer or discharge is necessary for the physical safety of other residents as observed or as documented in the records.

(3) When it is determined that a resident's rights have been violated or the resident has been unduly taken advantage of in fiscal matters, or has been physically, mentally, or sexually abused

(b) The resident's wishes, in all situations, will be given careful consideration in determining whether or not the health or safety aspects involved outweigh the trauma of a resident being transferred or discharged.

SUBCHAPTER 19. RESIDENTS RIGHTS AND RESPONSIBILITIES

310:680-19-1. Posting and distribution

Each residential care home shall have posted in a conspicuous, easily accessible place in each residential care home, and shall provide to each resident or resident's representative, prior to or upon admission, a copy of rights and responsibilities.

310:680-19-2. Statement provisions

(a) A statement of rights and responsibilities shall include but not be limited to the following:

- (1) Every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and the residential care home shall encourage and assist in the exercise of these rights.
- (2) Every resident shall have the rights to have private communications and consultations with the physician, attorney, or any other person of his choice, and may send and promptly receive, unopened, his personal mail.
- (3) Every resident shall have the right, without fear of reprisal, to present grievances on behalf of himself or others to the residential care home's staff or administrator, to governmental officials, or to any other person and to join with other residents or individuals within or outside of the facility to work for improvements in resident care.
- (4) Every resident shall have the right to manage his own financial affairs, unless the resident or his representative, if any, delegates the responsibility, in writing to the residential care home pursuant to the program certification requirements. The resident and his representative, in any, shall have at least a quarterly accounting of any personal financial transactions undertaken in his behalf by the residential care home during any period of time such responsibilities have been delegated to the residential care home.
- (5) Every resident shall have the right to receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Every resident shall be fully informed by his attending physician of his medical condition and proposed treatment in terms and language that the resident can understand, unless medically contraindicated, and to refuse medication and treatment after being fully informed of and understanding the consequences of such actions.
- (6) Every resident shall receive respect and privacy in his medical care program. Case discussion, consultation, examination, and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be confidential.
- (7) Every resident shall have the right to retain and use his personal clothing and possessions, unless medically contraindicated, and shall have the right to security in the storage and use of such clothing and possessions.
- (8) Every resident shall have the right to receive courteous and respectful care and treatment and a written statement of the

services provided by the residential care home, including those required to be offered on an as-needed basis, and a statement of related charges, including any costs for services not covered under medicare or medicaid, or not covered by the residential care home's basic per diem rate.

(9) Every resident shall be free from mental and physical abuse, and from physical and chemical restraints as provided by the program certification standards.

(10) Every resident shall receive a statement of the facility's regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other residents.

(11) No resident shall be required to perform services for a residential care home. Regular participation in shared household tasks shall not be construed to mean "services for a residential care home" when said tasks are included as part of a training, habilitation, or rehabilitation plan for the resident pursuant to the program certification requirements for the residential care home and are performed as a part of normal shared household tasks.

(12) Every resident shall have privacy for spousal visits. Every resident may share a room with his/her spouse, if the spouse is residing in the same residential care home.

(13) When a physician indicates it is appropriate, a residential care home shall immediately notify the resident's next of kin, or representative of the resident's death or when the resident's death appears to be imminent.

(b) No licensed facility shall deny appropriate care on the basis of the resident's source of payment as defined in the regulations.

(c) Each residential care home shall prepare a written plan and provide appropriate staff training to implement each resident's rights as stated.

SUBCHAPTER 21. RESIDENTIAL CARE FACILITIES, THREE (3) BEDS OR LESS

310:680-21-1. Qualifications

This subchapter of the Standards and Regulations for Licensure of Residential Care Homes shall be applicable to small homes serving three (3) or less residents. Homes qualifying under this subsection shall be exempt from other subsections of this Chapter except as may be specifically referenced in this subsection.

(1) **Licensure requirements.** The requirements of Subchapter 3 of this Chapter shall be applicable to homes licensed for three (3) or less beds.

(2) **Construction requirements and physical plant.** The requirements of Subchapter 5 of this Chapter shall also be applicable to homes licensed for three (3) beds or less.

