

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH  
CHAPTER 234. MEDICAL MICROPIGMENTAION**

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 1. General Provisions  
310:234-1-2 [AMENDED]  
Subchapter 3. Medical Micropigmentation Certification  
310:234-3-2 [AMENDED]  
310:234-3-3 [AMENDED]  
310:234-3-3.1 [AMENDED]  
310:234-3-4 [AMENDED]  
310:234-3-5 [AMENDED]  
Subchapter 7. Requirements for Premises  
310:234-7-1 [AMENDED]  
310:234-7-2 [AMENDED]  
Subchapter 11. Enforcement  
310:234-11-4 [NEW]

**AUTHORITY:**

Oklahoma State Board of Health; Title 63 O.S. Section 1-104 et seq.; Title 63 O.S. Sections 1-104 and 1-1450 et seq.

**DATES:**

**Comment Period:**

January 2, 2007 through March 8, 2007

**Public Hearing:**

February 1, 2007 and March 8, 2007

**Adoption:**

March 8, 2007

**Effective:**

Immediately upon Governor's approval

**Expiration:**

Effective through July 14, 2007, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATION BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

The State Board of Health finds that public interest requires seeking of emergency certification of amendments to rules in Chapter 233. Unless an emergency is declared and certified, the fees specified in Chapter 234 by the State Board of Health will not comply with Section 4(B) of Enrolled Senate Bill No. 806 of the 2nd Regular Session of the 50th Oklahoma Legislature, effective November 1, 2006. Also, the public will not have the benefit of experienced instructors, updated information on medical micropigmentologist and sufficient investigations for medical micropigmentation, which will result in increased risk of infection.

**ANALYSIS:**

The purpose of the proposed rulemaking action is to update requirements for Medical Micropigmentation in Oklahoma. The subchapters are amended to update references to mechanical codes

and require the medical micropigmentation person to provide an update to the Department of their attending physician. This proposal modifies definitions, amends requirements for medical micropigmentation instructor education and provides for joint investigation with the appropriate licensing board. Also, the proposed amendments will implement Enrolled Senate Bill No. 806 of the 2nd Regular Session of the 50th Oklahoma Legislature, effective November 1, 2006 that will decrease the certification fees.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**310:234-1-2. Definitions**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Aftercare"** means written instructions given to the client, specific to the micropigmentation procedure(s) rendered, on caring for the micropigmentation area and surrounding area.

**"Antiseptic"** means an agent that destroys disease-causing microorganisms on human skin or mucosa.

**"Autoclave bag"** means a bag for holding instruments or other items, which are to be put into an autoclave for sterilization.

**"Certification"** means written approval by the Department for a person to perform medical micropigmentation.

**"Clinical certification examination"** means the examination is a clinical scenario that tests the candidate's ability to perform micropigmentation procedures. The candidate demonstrates technical competency by scoring 100% on the clinical certification examination. The clinical certification examination consists of one scenario with three skills components, one of which may be retaken two (2) times before retraining is required.

**"Committee"** MMAC means the Medical Micropigmentation Advisory Committee.

**"Contaminated waste"** means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood and other potentially infectious materials, as defined in the "Occupational Exposure to Bloodborne Pathogens." [29 CFR § 1910.1030]

**"Department"** OSDH means the Oklahoma State Department of Health.

**"Disinfection"** means the destruction of disease-causing microorganisms on inanimate objects or surface.

**"Equipment"** means all machinery, including fixtures, containers,

vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with medical micropigmentation procedures.

**"Handsink"** means a lavatory equipped with hot and cold running water under pressure used solely for washing hands, arms or other portions of the body.

**"Hot water"** means water that attains and maintains a temperature as specified in OAC ~~310:310~~158:30.

**"Instruments used for medical micropigmentation"** means handpieces, needles, needle bars and other instruments that may contact a client's body or body fluids during medical micropigmentation.

**"Licensing board"** means the Oklahoma State Board of Medical Licensure and Supervision, the State Board of Osteopathic Examiners and/or the Board of Dentistry. [21:841.5]

**"Liquid chemical germicide"** means a disinfectant or sanitizer registered with the Environmental Protection Agency or an approximate 1:100 dilution of household chlorine bleach (500ppm, ¼ cup/gal. or 2 tablespoons/quart of tap water) made fresh daily and dispensed from a spray bottle.

