

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 406. LICENSED GENETIC COUNSELORS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

310:406-1-2 [AMENDED]

Subchapter 3. Advisory Committee-Operations [REVOKED]

310:406-3-1 [REVOKED]

310:406-3-2 [REVOKED]

310:406-3-3 [REVOKED]

310:406-3-4 [REVOKED]

310:406-3-5 [REVOKED]

Subchapter 23. Enforcement

310:406-23-2 [AMENDED]

310:406-23-5 [AMENDED]

SUMMARY:

310:406-1-2 The current rule defines the advisory entity as the Genetic Counseling Advisory Committee. The proposal establishes to remove the definition. The new advisory council is outlined in the Oklahoma Public Health Advisory Council Modernization Act. This change is necessary to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the legal advisory entity as the Infant and Children’s Health Advisory Council.

310:406 Subchapter 3 [REVOKED] – The current rule identifies the title of the advisory entity as a committee. The proposal revokes the subchapter. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act which created the new Infant and Children’s Health Advisory Council with advisory responsibilities for licensed genetic counseling. The effect of the Rule change would be to clarify the legal advisory entity as a council.

310:406-3-1 [REVOKED] The current rule creates the Genetic Counseling Advisory Committee. The proposal removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the purpose of the newly established council.

310:406-3-2 [REVOKED] The current rule defines the membership of the Genetic Counseling Advisory Committee. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act establishes the membership of the newly established Infant and Children’s Health Advisory Council. The effect of the Rule change would be to revoke the membership of the Genetic Counseling Advisory Committee which is no longer supported in the Act.

310:406-3-3 [REVOKED] The current rule defines the officers of the Genetic Counseling Advisory Committee. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act already establishes the officers of the newly established Infant and Children’s Health Advisory Council. The effect of the Rule change would be to revoke the officer designation of the Genetic Counseling Advisory Committee which is no longer supported in the Act.

310:406-3-4 [REVOKED] The current rule states the “committee” will utilize Robert’s Rules of Order Newly Revised, 10th ed. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act establishes the new Infant and Children’s Health Advisory Council.

310:406-3-5 [REVOKED] The current rule defines subcommittee responsibilities of the Genetic Counseling Advisory Committee. The proposal revokes this subchapter. This change is needed because

the Oklahoma Public Health Advisory Council Modernization Act establishes the Infant and Children's Health Advisory Council. The effect of the Rule change would be to revoke the subcommittee responsibilities of the Genetic Counseling Advisory Committee which is no longer supported in the Act.

310:406-23-2 The current rule states the "committee" may be consulted in regards to complaints present to the Department. The proposal removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act and ensure the council's duties are in line with the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the duties of the newly established council.

310:406-23-5 The current rule states the Department may consult the "committee" in regards to hearings conducted by the Department. The proposal removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act and ensure the council's duties are in line with the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the duties of the newly established council.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-561 and Title 63 O.S. Section 1-103.a.1.

COMMENT PERIOD:

October 1, 2014, through November 5, 2014. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through November 5, 2014, submit written comment to the contact person identified below; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on November 5, 2014, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 5, 2014, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available through the contact person identified.

CONTACT PERSON:

Lynnette Jordan, Administrative Programs Manager, Occupational & Consumer Protection Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, phone (405) 271-5779, or by e-mail to lynnette@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 406. LICENSED GENETIC COUNSELORS

1. **DESCRIPTION:** *(a brief description of the purpose of the proposed rule [75 O.S. §303.D.2(a)])*

The current rule applies to licensure of genetic counselors in the State of Oklahoma. The proposed changes update language to accurately comply with the Oklahoma Public Health Advisory Council Modernization Act. This change is necessary to bring the regulation in line with the Genetic Counseling Licensure Act and the Oklahoma Public Health Advisory Council Modernization Act which went into effect November 1, 2014. The effect of the rule change would be to clarify the advisory council for this particular licensed profession.

310:406-1-2 The current rule defines the advisory entity as the Genetic Counseling Advisory Committee. The proposal establishes to remove the definition. The new advisory council is outlined in the Oklahoma Public Health Advisory Council Modernization Act. This change is necessary to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the legal advisory entity as the Infant and Children's Health Advisory Council.

