

Volume 33
Number 24
September 1, 2016
Pages 1139 - 1998

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules

Permanent Final Adoptions

Subchapter 5, Personnel Licenses and Certification, provides for individual licensure and certification levels, requirements for training, application requirements, and initial and renewal requirements for each license and certification level. This change amends the current subchapter to align with required statutory changes from House Bill 1083 (2013) and House Bill 1467 (2013). Sections amend the scope of practice to meet industry standards and statutory changes. Additionally, it adds specific circumstances when the Department has authority to take licensure action against an individual for inappropriate actions or activities. The changes are necessary to meet statutory requirements and to improve processes for testing, certification, and licensure.

Subchapter 7, Training Programs, provides for the approval and renewal of training programs. It also contains instructor qualifications and standards. This change amends the current subchapter by including statutory requirements, removing conflicting language, and aligning the requirements to industry standards. The proposal clarifies differences between training program instructors and agency instructors. The effect of the changes will be to improve the Department's and the approved training programs' abilities to train, certify, and license qualified candidates.

Subchapter 11, Specialty Care Ambulance Service, is a new subchapter created to address requirements for the specialty care ambulance license type. The prior specialty care language existed in subchapter 3 in eight sections, with cross references to several others. The change locates all aspects of this license type in one subchapter. The changes were necessary to meet the statutory changes of 2013 and to eliminate regulatory conflicts and language that does not apply to the license type. The effect of the rule change will be to fully implement statutory changes from House Bill 1083 (2013) and House Bill 1467 (2013) and locate all the requirements for this license type in one subchapter.

Subchapter 13, Air Ambulance Service, is a new subchapter created to locate all of the requirements for this license type in one subchapter and to address regulatory changes. The prior air ambulance language existed in subchapter 3 in nine sections and was cross-referenced to several others. The proposal clarifies and removes conflicts between Federal Aviation Administration jurisdiction and the Department's jurisdiction.

Subchapter 15, Emergency Medical Response Agencies, is a new subchapter created to bring all requirements for this certification into one subchapter. The language for this agency type was in subchapter 3 with cross references in several other sections. The revised language removes conflicting language and creates a new type of emergency medical response agency certification. This covers the certification of an agency that provides care at mass gatherings such as athletic events, car races, or rodeos. Exceptions address industrial settings and providers that do not provide emergency medical care to the public. The rule will improve the standards for agencies that provide emergency medical care but do not transport patients to healthcare facilities.

Subchapter 17, Stretcher Aid Van Services, is a new subchapter created to include all requirements for this license type in one subchapter. The rule for this category was in subchapter 3 in six sections and cross-referenced in several other sections. The revised language removes regulatory conflicts and ensures that stretcher aid van services provide care within a scope of practice authorized in law. The proposed language clarifies the activities the license allows and removes several requirements that created burdens and conflicts within the license type. The effects of the rule change will be a more appropriate use of this license type while removing unnecessary rules.

The full text of the rule may be obtained by contacting the Emergency Medical Services division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-4027, e-mail ESystems@health.ok.gov.

[OAR Docket #16-707; filed 7-11-16]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

[OAR Docket #16-708]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

Subchapter 9. Resident Care Services
310:675-9-9.1 [AMENDED]

AUTHORITY:

Oklahoma State Board of Health; Title 63 O.S. Section 1-104 and Title 63 O.S. Section 1-1950.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 9, 2015

COMMENT PERIOD:

October 1, 2015 through November 4, 2015

PUBLIC HEARING:

November 4, 2015

ADOPTION:

December 8, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 18, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

This rule amends OAC 310:675-9-9.1(i) which deals with bulk non-prescription drugs. This rule change removes a limitation on dispensing over the counter medications from bulk supplies of drugs maintained in nursing facilities. This change inserts verbatim language from the law concerning the ordering or authorizing of medications by a physician. This change deletes language which restricts the use of bulk over the counter medications to only as needed or unscheduled dosage regimens and only upon written order of a physician. This change will allow nursing facilities to dispense scheduled regimens of over the counter medications with an order or other authorization. This change brings the rule into conformity with the authorizing statute at Title 63 O.S. Section 63.1-1950(B), which is permissive, rather than restrictive, regarding the dispensing of bulk over the counter medications based on a nonscheduled regimen.

CONTACT PERSON:

Michael Cook, Service Director, Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to MikeC@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2016:

SUBCHAPTER 9. RESIDENT CARE SERVICES

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

Permanent Final Adoptions

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 ~~for administration~~ these medications ~~and only upon the written order for as needed (p.r.n.) or nonscheduled dosage regimens dosing from a physician as documented in the clinical record of the resident.~~

(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.

[OAR Docket #16-708; filed 7-11-16]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 680. RESIDENTIAL CARE
HOMES**

[OAR Docket #16-709]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 13. Medication Storage and Administration
310:680-13-2 [AMENDED]

AUTHORITY:

Oklahoma State Board of Health; Title 63 O.S. Section 1-104 and Title 63 O.S. Section 1-1950.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 9, 2015

COMMENT PERIOD:

October 1, 2015 through November 4, 2015

PUBLIC HEARING:

November 4, 2015

ADOPTION:

December 8, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 18, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

This rule amends OAC 310:680-13-2 which deals with bulk nonprescription drugs. This rule change removes a limitation on dispensing over the counter medications from bulk supplies of drugs maintained in residential care homes. This change inserts verbatim language from the law at Title 63 O.S. Section 1-1950(B) concerning the ordering or authorizing of medications by a physician. This change deletes language which restricts the use of bulk over the counter medications to only as needed or unscheduled dosage regimens and only upon written order of a physician. This change will allow residential care homes to dispense scheduled regimens of over the counter medications with an order or other authorization. This change brings the rule into conformity with the authorizing statute [Title 63 O.S.

Section 1-1950(B)] which is permissive, rather than restrictive, regarding the dispensing of bulk over the counter medications based on a nonscheduled regimen.

CONTACT PERSON:

Michael Cook, Service Director, Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to MikeC@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2016:

SUBCHAPTER 13. MEDICATION STORAGE AND ADMINISTRATION

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 ~~only 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 ~~for administration~~ these medications ~~and only upon the written order for nonscheduled dosage regimens, as needed, dosing from a physician as documented in the record of the resident.~~
- (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.