(3) **Environmental health and sanitary requirements.** The requirements of Subchapter 7 of this Chapter shall be applicable to homes licensed for three (3) or less beds.

(4) **Dietary requirements.** In accordance with the needs of the residents, Subchapter 9 of this Chapter shall be applicable to small homes.

(5) **Staffing requirements.** Each small residential care home shall employ sufficient personnel appropriately qualified and trained to meet the needs of the residents.

(A) **Number of personnel.**

(i) Each small home shall have a person who holds a residential care home administrator's certificate of training who is responsible for the home.

(ii) Other staff shall be employed in accordance with the needs of the residents.

(B) **Staff qualifications.**

(i) The person designated as administrator shall be at least 21 years of age and of reputable and responsible character, who has obtained a certificate of training for a residential care administrator.

(ii) All other staff shall have training and/or experience relevant to their job description.

(iii) Persons responsible for providing professional services must be appropriately certified, registered, or licensed.

(C) **Staff training.** In order to ensure a level of competency to meet the needs of each individual served in the home, personnel must complete the following training requirements:

(i) All employees shall be currently certified in first-aid and cardiopulmonary resuscitation (Red Cross training or the equivalent). First Aid and CPR certificates shall be renewed as required to remain current.

(ii) Individuals who administer medications in a small residential care home shall be certified in an approved training program for medication administration (M.A.T.).

(iii) In addition, staff who are responsible for administering medication shall annually receive at least eight (8) hours of training by the administrator of the home in patient reporting and observation, record keeping, independent or daily living skills, leisure skills and recreation, human relations and such other training relevant to residential care home programs and operations.

(iv) All small residential care homes shall provide a new employee orientation program which includes instruction in policies and procedures regarding the areas of abuse and neglect, resident rights, confidentiality, procedure for handling emergencies, and job descriptions.

(v) All direct care staff shall begin eight (8) hours of in-service within ninety days of employment and complete within twelve months of employment. Eight (8) hours of in-service shall be required annually thereafter.

(D) Personnel practices.

- (i) Residents shall not supervise other residents.
- (ii) The behavior of the staff shall reflect sensitivity to the needs of individuals served for privacy and dignity.

(6) Medication storage and administration.

(A) Storage and Maintenance.

- (i) Medications shall be stored in an area that is locked, is well lighted, and room temperature not to exceed 86 degrees Fahrenheit.
- (ii) Medication requiring refrigeration shall be kept in a refrigerator within a temperature range of 36° Fahrenheit to 48° Fahrenheit and separate from food and other items. A method of locking these medications shall be provided.
- (iii) Medications shall not be stored with any other non-drug item.
- (iv) Each individual's medications shall be kept separate.
- (v) Externally applied medications shall be stored separately from medications taken internally.
- (vi) The medication of each resident shall be kept or stored in the original container.
- (vii) No prescribed medication or over-the-counter medication for one resident may be administered to or allowed in the possession of another resident.
- (viii) All prescription medication shall be clearly labeled to include the resident's full name, physician's name, prescription number, strength of drug, dosage, directions for use, date of issue, quantity, and name, address, and phone number of pharmacy or physician dispensing the drug.
- (ix) Resident's name shall be on all over-the-counter drugs used.
- (x) All drugs shall be kept locked, and documented when taken by the resident.
- (xi) Only persons responsible for administering medications shall have possession of the key to the locked medication area.
- (xii) Labels on containers shall be legible and firmly affixed.
- (xiii) No one shall alter labels on prescription containers. If a medication dosage change is made by the physician, then the container must be flagged showing a label change is to be made.