310:406 Subchapter 3 [REVOKED] – The current rule identifies the title of the advisory entity as a committee. The proposal revokes the subchapter. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act which created the new Infant and Children's Health Advisory Council with advisory responsibilities for licensed genetic counseling. The effect of the Rule change would be to clarify the legal advisory entity as a council.

310:406-3-1 [REVOKED] The current rule creates the Genetic Counseling Advisory Committee. The proposal removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the purpose of the newly established council.

310:406-3-2 [REVOKED] The current rule defines the membership of the Genetic Counseling Advisory Committee. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act establishes the membership of the newly established Infant and Children's Health Advisory Council. The effect of the Rule change would be to revoke the membership of the Genetic Counseling Advisory Committee which is no longer supported in the Act.

310:406-3-3 [REVOKED] The current rule defines the officers of the Genetic Counseling Advisory Committee. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act already establishes the officers of the newly established Infant and Children's Health Advisory Council. The effect of the Rule change would be to revoke the officer designation of the Genetic Counseling Advisory Committee which is no longer supported in the Act.

310:406-3-4 [REVOKED] The current rule states the "committee" will utilize Robert's Rules of Order Newly Revised, 10th ed. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act establishes the new Infant and Children's Health Advisory Council.

310:406-3-5 [REVOKED] The current rule defines subcommittee responsibilities of the Genetic Counseling Advisory Committee. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act establishes the Infant and Children's Health Advisory Council. The effect of the Rule change would be to revoke the subcommittee responsibilities of the Genetic Counseling Advisory Committee which is no longer supported in the Act.

310:406-23-2 The current rule states the "committee" may be consulted in regards to complaints present to the Department. The proposal removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act and ensure the council's duties are in line with the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the duties of the newly established council.

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2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:** *(a description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities [75 O.S. §303.D.2(b)])*

Those classes of persons affected are persons previously appointed to the Genetic Counseling Advisory Committee. Licensed professionals will still have an advisory council to provide recommendations to the Department as needed.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:** *(a description of the classes of persons who will benefit from the proposed rule [75 O.S. §303.D.2(c)])*

Persons benefited will be all clients of the genetic counselor licensing program. Oklahoma citizens will also benefit from the continued administration of a program authorized to ensure genetic counseling is meeting public standards. This change will clarify the advisory entity that will provide recommendations to the Department.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:** *(a description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change [75 O.S. §303.D.2(d)])*

No economic impact or additional costs to compliance are anticipated with this proposal.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:** *(the probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency [75 O.S. §303.D.2(e)])*

The cost to the Department to implement the amendments will be approximately \$4,419.63 to cover the costs of rule drafting, adoption, publication, distribution, and education. The proposed rules will be implemented and enforced by existing Department personnel and will have no anticipated effect on state revenues.

6. **IMPACT ON POLITICAL SUBDIVISIONS:** *(a determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule [75 O.S. §303.D.2(f)])*

There is no anticipated impact on political subdivisions.

7. **ADVERSE EFFECT ON SMALL BUSINESS:** *(a determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act [75 O.S. §303.D.2(g)])*

There is no anticipated adverse effect on small business.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:** *(an explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule [75 O.S. §303.D.2(h)])*

No less costly means were identified.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:** *(a determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk [75 O.S. §303.D.2(i)])*

The proposed rule is intended to continue gaining recommendations from the licensing specific subject matter experts appointed to an advisory entity that will allow the Department to continue the licensing standards for this profession.

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:** *(a determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented [75 O.S. §303.D.2(j)])*

There is no expected public health or safety effects other than providing better customer service for all permitted entities.

11. This rule impact statement was prepared on August 12, 2014. Modifications made subsequent to the publication of the *Notice of Rulemaking Intent* were made on: *(the date the rule impact statement was prepared and if modified, the date modified [75 O.S. §303.D.2(k)])*

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 406. LICENSED GENETIC COUNSELORS**

SUBCHAPTER 1. GENERAL PROVISIONS

310:406-1-2. 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:

"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.

