

Agenda for the 11:00 a.m., Tuesday, March 9, 2010
Regular Meeting of the Oklahoma State Board of Health
Posted at www.health.ok.gov
Oklahoma State Department of Health
1000 N. E. 10th Street - Rm. 1102
Oklahoma City, OK 73117-1299

*PRELIMINARY COURTESY AGENDA
FINAL AGENDA POSTED 24 HOURS IN ADVANCE OF MEETING*

A. CALL TO ORDER AND OPENING REMARKS

B. REVIEW OF MINUTES

1. **Approval of Minutes for December 10, 2009, Regular Meeting**
2. **Approval of Minutes for January 12, 2010, Regular Meeting**

C. PROPOSED RULEMAKING ACTIONS

Discussion and possible action.

PREVENTION AND PREPAREDNESS SERVICES

3. CHAPTER 512. CHILDHOOD LEAD POISONING PREVENTION RULES [AMENDED]

[PERMANENT] Presented by Sharon Vaz / Jan Fox

PROPOSED RULES: Subchapter 3. Specimen: 310:512-3-6 [NEW]; 310:512-3-7 [NEW].

AUTHORITY: Oklahoma State Board of Health §63-1-114.1

SUMMARY: The proposal amends subchapter 3 to permit the collection of a fee for blood lead sample collection and analysis, and for environmental investigations conducted by the Oklahoma State Department of Health. The rule is necessary to enable the Department to collect funds to reimburse its costs to perform these services, particularly from persons who have the ability to pay. The proposal would expand the Department's ability to conduct blood lead testing in Oklahoma. The proposal is necessary to offset a projected cessation of federal grant funds due to end on June 30, 2011.

4. CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING [AMENDED]

[PERMANENT] Presented by Lauri Smithee / Jan Fox

PROPOSED RULES: Subchapter 1. Disease and Injury Reporting Requirements: 310:515-1-1.1 [AMENDED]; 310:515-1-2 [AMENDED]; 310:515-1-3 [AMENDED]; 310:515-1-4 [AMENDED].

AUTHORITY: Oklahoma State Board of Health; 63 O.S., §§ 1-502 and 1-503

SUMMARY: The proposal updates the existing rules in accordance with recommendations from the Council of State and Territorial Epidemiologists, the Centers for Disease Control and Prevention, and local public and private health partners pertaining to reportable diseases. The proposal amends definitions describing outbreaks and unusual diseases and the lists of reportable diseases, in order to clarify those conditions and diseases that are required to be reported to the Department. The proposal is needed because under the current rules, toxins and other harmful agents that are responsible for, or may be contributing to, a disease outbreak are not being reported. The proposal narrows the definition of a cluster by specifying the conditions that would prompt disease reporting. The proposal also refines requirements for reporting negative results in certain conditions which might involve an unknown organism. With these changes the Department will receive more precise information and thereby be better equipped to respond quickly and effectively to disease outbreaks or unusual or uncommon adverse health conditions.

5. CHAPTER 535. IMMUNIZATIONS [AMENDED]

[PERMANENT] Presented by Susan Mendus / Jan Fox

PROPOSED RULES: Subchapter 1. Childhood Immunizations: 310:535-1-2 [AMENDED].

AUTHORITY: Oklahoma State Board of Health; 70 O.S. §§ 1210.191 et seq

SUMMARY: This rule change is being proposed to add a requirement for one dose of Tdap vaccine for students entering the seventh grade in the fall semester of 2011 and extending up one grade level each year until all students in grades seventh through twelfth are required to receive the dose of Tdap vaccine in order to comply with national recommendations for use of the vaccine and thereby reduce the incidence of pertussis in Oklahoma.

6. CHAPTER 551. ADVANCEMENT IN STEM CELL CURES AND THERAPIES ACT

[AMENDED]

[PERMANENT] Presented by Sharon Vaz / Jan Fox

PROPOSED RULES: Subchapter 3. Required Information for Reporting: 310:551-3-2 [NEW]; 310:551-3-3 [NEW]; Subchapter 5. Confidentiality of Information and Responsibilities of Information Providers: 310:551-5-1 [NEW]; 310:551-5-2 [NEW]; 310:551-5-3 [NEW]; 310:551-5-4 [NEW].