- (xiv) An individual inventory record and documentation for accountability shall be maintained for each Schedule II drug prescribed for each resident.
- (xv) Schedule II drugs shall be kept in a separate locked box within the locked medication area.
- (xvi) All new or refilled prescribed medication shall be counted upon receipt in the home and documented in each resident's medication record.
- (xvii) Discontinued medications may be kept up to three (3) months and must be separated from the current medications within the locked medication area.
- (xviii) The home shall have a written policy for safe disposal of discontinued medications and it shall be a method approved by the Department of Health. Documentation shall be retained in the individual resident's record.
- (xix) When a resident is admitted to a home, or returns to a home from a temporary leave, the medication brought into the home shall be counted and documented by the person admitting the resident and countersigned by the resident or responsible party.
- (xx) When a resident is discharged, moves, or goes on a temporary leave from the home, the unused medication shall be sent with the resident or the responsible party. The resident record shall contain documentation of quantities of medication sent, as well as the signature of the resident or responsible party receiving the medications and of the staff person releasing the medications.
- (xxi) Unused drugs prescribed for residents who have died shall be kept for one (1) month and then destroyed in accordance with item xix of this section of the Standards.

(B) Administration of medications.

- (i) Only persons who have completed an approved course in medication administration shall administer medications.
- (ii) The person responsible for medication administration shall personally prepare the dosage, observe the resident swallowing the medication, and chart the medication.
- (iii) The person administering the medication shall maintain an accurate written record of medications administered.
- (iv) Charting the administration of medications shall be done within an hour after it is taken and correct procedure followed to assure that medications are not documented by memory.

(v) All medications shall be administered according to label directions.

(C) Monitoring medications.

(i) Only persons who have completed an approved course in medication administration shall monitor medications.

(ii) An accurate written record of medication monitoring shall be made by the individual monitoring the medication. This record must identify the individual responsible for the medication monitoring.

(iii) Charting the monitoring of medication shall be done within an hour after it is taken and correct procedure followed to assure that medications are not documented by memory.

(iv) All medications monitored shall be taken according to label requirements.

(v) Records of medications monitored for residents preparing for self-administration shall be documented by the resident and acknowledged by the staff member monitoring the medication.

(D) Self-Administration.

(i) Self-administration of all medications, prescription and over-the-counter, is permitted only after the resident has been monitored and documentation shows the resident capable of self-administration of medications. Monitoring shall include observation of resident taking the proper medication, in the proper dosage, at the correct time, documenting medication taken, and storing the medication in a safe manner.

(ii) The home staff shall conduct at least a monthly documented review of the individual's self-administration program which shall include a count of each medication included in the self-administration program.

(iii) All medications must be stored in locked containers.

(7) Residents' Funds. Subchapter 15 of this Chapter shall be applicable to small residential care homes.

(8) Involuntary Transfer or Discharge of Residents.

Subchapter 17 of this Chapter shall also apply to small residential care homes.

(9) Residents' Rights. Subchapter 19 of this Chapter shall also be applicable to small residential care homes.

CHAPTER 681. MEDICAL MARIJUANA REGULATIONS [REVOKED]

[**Authority:** 63 O.S. § 1-104; 63 O.S. § 420 et seq.; 63 O.S. § 427.1 et seq.; 63 O.S. § 428 et seq.]
[**Source:** Codified 9-13-19]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:681-1-1. Purpose [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-1-2. Regulatory program established [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 17, eff 9-7-22 (emergency); Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-1-3. Limitations of licenses [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-1-4. Definitions [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 222, eff 12-20-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-1-5. Criminal history screening [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20]

310:681-1-6. Proof of residency [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-1-7. Proof of identity [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-1-8. Applicant photograph [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-1-9. Recommending physician registration [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-1-9.1. Recommending physician standards [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

SUBCHAPTER 2. MEDICAL MARIJUANA LICENSES [REVOKED]

310:681-2-1. Application for patient license [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-2. Application for patient license for persons under age eighteen (18) [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-3. Application for caregiver's license [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency);

Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 858, eff 6-28-21 (emergency); Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-3.1. Withdrawal of a caregiver's authorization [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-4. Application for temporary patient license [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-5. Term and renewal of medical marijuana patient and caregiver licenses [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-6. Information contained on patient and caregiver license [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-7. Medical marijuana license verification system [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-8. Possession limits [REVOKED]

