TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 667. HOSPITAL STANDARDS

RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:
Subchapter 5. Compliance with Federal, State, and Local Laws
310:667-5-4. Employee and/or worker health examinations [AMENDED]
Subchapter 59. Classification of Hospital Emergency Services
310:667-59-1. General [AMENDED]

SUMMARY:
An amendment is provided to align with SB156, signed into law in 2019, effective 11/1/2019, at 310:667-59-1. This amendment specifies the inclusion of the requirement for hospitals to submit data into the ST-Elevated Myocardial Infarction (STEMI) registry in addition to stroke and trauma related illness and injury.

This action will update tuberculosis (TB) workplace testing requirements to align with federal recommendations. An amendment is provided at 310:667-5-4(a)2 and 310:667-5-4(b) 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.

AUTHORITY:
Commissioner of Health, Title 63 O.S., §1-104; SB 156 effective November 1, 2019. The bill amends 63 O.S., §1-2530.3

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 667.

1. DESCRIPTION:
   An amendment is provided to align with SB156, signed into law in 2019, effective 11/1/2019, at 310:667-59-1. This amendment specifies the inclusion of the requirement for hospitals to submit data into the ST-Elevated Myocardial Infarction (STEMI) registry in addition to stroke and trauma related illness and injury.

   This action will update tuberculosis (TB) work place testing requirements to align with federal recommendations. An amendment is provided at 310:667-5-4(a)2 and 310:667-5-4(b) 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). The outline enumeration has been amended accordingly.

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE
   310:667-59-1 STEMI: Persons directly affected will be hospital patients, their family members, and physicians. The alignment with SB156 allows the department to collect the data, which is used to inform and improve the emergency medical and trauma systems. This requirement increases the data reporting burden on the hospital.

   310:667-5-4 TB: 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:
   310:667-59-1 STEMI: Persons benefiting will include residents and visitors in Oklahoma as this will enhance the State’s ability to improve the emergency medical care system.

   310:667-5-4 TB: 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:
   310:667-59-1 STEMI: There are no fee changes with this rule change. There is no cost to the hospital to enter data directly into the registry. The hospital may experience increased cost to achieve interoperability of data system for reporting as well as increased staff costs.

   310:667-5-4 TB: 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:
   310:667-59-1 STEMI: To expand the current OSDH stroke and trauma registry to include the collection of STEMI data, there will be fees associated with design, maintenance and hosting. These are currently
estimated at less than $100,000 for the design, and additional $20,000 or less per year thereafter. The Department shall achieve efficiencies by combining said systems whenever possible. Beyond the software of the registry, there are no anticipated costs to implement or enforce these rules beyond ordinary program costs. The proposed rules will be implemented and enforced by existing OSDH personnel and will not result in an increase in authorized full-time equivalent personnel.

310:667-5-4 TB: No cost impact is expected for the agency as this will not require any additional efforts by the agency

6. **IMPACT ON POLITICAL SUBDIVISIONS:**
   No impact is expected on political subdivisions from either proposed change.

7. **ADVERSE EFFECT ON SMALL BUSINESS:**
   The Department will engage the Hospital Advisory Council and other stakeholders for input on adverse effects from these proposed changes. We will also seek public comment to identify such effects on small business.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:**
   No less costly means are currently identified from either proposed change.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:**
   310:667-59-1 STEMI: The changes in rule and statue support the improvement of the emergency medical response and trauma systems. These systems provide an organized approach to facilitating and coordinating a multidisciplinary system response to individuals who may have suffered stroke, heart attack, or severe injury. The systems of care at OSDH includes injury prevention, emergency medical services field intervention, emergency department care, surgical interventions, intensive and general surgical in-hospital care, rehabilitative services, social services, and support groups to enable both the patient and their family to return to society at the most productive level possible.

310:667-5-4 TB: No effect on public health is expected as a result of this rule change

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**
   310:667-59-1 STEMI: Without this change, the OAC will be out of alignment with Oklahoma Statute and the emergency medical response system will not have the benefit of informing local providers (ambulances, hospitals, and the like) of the prevalence and likelihood of STEMI. This knowledge can prepare responders appropriately and reduce related morbidity and mortality.