AUTHORITY: Oklahoma State Board of Health 63 O.S. Supp 2008, § 1-270.2

SUMMARY: This proposal establishes a reporting system to the Oklahoma State Department of Health as defined by House Bill 3126, The Advancement in Stem Cell Cures and Therapies Act.

CENTER FOR HEALTH STATISTICS

7. CHAPTER 9. HEALTH CARE INFORMATION [AMENDED]

[PERMANENT] Presented by Kelly Baker / Julie Cox-Kain

PROPOSED RULES: Subchapter 1. General Provisions: 310:109-1-3 [AMENDED].

AUTHORITY: Oklahoma State Board of Health; 63 O.S. Supp 2001, Section 1-118(C)(2)(c)

SUMMARY: This rule change will set charges for the cost of data preparation for information and for the dissemination of the data with the funds to be deposited in the Oklahoma Health Care Information System Revolving Funds Account per O.S. 63 § 1-118.

8. CHAPTER 096. ADVANCE DIRECTIVE REGISTRY [NEW]

[NEW] Presented by Kelly Baker / Tom Cross

PROPOSED RULES: Chapter 096. Advance Directive Registry [NEW].

AUTHORITY: Oklahoma State Board of Health; 63 O.S. Supp. 2009 §3102.1

SUMMARY: The proposed rules to Chapter 096 will establish and implement the Advance Directive Registry pursuant to Senate Bill 346, OK Sessions 2009. This proposal will include a statement of purpose, definitions, fees, requirements for submission and release of an advance directive.

GENERAL COUNSEL

9. CHAPTER 2. PROCEDURES OF THE STATE DEPARTMENT OF HEALTH [AMENDED]

[PERMANENT] Presented by Nick Slaymaker / Gary Payne

PROPOSED RULES: Subchapter 21. Rules of Procedure Governing Individual Proceedings [AMENDED]; Subchapter 23. Requests for Declaratory Relief and Rulemaking [NEW]; Subchapter 25. Discovery [AMENDED].

AUTHORITY: Oklahoma State Board of Health; 75 O.S. §302; 63 O.S. §1-104

SUMMARY: The proposal modifies Subchapter 21 in a variety of ways to improve the efficiency and effectiveness of the Agency's hearing process. In this regard, changes to Subchapter 21 include: the addition of specific language establishing a written prescribed procedure for granting summary adjudication and resolution of any issue or issues in an administrative proceeding where it is demonstrated to the decision maker's satisfaction that there is no material question of fact in dispute; the establishment of time computation guidelines for computing periods of time prescribed or allowed that create deadline responsibilities during the administrative proceedings for parties and the effect that the use of mail has upon these time limits; the establishment of requirements upon Respondents to respond to petitions filed by the Agency; the establishment of requirements upon the parties to disclose without awaiting discovery request, an initial disclosure statement describing the party's position, legal issues, factual issues, persons likely to have discoverable information, and a list of documents in the party's possession that may be used to support its claims or defenses; the

modification of the procedure for motion practice to include any written submission for purposes of application to the time responses are due; the modification of procedures for conducting pretrial conferences and the establishment of a final pretrial conference procedure that uses the pretrial conference order provided in Rule 5 of the Rules for District Courts and special sanctions that may be imposed upon a party for failing to cooperate in procedures for conducting pretrial conferences; the establishment of procedures for conducting hearings using video-teleconferencing technology; the establishment of procedures for filing documents with the Office of Administrative Hearings using facsimile or electronic transmission; the establishment of procedures for the entry of protective orders that limit access to private or sensitive information consistent with rules and statutes establishing confidentiality or providing guidelines that protect access to certain personal information; the establishment of procedures for reconsideration of an informal agency action; the establishment of procedures for reconsideration by the Agency to the Commissioner of Health or his designee from a decision of the Administrative Law Judge; and, the establishment of procedures to request the transmission of the administrative record to District Court.