[**Source:** Reserved at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-9. Prohibited acts and penalties [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-10. Confidential patient information [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-11. Restrictions on smokable medical marijuana and medical marijuana products [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-2-12. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-2-13. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

SUBCHAPTER 3. TRANSPORTER LICENSE [REVOKED]

310:681-3-1. License for transportation of medical marijuana [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 858, eff 6-28-21 (emergency); Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-3-2. Requirements for transportation of marijuana [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-3-3. Transporter agent license [REVOKED]

[Source: Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-3-4. Employer deactivation of transporter agent license [REVOKED]

[Source: Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-3-5. Information contained on a transporter agent license [REVOKED]

[Source: Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-3-6. Inventory manifests [REVOKED]

[Source: Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

SUBCHAPTER 4. RESEARCH FACILITIES AND EDUCATION FACILITIES [REVOKED]

310:681-4-1. License required [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-4-1.1. Responsibilities of the license holder [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-4-2. Licenses [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-4-3. Applications [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-4-4. Inspections [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-4-5. Inventory tracking, records, reports, and audits [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-4-6. Penalties [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

SUBCHAPTER 5. MEDICAL MARIJUANA BUSINESSES [REVOKED]

310:681-5-1. License required [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-1.1. Responsibilities of the license holder [REVOKED]

[Source: Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-2. Licenses [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ;

Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-2.1. Objection by municipality [REVOKED]

[Source: Added at 38 Ok Reg 858, eff 6-28-21 (emergency); Added at 39 Ok Reg 63, eff 9-16-21 (emergency); Added at 39 Ok Reg 271, eff 11-23-21 (emergency); Added at 40 Ok Reg 17, eff 9-7-22 (emergency); Added at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-3. Applications [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-3.1. Proof of residency for commercial licensees [REVOKED]

[Source: Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-3.2. Persons prohibited from holding a commercial license [REVOKED]

[Source: Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-4. Inspections [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-4.1. Operational status visit [REVOKED]

[Source: Added at 38 Ok Reg 858, eff 6-28-21 (emergency); Added at 39 Ok Reg 63, eff 9-16-21 (emergency); Added at 39 Ok Reg 271, eff 11-23-21 (emergency); Added at 40 Ok Reg 17, eff 9-7-22 (emergency); Added at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-5. Processing medical marijuana on behalf of a patient or caregiver [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 38 Ok Reg 2073, eff 9-11-21 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-6. Inventory tracking, records, reports, and audits [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-6.1. Penalties [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-7. Tax on retail medical marijuana sales [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-8. Composition of medical marijuana advisory council [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-8.1. Food safety standards for processors [REVOKED]

[Source: Added at 36 Ok Reg 222, eff 12-20-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-9. Standards for handling and processing medical marijuana and medical marijuana products [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked

at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-10. Medical marijuana waste disposal [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-11. Attestation confirming or denying foreign financial interests [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 38 Ok Reg 858, eff 6-28-21 (emergency); Added at 39 Ok Reg 63, eff 9-16-21 (emergency); Added at 39 Ok Reg 271, eff 11-23-21 (emergency); Added at 40 Ok Reg 17, eff 9-7-22 (emergency); Added at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-12. Marijuana transaction limitations [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-13. Loss and theft [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-14. Handling of medical marijuana by dispensary [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 39 Ok Reg 271, eff 11-23-21 (emergency); Added at 40 Ok Reg 17, eff 9-7-22 (emergency); Added at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-15. [RESERVED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-5-16. [RESERVED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-5-17. Entry to licensed premises [REVOKED]

[**Source:** Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency);

Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-18. Prohibited acts [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-5-19. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

SUBCHAPTER 6. COMMERCIAL LICENSEES [REVOKED]

310:681-6-1. General security requirements for commercial licensees [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-6-2. Construction of premises [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-6-3. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-6-4. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-6-5. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-6-6. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-6-7. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-6-8. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-6-9. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-6-10. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-6-11. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

SUBCHAPTER 7. PACKAGING, LABELING, AND ADVERTISING [REVOKED]

