

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

**RULEMAKING ACTION:**

PERMANENT final adoption

**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]

**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.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

September 8, 2014

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November 5, 2014

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December 17, 2014

**APPROVED BY GOVERNOR'S DECLARATION:**

Approved by Governor's declaration on June 8, 2015

**FINAL ADOPTION:**

June 8, 2015

**EFFECTIVE:**

September 11, 2015

**SUPERSEDED EMERGENCY ACTIONS:**

"n/a"

**INCORPORATIONS BY REFERENCE:**

"n/a"

**ANALYSIS:**

310:406-1-2 The former rule defined the advisory entity as the Genetic Counseling Advisory Committee. The new rule removes 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 is to clarify the legal advisory entity as the Infant and Children's Health Advisory Council.

310:406 Subchapter 3 [REVOKED] – The former subchapter defined the title and role of the Genetic Counseling Advisory Committee. The new rule 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 is to clarify the legal advisory entity as a council.

310:406-23-2 The former rule stated the “committee” may be consulted in regards to complaints present to the Department. The new rule 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 is to clarify the duties of the newly established council.

310:406-23-5 The former rule stated the Department may consult the “committee” in regards to hearings conducted by the Department. The new rule 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 is to clarify the duties of the newly established council.

**CONTACT PERSON:**

Information regarding this rule may be obtained by contacting 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](mailto:lynnette@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, 2015:**

**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.~~