The proposal also creates a new Subchapter (Subchapter 23) that restores adjudication procedures for controversies, contests, or individual proceedings that involve declaratory relief or action that is declaratory in nature and a process for requesting rulemaking. The proposal also modifies Subchapter 25 in a variety of ways to improve the Agency's hearing process as it relates to discovery. In this regard, changes to Subchapter 25 include the following: the modification of time limitations for answers or objections to discovery requests and the establishment of time computation guidelines for computing periods of time prescribed or allowed that create deadline responsibilities relating to discovery for parties and the effect that the use of mail has upon these time limits; modify the requirements for parties resolving discovery disputes and special sanctions that may be imposed upon a party for failing to cooperate in procedures for conducting discovery conferences; and, the establishment of procedures for the entry of protective orders that limit access to private or sensitive information consistent with rules and statutes establishing confidentiality or providing guidelines that protect access to certain personal information.

The amendments to subchapter 21 and 25 are needed to improve the efficiency of the hearing process by improving the clarity and consistency of procedures for parties appearing before the agency. The proposal is intended to achieve a just balance between the due process rights of the parties and protecting the health, safety and welfare of the public. The establishment of subchapter 23 is needed to restore proceedings for declaratory relief or action that is declaratory in nature and a process for requesting rulemaking.

COMMUNITY AND FAMILY HEALTH SERVICES

10. CHAPTER 526. DENTAL SERVICES [AMENDED]

[PERMANENT] Presented by Susan Potter / Jana Winfree

PROPOSED RULES: Subchapter 1. General Provisions: 310:526-1-3 [AMENDED]; Subchapter 3. Oklahoma Dental Loan Repayment Program: 310:526-3-2 [AMENDED]; 310:526-3-3 [AMENDED].

AUTHORITY: Oklahoma State Board of Health; 63 O.S. §§ 1-105 and 1-2710 et seq

SUMMARY: This proposal amends the existing rule providing definitions and requirements of the Oklahoma Dental Loan Repayment Program (Program). This proposal will (1) change the definition of "new dental school graduate" from a dentist who has graduated during the last three years to a dentist who has graduated during the last five years, (2) provide an option for the Advisory Committee and Department to designate full time equivalent positions when warranted, and (3) add additional considerations to the participant selection process.

The primary circumstance creating this change is the difficulty in filling applicable faculty positions with dentists just three years or less out of school.

It is expected this amendment will increase the eligible applicant pool; increase the geographic diversity of the dentists seeking participation in the shortage areas; increase the number of qualified, experienced dentists seeking a faculty position at the College of Dentistry; and make better use of the funds provided by the legislature.

11. CHAPTER 531. VISION SCREENING [AMENDED]

[PERMANENT] Presented by Jim Marks / Suzanna Dooley

PROPOSED RULES: Subchapter 1. General Provision: 310:531-1-1 [AMENDED]; 310:531-1-3 [AMENDED]; Subchapter 5. Vision Screening Standards for Children: 310:531-5-1 [AMENDED]; 310:531-5-2 [AMENDED]; 310:531-5-3 [AMENDED]; 310:531-5-5 [NEW]; 310:531-5-6 [NEW]; 310:531-5-7 [NEW]; 310:531-5-8 [NEW]; 310:531-5-9 [New]; Subchapter 7. Registry Enforcement for Vision Screening Providers: 310:531-7-1 [AMENDED]; 310:531-7-2 [AMENDED]; 310:531-7-3 [AMENDED]; 310:531-7-4 [AMENDED]; 310:531-7-5 [AMENDED]; 310:531-7-6 [AMENDED]; 310:531-7-7 [NEW]; Subchapter 9. Sports Eye Safety Resource: 310:531-9-1 [NEW]; 310:531-9-2 [NEW].

AUTHORITY: Oklahoma State Board of Health; 63 O.S. § 1-104 and 70 O.S. § 1210.284

SUMMARY: The proposed revisions to Subchapter one (1) clarify definitions. The proposed revisions to Subchapter five (5) clarify qualifications for initial recognition and renewal of vision screening providers, vision screener trainers, and trainers of trainers of vision screening providers. The proposed revisions in Subchapter seven (7) clarifies purpose, grounds for discipline, complaint investigation, summary removal, appearance before the Advisory Committee, right to a hearing and hearing procedure and decisions for vision screening providers and trainers. The proposed revisions to Subchapter nine (9) clarify the role of the Committee in serving as a resource for sports eye safety; making available educational materials to Oklahoma K-12 public school districts and non-profit community sports organizations detailing the risk of eye injuries associated with sports activities and education about the availability of protective eyewear that reduces the risk of sports related eye injuries.