310:667-5-4 TB: 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.
310:667-59-1. General [AMENDED]

(a) All hospitals that treat emergency patients shall identify the extent of the stabilizing and definitive emergency services they provide. For each of the clinical areas listed in OAC 310:667-59-7 for which a hospital provides emergency services, the hospital shall designate which classification level of service it provides.

(b) All hospitals shall participate in the state-wide trauma, stroke, and ST-Elevated Myocardial Infarction (STEMI) and stroke registries and shall submit the related data on stroke and trauma-related injury and illness to the Department as required. Hospitals shall submit data on the other emergency medical services they provide as required by the Department as the data collection tools to capture this information become available.

310:667-5-4. Employee and/or worker health examinations [AMENDED]

(a) Pre-employment. Each employee and/or worker (with or without patient care responsibilities, paid or volunteer, full-time or part-time: physicians, nurses, emergency medical personnel, dental professionals and students, medical and nursing students, laboratory and pharmacy workers, hospital volunteers, and administrative staff, including food service workers) in the hospital shall have a pre-employment health examination, which shall include (but not be limited to):

1. An immunization history shall be part of each pre-employment examination or application for hospital privileges. The immunization history shall include documentation of immunity to measles, mumps, rubella and varicella.
   - Birth before 1957 is considered acceptable evidence of immunity to measles, mumps, and rubella, with the exception that birth before 1957 is not acceptable evidence of immunity to rubella for female employees and/or workers born before 1957 who can become pregnant.
   - Persons born in 1957 or later can be considered immune to measles, mumps or rubella only if they have documentation of one of the following:
     - measles or mumps disease diagnosed by a physician or licensed independent practitioner;
     - laboratory evidence of measles, mumps, or rubella immunity; or
     - vaccination on or after the first birthday with two doses of live measles vaccine separated by at least 28 days, at least one dose of live mumps vaccine, and at least one dose of live rubella vaccine.
   - Persons can be considered immune to varicella if they have a reliable history of having had varicella or if they have received one dose of varicella vaccine on or after the first birthday prior to the 13th birthday, or two doses of varicella vaccine separated by at least 28 days on or after the 13th birthday.
   - Serologic screening need not be done before vaccinating against measles, mumps, rubella and varicella unless the facility considers it cost-effective.
   - Serologic screening is not necessary for persons who have documentation of appropriate vaccination or other acceptable evidence of immunity to measles, mumps, rubella, and varicella. Contraindications to MMR or varicella vaccines should be followed.

2. Tuberculin skin test utilizing the Mantoux technique shall be included as part of the pre-employment health examination or application for hospital privileges. Only a previous reactive tuberculin skin test or documented evidence of tuberculin skin testing within the previous twelve (12) months as a part of another licensed health care facility's tuberculosis control program would negate this requirement. If PPD (Purified Protein Derivative) is less than 10 mm., repeat PPD in one to two (1-2) weeks, if it has
been more than a year since the employee's and/or worker's last non-reactive tuberculin test (Booster Effect). A history of vaccination with BCG (Bacillus of Calmette and Guerin) does not preclude initial tuberculin skin testing, and a reaction of ten (10) mm. or more should be managed in the same manner as it would be in a patient with no history of BCG vaccination.

(23) Hepatitis B vaccine shall be offered consistent with 29 CFR Section 1910.1030 (Occupational Exposure to Bloodborne Pathogens).

(34) Each hospital shall meet Occupational Safety and Health Act standards applicable to the facility.