**"Medical micropigmentation"** means a medical procedure in which any color or pigment is applied with a needle or electronic machine:

- (A) To produce a permanent mark visible through the skin;
- (B) Above the jawline and anterior to the ear and frontal hairline including but not limited to application of eyeliner, eye shadow, lips, eyebrows, cheeks, and scars; and/or
- (C) For regimentation of areas involving reconstructive surgery or trauma. [21:841.5]

**"Physician"** means a person licensed to practice:

- (A) Allopathic medicine and surgery by the Oklahoma State Board of Medical Licensure and Supervision pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. [Title 59 O.S. Section 481 et seq.]
- (B) Osteopathic medicine by the State Board of Osteopathic Examiners pursuant to the Oklahoma Osteopathic Medicine Act, [Title 59 O.S.620 et seq.] or
- (C) Dentistry by the Board of Dentistry pursuant to the State Dental Act. [Title 59 O.S. Section 328.1 et seq.].

**"Procedure surface"** means any part of equipment designed to contact the client's unclothed body during a medical micropigmentation procedure.

**"Sanitize/sanitization procedure"** means a process of reducing the number of microorganisms on cleaned surfaces and equipment to a safe level as has been approved by the Department.

**"Sharps"** means any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized, single use needles, scalpel blades and razor blades.

**"Sharps container"** means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and is labeled with the International Biohazard

Symbol.

**"Single use"** means products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, and protective gloves.

**"Skills area evaluation"** means an evaluation given at the end of instruction for a particular skills area that consists of two parts: technique and theory. Mastery of technique shall be demonstrated by performing the skills on the job sheet(s) for that skills area in the presence of an approved evaluator (supervising physician or instructor) with 100% accuracy. A candidate shall demonstrate mastery of micropigmentation theory by scoring 85% or greater on a written test over the material in that skills area.

**"Skills Challenge"** means a mechanism that enables persons who are currently performing supervised micropigmentation to challenge the training requirement through previous training and experience. Candidates who satisfactorily challenge the training requirement by satisfactorily completing all skills area evaluations can take the written and clinical certification examinations. Candidates who do not satisfactorily challenge the training requirement must enroll in a medical micropigmentation training program.

**"Sterilization"** means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

**"Ultrasonic"** means ultrasonic sound, which is pertaining to acoustic frequencies above the range audible to the human ear, or, above approximately 20,000 cycles per second. There are several types of ultrasonic devices.

**"Universal precautions"** means a set of guidelines and controls, published by the Centers for Disease Control (CDC) as "Guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B to health-care and public-safety workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures" in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, proper handling and disposal of needles, sharps disposal, and disposal of products contaminated with blood and body fluids.

**"Written certification examination"** means an examination taken upon satisfactory completion of all skills area evaluations. An applicant demonstrates written competency by scoring 70% or greater on the written certification examination. The written certification examination may be retaken up to two (2) times before retraining is required.

### SUBCHAPTER 3. MEDICAL MICROPIGMENTATION CERTIFICATION

#### 310:234-3-2. Certification requirements

(a) An individual shall be eligible to apply for a certificate to practice medical micropigmentation by satisfying all of the following criteria:

- (1) Applicant shall have received a high-school diploma or its equivalent;
- (2) Applicant shall be at least twenty-one years of age;
- (3) Applicant shall provide a notarized copy of his/her certificate of birth;
- (4) Applicant shall provide a notarized copy of his/her driver's license or other similar photo identification;
- (5) Applicant shall provide a notarized copy of his/her credentials and professional resume that documents years of practice and number of procedures performed (if applicable);
- (6) Applicant shall provide proof of satisfactory completion of an OSDH-approved medical micropigmentation training and testing program.

(b) The State Commissioner of Health shall not issue a certificate or renew a certificate to perform medical micropigmentation procedures to certain persons as specified in Title 63, Section 1-1454(b).

(c) **Certification fees.** Fees to obtain a certificate to practice medical micropigmentation in Oklahoma shall be as follows:

- (1) ~~\$1,000.00~~\$500.00 for a new application for certification, which ~~does not include~~includes subsequent cost of exams and re-exams;
- (2) ~~\$500.00~~\$100.00 for a renewal of certification;
- (3) ~~\$750.00~~\$375.00 for reinstatement of certification if the renewal of the certification is 30 days or more after the expiration date; and/or
- (4) ~~\$250.00~~\$125.00 for the replacement of a certificate.
- (5) Applicant shall be responsible for the cost of the examination or re-examination and background checks relating to licensing or certification.