These rule changes are necessary clarify the standards which persons engaged in vision screening and training of vision screener must meet to engage those respective activities to maintain their certification and the process for revoking such certification. Additionally, subchapter 9 is proposed to implement legislation requiring the Vision Screening Advisory Committee to serve as a source of information regarding sports eye safety and prevention of associated eye injuries.

PROTECTIVE HEALTH SERVICES

12. CHAPTER 233. BODY PIERCING AND TATTOOING [AMENDED]

[PERMANENT] Presented by Tressa Madden / Hank Hartsell

PROPOSED RULES: Subchapter 3. Body Piercing Artist and Tattoo Artist Requirements and Professional Standards: 310:233-3-2 [AMENDED]; 310:233-3-3 [AMENDED]; Subchapter 7. Requirements for Premises: 310:233-7-2 [AMENDED]; Subchapter 9. License Requirements: 310:233-9-1 [AMENDED]; 310:233-9-2 [AMENDED]; 310:233-9-4 [REVOKED].

AUTHORITY: Oklahoma State Board of Health, Title 63 O.S. Section 1-104; Title 21 O.S. Sections 842.1, 842.2, and 842.3

SUMMARY: The purpose of the proposed rulemaking action is to update detailed requirements for tattooing and body piercing in Oklahoma. The proposed action will update requirements relating to body piercing and tattooing and establish uniform health and safety standards. The fee change will address a disincentive to compliance for those entities and individuals seeking a temporary license for short term public tattooing and body piercing events. The rule change places greater emphasis on the licensed entity for compliance by the entity's temporary artists not currently licensed in the State of Oklahoma. The current regulatory scheme impairs the Department's ability to protect the public from exposure to bloodborne diseases resulting from unsanitary practices by unidentified unlicensed individual artists at temporary events. This proposal modifies definitions, amends permit and license requirements for artists and establishments for temporary license events and removes requirements for a surety bonds. The surety bond statute received a Declaratory Judgment and permanent injunction on May 1, 2007 by the District Court of Oklahoma County, Case No. CJ 2007-988.

13. CHAPTER 234. MEDICAL MICROPIGMENTATION [AMENDED]

[PERMANENT] Presented by Tressa Madden / Hank Hartsell

PROPOSED RULES: Subchapter 9. Standards for Medical Micropigmentation: 310:234-9-2 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, Title 63 O.S. Section 1-104 and 63 O.S.1-1450 et seq

SUMMARY: The proposed rulemaking action changes the requirement that authorizes who may give an injection of local anesthesia to a person receiving Medical Micropigmentation. The rule change specifies the injection of local anesthesia shall only be performed by a certified micropigmentologist who is licensed and authorized under the applicable practice act for nurses, physician assistants, and dental hygienist. The current rule may authorize the certified micropigmentologist to engage in practices not authorized under the respective practice acts. This change is sought at the request of Department General Counsel and the Board of Medical Licensure and Supervision to avoid conflict with the applicable practice acts.

14. CHAPTER 281. DIAGNOSTIC X-RAY SYSTEMS [AMENDED]

[PERMANENT] Presented by Tressa Madden / Hank Hartsell

PROPOSED RULES: Subchapter 11. Use of X-Rays in the Healing Arts and Veterinary Medicine: 310:281-11-13 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, 63 O.S. Section 1-104 and 63 O.S. Section 1-1501.1 et seq

SUMMARY: 310:281-11-13 In a review of the regulations it was noted that this section differed from the Federal Guidelines for Diagnostic X-Ray machines. There is a difference in the maximum allowable exposure rates for fluoroscopic x-ray machines in automatic exposure control (AEC) mode of operation and there is no maximum for machines equipped with high boost modes operation. The changes would increase the maximum exposure from 5 Rems (radiation equivalent man) to 10 Rems for machines in the AEC mode and establish a maximum exposure limit of 20 Rems for fluoroscopic units when operated in a high boost mode. There will be no change in the maximum exposure rate for fluoroscopic x-ray machines when operated in the manual mode. These changes will help the department be in line with the federal guidelines during inspections.