310:681-7-1. Labeling and packaging [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-7-2. Prohibited products [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Added at 35 Ok Reg 709, eff 8-25-18 (emergency); Added at 36 Ok Reg 1759, eff 9-13-19 ; Amended at 37 Ok Reg 13, eff 9-14-19 (emergency); Amended at 37 Ok Reg 168, eff 11-1-19 (emergency); Amended at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-7-3. Advertising [REVOKED]

[Source: Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1491, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Revoked

at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

SUBCHAPTER 8. LABORATORY TESTING [REVOKED]

310:681-8-1. Testing standards and thresholds [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 13, eff 9-14-19 (emergency); Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1491, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-8-2. General operating requirements and procedures [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1491, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-8-3. Sampling requirements and procedures [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1491, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-8-4. Laboratory quality assurance and quality control [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1491, eff 9-11-20 ; Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-8-5. Quality assurance laboratory [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1491, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-8-6. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

310:681-8-7. [RESERVED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19]

SUBCHAPTER 9. WASTE DISPOSAL FACILITIES [REVOKED]

310:681-9-1. License or permit required [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 858, eff 6-28-21 (emergency); Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-9-1.1. Responsibilities of the license or permit holder [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-9-2. Licenses and permits [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-9-3. License applications [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-9-4. Permit applications [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 858, eff 6-28-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-9-5. Inspections [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-9-6. Security requirements [REVOKED]

[Source: Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 271, eff 11-23-21 (emergency);

Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-9-7. Audits and inventory [REVOKED]

[**Source:** Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 271, eff 11-23-21 (emergency); Amended at 40 Ok Reg 17, eff 9-7-22 (emergency); Amended at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-9-8. Penalties [REVOKED]

[**Source:** Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-9-9. Waste disposal [REVOKED]

[**Source:** Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Amended at 38 Ok Reg 2073, eff 9-11-21 ; Revoked at 40 Ok Reg 1606, eff 9-11-23]

SUBCHAPTER 10. RECEIVERSHIP [REVOKED]

310:681-10-1. Certificate of Authority [REVOKED]

[**Source:** Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-10-2. Term and renewal of Certificate of Authority [REVOKED]

[**Source:** Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-10-3. Responsibilities of the Certificate of Authority holder [REVOKED]

[**Source:** Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

310:681-10-4. Revocation of Certificate of Authority [REVOKED]

[**Source:** Added at 37 Ok Reg 168, eff 11-1-19 (emergency); Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

APPENDIX A. TESTING THRESHOLDS [REVOKED]

[Source: Added at 35 Ok Reg 659, eff 8-25-18 (emergency); Reserved at 35 Ok Reg 709, eff 8-25-18 (emergency); Reserved at 36 Ok Reg 1759, eff 9-13-19 ; Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked and reenacted at 38 Ok Reg 2073, eff 9-11-21 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

APPENDIX B. LQC RESULTS [REVOKED]

[**Source:** Added at 37 Ok Reg 1461, eff 9-11-20 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

APPENDIX C. SCHEDULE OF FINES [REVOKED]

[Source: Added at 38 Ok Reg 2073, eff 9-11-21 ; Revoked and reenacted at 39 Ok Reg 271, eff 11-23-21 (emergency); Revoked and reenacted at 40 Ok Reg 17, eff 9-7-22 (emergency); Revoked and reenacted at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

APPENDIX D. SAMPLE COLLECTION FOR FINAL MEDICAL MARIJUANA PRODUCTS [REVOKED]

[Source: Added at 39 Ok Reg 271, eff 11-23-21 (emergency); Revoked and reenacted at 40 Ok Reg 17, eff 9-7-22 (emergency); Added at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]

APPENDIX E. SAMPLE COLLECTION FOR PRE-ROLLS [REVOKED]

[Source: Added at 39 Ok Reg 271, eff 11-23-21 (emergency); Added at 40 Ok Reg 17, eff 9-7-22 (emergency); Added at 39 Ok Reg 1396, eff 9-11-22 ; Revoked at 40 Ok Reg 419, eff 11-17-22 (emergency); Revoked at 40 Ok Reg 1606, eff 9-11-23]