(d) **Period of validity for certificate.** Certification is valid for one (1) year after date of issuance.

#### 310:234-3-3. Training and testing

An individual shall satisfy the training and testing requirement for certification by meeting one (1) of the following criteria:

- (1) Satisfactory completion of an OSDH-approved medical micropigmentation training program and the certification testing process shall include (skills area evaluations, and written certification test, and a clinical skills test); or may be required if deemed necessary by the Oklahoma Department of Career and Technology Education.
- (2) Granted challenge status after being deemed by OSDH to have met requirements for preparedness through training and experience and satisfactory completion of all components of the certification testing process shall include (Skills

skills area evaluations, and written certification test, and A clinical skills test) may be required if deemed necessary by the Oklahoma Department of Career and Technology Education.

### **310:234-3-3.1 Reciprocity**

The State Department of Health upon recommendation of the Medical Micropigmentation Advisory Committee may approve applicants for certification by reciprocity. An applicant shall qualify for certification by reciprocity if the applicant:

- (1) Has qualifications and training comparable to those required under the Oklahoma Medical Micropigmentation Regulation Act;
- (2) Provides documentation verifying two (2) years of experience and a minimum of two hundred (200) procedures; and
- (3) Has successfully completed the Oklahoma certification examination. [63:1-1455(E)]
- (4) Provides documentation verifying possession of licensing or certification from another state in good standing.

### **310:234-3-4. Certificate by completion of medical micropigmentation training program and certification testing process**

(a) Training in medical micropigmentation obtained through the Oklahoma Department of Career and Technology Education or other training course shall consist of at least 300 hours or equivalent of competency based instruction [63:1-1455] encompassing both theory and clinical training and is approved by the Department as meeting the training and curriculum requirements of this section.

(b) Medical Micropigmentation training shall be in the following skills area including theory and lab training:

- (1) Safety and Aseptic Technique;
- (2) Knowledge of Facial Anatomy, Physiology, and Disease;
- (3) Theory and Application of Micropigmentation;
- (4) Color Theory;
- (5) Client Consultation Services;
- (6) Professionalism; and
- (7) Micropigmentation procedures (eyeliner, lips, eyebrows, eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma, or repigmentation of the areola):
  - (A) Basic procedures on clients (eyeliner, lips, and eyebrows),
  - (B) Advanced procedures (eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma or repigmentation of the areola).

(c) ~~The instructor for micropigmentation procedures and techniques shall be: an Oklahoma Certified Micropigmentologist who has performed procedures for one (1) year or a physician as defined by OAC 310:234-1-2. Subject matter experts may be utilized to teach technique and theory in other skill areas.~~

- (1) An Oklahoma Certified Micropigmentologist who has performed procedures for three (3) years that shall include eye procedures, full lip procedures, and eyebrow procedures; or

(2) A physician as defined by OAC 310:234-1-2. Subject matter experts may be utilized to teach technique and theory in other skill areas.

(d) **Skills area evaluations.**

(1) During the training program, a candidate must satisfactorily complete an evaluation for each skills area. The evaluation verifies that micropigmentation concepts and/or techniques presented in that skills area have been mastered.

(2) Mastery of medical micropigmentation technique in a skills area shall be demonstrated when the candidate performs all skills presented on all job sheets contained within that skills area to the instructor with 100% accuracy.

(3) Mastery of medical micropigmentation theory in a skills area shall be demonstrated when the candidate scores 85% on the written test over material covered in that skills area (if applicable).

(e) **Written certification examination.**

(1) ~~Candidate~~Candidates shall be eligible to sit for the written certification examination upon satisfactory completion of training and skills area evaluations. The written certification examination for medical micropigmentation shall be offered at Health Certification Project testing sites located in Technology Centers. Documentation of satisfactory completion of the written certification exam shall be required before a candidate is permitted to take the clinical certification examination.

(2) A passing score of 70% shall be required to show competency. A candidate who does not meet this score can retest up to two (2) times. Candidates who do not pass the written certification examination must wait at least seven (7) days before retesting. Candidates who are unable to attain competency after three attempts shall be required to re-enroll in the medical micropigmentation training program.

(f) **Clinical certification examination.**

(1) Candidates shall be eligible to take the clinical certification examination upon satisfactory completion of the written certification examination. The clinical certification examination for medical micropigmentation shall be offered at selected Technology Center test sites and shall be offered two (2) times per year or as deemed necessary by the ~~Medical Micropigmentation Advisory Committee~~Department. The clinical certification examination shall consist of three (3) components.

