RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:
Subchapter 3. Administration
310:662-3-4. Organization [AMENDED]

SUMMARY:
This action will update tuberculosis (TB) workplace testing requirements to align with federal recommendations. An amendment is provided at 310:662-3-4(e)6 to align with the most current guidelines for preventing the transmission of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention (CDC).

AUTHORITY:
Commissioner of Health, Title 63 O.S., §1-104.

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 6, 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 662 HOMECARE.

1. **DESCRIPTION:**
   This action will update tuberculosis (TB) work place testing requirements to align with federal recommendations. An amendment is provided at 310:662-3-4(e)6 to align with the most current guidelines for preventing the transmission of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention (CDC).

2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**
   CDC recommendations now allow for less frequent TB skin testing. Industry will notice a considerable decrease in associated costs and time related to TB testing requirements.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:**
   Minimal value is expected related to health outcomes as there should be no more or less TB cases as a result of the change.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:**
   Industry will notice considerable cost savings across the board as they will have fewer TB testing costs.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:**
   No cost impact is expected for the agency as this will not require any additional efforts by the agency.

6. **IMPACT ON POLITICAL SUBDIVISIONS:**
   There will be no impact on political subdivisions and it will not require their cooperation in implementing or enforcing the proposed amendment.

7. **ADVERSE EFFECT ON SMALL BUSINESS:**
   No adverse effects are expected for small business. The Department will engage members of the Home Care, Hospice & Palliative Care Advisory Council and also seek public comment to identify effects on small business.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:**
   No costs have been identified for implementation of this rule change.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:**
   No effect on public health is expected as a result of this rule change.

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**
    No detrimental effects on public health and safety would be experienced without adoption of this rule. However, this would make Oklahoma standards out of alignment with current CDC recommendations.

11. **PREPARATION AND MODIFICATION DATES:**
    This rule impact statement was prepared on Thursday, October 10, 2019.
310:662-3-4. Organization [AMENDED]
(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 initial and annual Tuberculin skin tests tuberculosis testing/tuberculin skin tests. 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. 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.