~~*"Advisory Committee" means the Genetic Counseling Advisory Committee appointed by the Commissioner.*~~

"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 shall not include those professions exempted by Section 1-566 of the Act.

SUBCHAPTER 3. ADVISORY COMMITTEE OPERATIONS [REVOKED]

310:406-3-1. Purpose [REVOKED]

~~This Subchapter creates the Genetic Counseling Advisory Committee, whose duty shall be to advise the Department regarding provisions of the Act, except as otherwise provided by law.~~

310:406-3-2. Advisory committee membership [REVOKED]

~~(a) The advisory committee shall consist of five (5) members who shall be appointed by the Commissioner.~~

~~(b) Two members shall be licensed genetic counselors; provided, initial genetic counselor appointees shall not be required to be licensed under the Act before the end of the first year that the license is available. One member shall be an ethicist or a geneticist currently licensed by the State Board of Examiners for Medical Licensure and Supervision or the Board of Osteopathic Examiners. One member shall be a representative of the Oklahoma Genetics Advisory Council. One member shall be a lay person who is not affiliated with any practice of genetic counseling.~~

~~(c) The first advisory committee shall serve the following terms: one member for one (1) year, two members for two (2) years, and two members for three (3) years. Thereafter, at the~~

~~expiration of the term of each member, the Commissioner shall appoint a successor for a four (4) year term.~~

~~(d) Vacancies occurring in the advisory committee shall be filled for the unexpired term by appointment by the Commissioner.~~

~~(e) Any advisory committee member may be removed by the Commissioner, after written notice, for incapacity, incompetence, neglect of duty, or misfeasance or malfeasance in office.~~

~~(f) Members of the advisory committee shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses as provided in the State Travel Reimbursement Act.~~

~~(g) Advisory committee members may be reappointed at the completion of their term.~~

~~(h) The advisory committee may hold four regularly scheduled meetings each year and special meetings as needed. Meetings shall be held at such time and place as the advisory committee may provide. The advisory committee shall elect annually the following officers: A chair, a vice-chair, and a secretary. Three members of the advisory committee shall constitute a quorum.~~

310:406-3-3. Officers [REVOKED]

~~(a) **Chair.** The chair shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by law or rule. The chair is authorized to make day to day decisions regarding advisory committee activities in order to facilitate the responsiveness and effectiveness of the advisory committee.~~

~~(b) **Vice-chair.** The vice chair shall perform the duties of the chair in the absence or disability of the chair.~~

~~(c) **Secretary.** In the absence of the chair and vice chair, the secretary will preside until the chair or vice chair is present.~~

310:406-3-4. Rules of Order [REVOKED]

~~Robert's Rules of Order Newly Revised, 10th ed. (Cambridge, Mass.: Perseus Publishing, 2000) shall be the basis of parliamentary decisions except as otherwise provided by the advisory committee.~~

310:406-3-5. Subcommittees [REVOKED]

~~(a) The chair with the approval of the advisory committee may establish subcommittees deemed necessary to carry out advisory committee responsibilities.~~

~~(b) The chair shall appoint the members of the advisory committee to serve on subcommittees.~~

~~(c) The chair may appoint non advisory committee members to serve as subcommittee members on a consultant or voluntary basis subject to advisory committee approval.~~

~~(d) The subcommittee chair shall make regular reports to the advisory committee in interim written reports and/or at regular meetings.~~

~~(e) Subcommittees shall direct all reports or other materials to the Department for distribution.~~

~~(f) Subcommittees shall meet when called by the chair or when so directed by the advisory committee.~~

SUBCHAPTER 23. ENFORCEMENT

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 in writing, by telephone, or by a personal visit. The Department will determine whether the complaint alleges a possible violation of the Act or this Chapter. ~~The Department may present the complaint to the advisory committee for consultation.~~

(b) The complaint and the identity of the complainant shall be confidential and shall not be available for public inspection.

310:406-23-5. Hearing

Hearings shall be conducted by the Commissioner or ~~his~~ the Commissioner's designee as specified in Chapter 2 of this Title. The Department shall recommend the most appropriate penalty at the conclusion of the evidence. ~~In making its recommendation, the Department may seek the counsel of the advisory committee.~~