(2) Candidates shall provide all equipment and supplies for the clinical certification examination. Competency shall be verified by documentation of the clinical certification examination. A candidate must attain a score of 100% to pass the clinical certification examination. A candidate shall be permitted to retest one (1) clinical component up to two (2) times. Candidates who are unable to pass all three components within these guidelines shall be required to re-enroll in a medical micropigmentation program.

(g) **Application for certification.** Upon satisfactory completion of the medical micropigmentation training and certification testing process, the applicant is eligible to apply for a Medical Micropigmentation Certificate. In order to apply for a Certification, the candidate must submit the following to OSDH:

- (1) Completed application;
- (2) Notarized copy of the candidate's certificate of birth;
- (3) Notarized copy of the candidate's driver's license or other similar form of photo ID;
- (4) Notarized copy of the candidate's professional credentials; and
- (5) Completed Training and Testing Verification Form.

(h) **Issuance of certificates.** The State Commissioner of Health shall award a certificate to eligible applicants as set forth in Section 5 of the Act within thirty days of receipt of the completed application and required documents.

### **310:234-3-5. Certificate by skills challenge and certification testing**

(a) A person who has received training in micropigmentation and has experience in performing micropigmentation procedures may be deemed to have met the Department-approved preparedness requirements. Attaining challenge status enables the applicant to bypass micropigmentation training if he/she is able to score 100% on the Skills area evaluations for each of the areas:

- (1) Safety and Aseptic Technique;
- (2) Knowledge of Facial Anatomy, Physiology, and Disease;
- (3) Theory and Application of Micropigmentation;
- (4) Color Theory;
- (5) Client Consultation Services;
- (6) Professionalism; and
- (7) Micropigmentation Procedures on Clients.
  - (A) Basic procedures (eyeliner, lips, and eyebrows),
  - (B) Advanced procedures (eye shadow, cheeks, scars, and/or reconstructive surgery, trauma, or repigmentation of the areola)

(b) **Application for certification by skills challenge and certification testing.**

(1) To apply for challenge status, the applicant must submit all of the following to OSDH:

- (A) Completed application for challenge status;
- (B) Notarized copy of the applicant's certificate of birth;
- (C) Notarized copy of the applicant's driver's license or other similar photo identification;
- (D) Notarized copy of his/her credentials and professional resume of satisfactory completion of Medical Micropigmentation procedures for a minimum of six months experience and 60 procedures performed;
- (E) Letter from supervising physician detailing the types of micropigmentation procedures that shall be performed under his/her supervision or letter of recommendation;
- ~~(F) \$1000 Application for Certification fee;~~

~~(2) Challenge status shall only be granted between January 1, 2002, and December 31, 2002, to those seeking to practice medical micropigmentation in Oklahoma.~~

(3)(2) OSDH shall notify the applicant in writing of its decision to approve/disapprove the applicant's challenge status within 60 days of receipt of a completed application. Applicants who are not eligible to challenge must enroll in a micropigmentation training program before entering the certification testing process. Applicants who are eligible to challenge must present the letter of notification from OSDH upon enrolling in the skills challenge and certification testing process.

**(c) Skills area evaluations.**

(1) A skills challenge candidate must score 100% on each skills area evaluation. The evaluation verifies those micropigmentation concepts and/or techniques presented in the training program have been mastered through previous training and experience.

(2) Mastery of medical micropigmentation technique in a skills area shall be demonstrated when the candidate performs all skills presented on all job sheets contained within that competency area to the instructor with 100% accuracy. A skills challenge candidate shall perform all skills presented on a job sheet in the presence of his/her supervising physician. Each job sheet must document the procedure performed and include the signature of the supervising physician who witnessed and evaluated the procedure. In order to take the written portion of the skills area evaluation, the candidate must present signed and completed job sheets for each skill presented in that competency area.

(3) Mastery of medical micropigmentation theory in a skills area shall be demonstrated when the candidate scores 85% on the written test (if applicable). Candidates who fail to score 85% on the written portion of each skills area evaluation can re-test in no more than two (2) competency areas. Candidates who fail to score 85% after three (3) attempts shall be required to enroll in a micropigmentation program. Unsuccessful challenge candidates must remediate in all areas where they scored less than 85% through an approved micropigmentation program. Competency will be determined by successful completion of the associated written skill evaluation(s). Candidates who satisfactorily complete all skills area evaluations shall be eligible to register for the written certification examination.

