

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 555. NOTIFICATION OF COMMUNICABLE DISEASE RISK EXPOSURE**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- 310:555-1-1 Purpose [AMENDED]
- 310:555-1-2 Definitions [AMENDED]
- 310:555-1-3 Applicability [AMENDED]
- 310:555-1-4 Notification System [AMENDED]

SUMMARY:

1. The amendments include the Good Samaritans that have been exposed to communicable diseases while rendering aid.
2. Amending Definitions to include a new definition for “Good Samaritan”.
3. Amending Applicability to include “Good Samaritan”.
4. Amending Notification system to allow “Good Samaritans” to submit the form to health care facilities. Health care facilities are to determine risk exposure for “Good Samaritans”. “Good Samaritans will be able to request testing of a source patient, and notification of their exposure to a communicable disease.

AUTHORITY:

Commissioner of Health, Title 63 O.S., §1-104; House Bill 1641 (effective 2013) that amended 63 O.S., §1-502

COMMENT PERIOD:

November 1, 2019, through December 6, 2019. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through December 1, 2019, 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 December 5, 2019, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 from 9AM to noon. The alternate date and time in the event of an office closure due to inclement weather is December 9, 2019, in room 1102 from, 9AM to noon. 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 December 6, 2019, 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 below or via the agency website at www.health.ok.gov.

CONTACT PERSONS:

Kim Bailey, General Counsel, Oklahoma State Department of Health, 1000 N. E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-6017, e-mail KimB@health.ok.gov or Audrey C.

Talley, Rule Liaison, Oklahoma State Department of Health, 1000 N. E. 10th Street, Oklahoma City, OK 73117-1207, phone (405) 271-9444 ext.56535, e-mail AudreyT@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 555.

1. **DESCRIPTION:**
310:555-1-1; 310:555-1-2; 310:555-1-3; 310:555-1-4 Modifications to existing rule to align with 63 O.S. § 1-502.1 and will expand language to also include “Good Samaritans” with exposures to blood borne pathogens;
2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**
310:555-1-1; 310:555-1-2; 310:555-1-3; 310:555-1-4 This change will affect Good Samaritans by helping them receive information related to testing and treatment options related to exposure to communicable diseases.
3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:**
310:555-1-1; 310:555-1-2; 310:555-1-3; 310:555-1-4 The agency expects better protection for Good Samaritans as a result of this rule change;
4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:**
310:555-1-1; 310:555-1-2; 310:555-1-3; 310:555-1-4 No significant economic impact is suspected for this rule change as a Good Samaritan scenario is expected to happen infrequently. There will be no fees involved as the agency will provide appropriate educational materials at no extra cost to industry;
5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:**
310:555-1-1; 310:555-1-2; 310:555-1-3; 310:555-1-4 The Good Samaritan rule implementation and enforcement will be absorbed through current day-to-day operations and will benefit the agency by potentially preventing the spread of communicable diseases to Good Samaritans;
6. **IMPACT ON POLITICAL SUBDIVISIONS:**
No other impact on political subdivisions are expected.
7. **ADVERSE EFFECT ON SMALL BUSINESS:**
No other impacts on small business are expected.
8. **EFFORTS TO MINIMIZE COSTS OF RULE:**
No other needs to minimize costs for the agency or industry have been identified as the costs for the agency are anticipated to be absorbed in existing day-to-day efforts.
9. **EFFECT ON PUBLIC HEALTH AND SAFETY:**
310:555-1-1; 310:555-1-2; 310:555-1-3; 310:555-1-4 The Good Samaritan rule has the potential to limit contraction of communicable diseases for persons helping others;
10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**
Failure to adopt the Good Samaritan rule would leave the agency out of compliance with existing statute;

11. **PREPARATION AND MODIFICATION DATES:**

This rule impact statement was prepared on Thursday, October 10, 2019.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 555. NOTIFICATION OF COMMUNICABLE DISEASE RISK EXPOSURE**

310:555-1-1. Purpose [AMENDED]

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, ~~and~~ 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, ~~and~~ funeral workers, Good Samaritans rendering aid occurring outside of employment at a health care facility.

310:555-1-2. Definitions [AMENDED]

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.

310:555-1-3. Applicability [AMENDED]

The notification system established in this Chapter shall apply to employers of health care workers, emergency responders, ~~and funeral workers,~~ and Good Samaritans for risk exposures not occurring during employment at a health care facility.

310:555-1-4. Notification system [AMENDED]

(a) Any health care worker, emergency responder, ~~or 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 ~~worker~~ 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 ~~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.