(b) Periodic health examinations. A tuberculin skin test utilizing the Mantoux technique shall be repeated at regular intervals on those employees and/or workers who have potential for exposure to Mycobacterium tuberculosis unless the employee and/or worker has a previous documented reactive skin test on file. Such periodic tuberculin skin testing shall be part of a documented tuberculosis control program that is based on a facility specific risk assessment that considers at a minimum: the type and size of the facility, the prevalence of tuberculosis in the community, the patient population served by the facility, the occupational group the person represents, the area of the facility where the person works, and the effectiveness of the facility's tuberculosis control program. The following guidelines shall be used for the information and education of facilities with regard to their tuberculosis control program: "Centers for Disease Control and Prevention. Guidelines for preventing the transmission of Mycobacterium tuberculosis in health care facilities, 1994. MMWR 1994;43(No. RR-13)". A test for tuberculosis shall be performed. 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.

(1) Follow-up examinations for employees and/or workers who react significantly to a tuberculin skin test shall be conducted.

(2) Employees and/or workers with an initial negative chest x-ray, whether they take appropriate preventive therapy (treatment of latent tuberculosis infection) or not, shall be exempt from yearly, routine chest x-rays unless signs or symptoms suggestive of tuberculosis develop.

(3) Employees and/or workers with a documented reactive skin test and a proven negative chest x-ray, whether they have taken appropriate preventive therapy (treatment of latent tuberculosis infection) or not, shall be exempt from yearly, routine chest x-rays unless signs or symptoms suggestive of tuberculosis develop.

(4) Employees and/or workers with documented prior reactive tuberculin skin tests shall be seen yearly by medical personnel to determine if signs or symptoms are present. The results of such examinations shall be recorded on the individual employee's and/or worker's health record.

(c) Interim health examinations. Employees and/or workers, when found to be likely to transmit a communicable disease as determined by a physician or licensed independent practitioner, shall be removed from patient contact duties, consistent with state and federal laws, until such time as a physician or licensed independent practitioner certifies that the risk of transmission of communicable disease is within acceptable limits as defined by the infection control program in its written policies and procedures.

(d) Follow-up examinations. Follow-up of an employee and/or workers, who, while employed at the facility, is a contact to active tuberculosis:

(1) An employee and/or worker who is a known tuberculosis contact shall have a tuberculin skin test. If this test is reactive for the first time, the individual shall have a chest x-ray. If the individual with a reactive skin test does not take preventive medication (treatment of latent tuberculosis infection), the employee and/or worker shall be monitored.

(2) If an employee and/or worker is a known, recent tuberculosis contact, he or she shall have a tuberculin skin test and, if non-reactive, and if the individual is asymptomatic for tuberculosis, then a
repeat tuberculin skin test shall be done in three (3) months. If the employee and/or worker is
symptomatic, an x-ray shall be done immediately.
(3) If an employee and/or worker is a contact to active tuberculosis and has a documented previous
reactive skin test, he or she shall be exempt from yearly, routine x-rays unless signs or symptoms develop
suggestive of tuberculosis.
(e) Annual influenza vaccination program. Each hospital 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:
(1) The offer of influenza vaccination onsite, at no charge to all employees and/or workers in the
hospital or acceptance of documented evidence of current season vaccination from another vaccine source
or hospital;
(2) 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
(3) Education of all employees and/or workers about the following:
(A) Influenza vaccination;
(B) Non-vaccine influenza control measures; and
(C) The symptoms, transmission, and potential impact of influenza.
(4) Each hospital influenza vaccination program shall conduct an annual evaluation of the program
including the reasons for non-participation.
(5) The requirements to complete vaccinations or declination statements for each employee and/or
worker may be suspended by the hospital's medical staff executive in the event of a shortage of vaccine as
recognized by the Commissioner of Health.
(f) Health examination records. A file shall be maintained for each employee and/or worker, containing
the results of the evaluations and examinations specified at OAC 310:667-5-4 (a) through (d) and the
dates of illnesses as relate to employment.
(g) Credentialing records. For credentialed non-employee workers, including physicians, hospitals may
meet these requirements if as part of the credentialing process such workers provide evidence of an
immunization history and tuberculin skin test, consistent with the tuberculosis control program required at
310:667-5-4(b), in the form of a signed attestation statement from the non-employee worker that
documents the worker's immunization history and the date and results of the latest tuberculin skin test.