**(d) Written certification examination.**

(1) Candidate shall be eligible to sit for the written certification examination upon satisfactory completion of training and skills area evaluations. The written certification examination for medical micropigmentation shall be offered at Health Certification Project testing sites located in Technology Centers. Documentation of satisfactory completion of the written certification exam shall be required before a candidate is permitted to take the clinical

certification examination.

(2) A passing score of 70% shall be required to show competency. A candidate who does not meet this score can retest up to two (2) times. Candidates who do not pass the written certification examination must wait at least seven (7) days before retesting. Candidates who are unable to attain competency after three attempts shall be required to re-enroll in the medical micropigmentation training program.

(e) **Clinical certification examination.**

(1) Candidates shall be eligible to take the clinical certification examination upon satisfactory completion of the written competency examination. The clinical competency for medical micropigmentation shall be offered at selected Technology Center test sites and shall be offered two (2) times per year or as deemed necessary by the ~~Medical Micropigmentation Advisory Committee~~ Department. The clinical certification examination shall consist of three (3) components.

(2) Candidates shall provide all equipment and supplies for the clinical competency examination. Competency shall be verified by documentation of the clinical competency examination. A candidate must attain a score of 100% to pass the clinical certification examination. A candidate shall be permitted to retest one (1) clinical component up to two (2) times. Retesting a clinical component shall be available at the next clinical certification examination test date. Candidates who are unable to pass all three components within these guidelines shall be required to re-enroll in a medical micropigmentation program.

(f) **Application for certification.**

(1) Upon satisfactory completion of the medical micropigmentation training and certification testing process, the applicant is eligible to apply for a Medical Micropigmentation Certificate. In order to apply for a Certification, the candidate must submit the following to OSDH:

- (A) Completed application for certification, and
- (B) Completed Training and Testing Verification Form.

(2) The State Commissioner of Health shall award a certificate to eligible applicants as set forth in Section 5 of the Act within thirty days of receipt of the completed application and required documents.

## SUBCHAPTER 7. REQUIREMENTS FOR PREMISES

### 310:234-7-1. Physical facilities

Medical micropigmentation shall only be performed in a physician's office. The applicant or licensed medical micropigmentation person shall provide information to the Department in their application or renewal form stating who the supervising physician is with the dentist or physician('s) signature, address of the dentist or physician's office where the dentist or physician is supervising, and who the Certified Medical

Micropigmentologist being supervised is performing medical micropigmentation.

**310:234-7-2. Physical construction and maintenance**

(a) All walls, floors, ceilings and all procedure surfaces where medical micropigmentation is performed shall be smooth, free of open holes or cracks, washable, in good repair, and clean. All procedure surfaces, including client chairs/benches shall be of such construction as to be easily cleaned and sanitized after each client.

(b) No animals of any kind shall be allowed in the area where medical micropigmentation is performed except service animals used by persons with disabilities.

(c) The facility shall comply with OAC ~~310:310~~ 158:40 (Plumbing Industry Regulations). In addition, a separate, readily accessible, handsink with hot and cold running water, under pressure, equipped with wrist or foot operated controls and supplied with liquid soap, and disposable paper towels shall be readily accessible to each individual performing medical micropigmentation.

(d) At least one covered waste receptacle shall be provided in each medical micropigmentation area and each toilet room. All refuse containers shall be lidded, cleanable and kept clean.

(e) All instruments and supplies shall be stored in clean, dry and covered containers.

(f) Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

(g) The facility shall comply with OAC ~~310:245~~ 158:40 (Electrical Industry Regulations). In addition, the medical micropigmentation room shall have 10-foot candles of light at 30 inches above the floor and 30-foot candles on surfaces where micropigmentation is performed.

(h) The facility shall comply with OAC ~~310:290~~ 158:50 (Mechanical Industry Regulations).

**SUBCHAPTER 11. ENFORCEMENT**

**310:234-11-4. Inspection of Complaints**

Upon receipt of a complaint by the Department or upon receipt of notice relating to an alleged violation of the Oklahoma Medical Micropigmentation Regulation Act or rules promulgated there under, that involves the practice of micropigmentation in the office of a dentist or physician, the Department shall notify the appropriate licensing board of the complaint and request a joint inspection.