15. CHAPTER 400. LICENSED MARITAL AND FAMILY THERAPISTS [AMENDED]

[PERMANENT] Presented by Nena West / Hank Hartsell

PROPOSED RULES: Subchapter 7. Application for Licensure: 310:400-7-2 [AMENDED]; Subchapter 13. Fees: 310:400-13-4 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 59 O.S. Section 1925.5(A)

SUMMARY: 310:400-7-2 The current Rule requires the licensure application to be notarized. This proposal relinquishes that requirement to allow the Department to facilitate the acceptance of on-line licensure applications. This change is necessary for the Department to be in compliance with Title 62 O.S., Section 41.5p-1 requiring state agencies to accept on-line licensure applications. The effect of this Rule will be an increased convenience and the reduction in travel and reductions in other transaction costs that would otherwise be borne by persons submitting licensure applications to the Department using traditional submission methods. **310:400-13-4** The current Rule allows payment of fees to be made in the form of cash, check, money order or cashier's check. This proposal allows the Department to accept credit card payments and other electronic payments for application and renewal fees. This change is necessary for the Department to be in compliance with Title 62 O.S., Section 41.5p-1 requiring state agencies to accept on-line licensure applications and license renewals. The effect of this Rule will be an increased convenience and the reduction in travel, payment of late fees and other reductions in transaction costs that would otherwise be borne by persons submitting licensure applications and license renewals to the Department using traditional payment methods.

16. CHAPTER 403. LICENSED BEHAVIORAL PRACTITIONERS [AMENDED]

[PERMANENT] Presented by Nena West / Hank Hartsell

PROPOSED RULES: Subchapter 5. Forms: 310:403-5-2 [AMENDED]; Subchapter 17. Fees: 310:403-17-2 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 59 O.S. Section 1934(A)

SUMMARY: 310:403-5-2 The current Rule requires the licensure application to be notarized. This proposal relinquishes that requirement to allow the Department to facilitate the acceptance of on-line licensure applications. This change is necessary for the Department to be in compliance with Title 62 O.S., Section 41.5p-1 requiring state agencies to accept on-line licensure applications. The effect of this Rule will be an increased convenience and the reduction in travel and reductions in other transaction costs that would otherwise be borne by persons submitting licensure applications to the Department using traditional submission methods. **310:403-17-2** The current Rule allows payment of fees to be made in the form of cash, check, money order or cashier's check. This proposal allows the Department to accept credit card payments and other electronic payments for application and renewal fees. This change is necessary for the Department to be in compliance with Title 62 O.S., Section 41.5p-1 requiring state agencies to accept on-line licensure applications and license renewals. The effect of this Rule will be an increased convenience and the reduction in travel, payment of late fees and other reductions in transaction costs that would otherwise be borne by persons submitting licensure applications and license renewals to the Department using traditional payment methods.

17. CHAPTER 405. LICENSED PROFESSIONAL COUNSELORS [AMENDED]

[PERMANENT] Presented by Nena West / Hank Hartsell

PROPOSED RULES: Subchapter 7. Application procedures: 310:405-7-2 [AMENDED]; Subchapter 13. Fees: 310:405-13-4 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 59 O.S. Section 1905(A)

SUMMARY: 310:405-7-2 The current Rule requires the licensure application to be notarized. This proposal relinquishes that requirement to allow the Department to facilitate the acceptance of on-line licensure applications. This change is necessary for the Department to be in compliance with Title 62 O.S., Section 41.5p-1 requiring state agencies to accept on-line licensure applications. The effect of this Rule will be an increased convenience and the reduction in travel and reductions in other transaction costs that would otherwise be borne by persons submitting licensure applications to the Department using traditional submission methods. **310:405-13-4** The current Rule allows payment of fees to be made in the form of cash, check, money order or cashier's check. This proposal allows the Department to accept credit card payments and other electronic payments for application and renewal fees. This change is necessary for the Department to be in compliance with Title 62 O.S., Section 41.5p-1 requiring state agencies to accept on-line licensure applications and license renewals. The effect of this Rule will be an increased convenience and the reduction in travel, payment of late fees and other reductions in transaction costs that would otherwise be borne by persons submitting licensure applications and license renewals to the Department using traditional payment methods.

18. CHAPTER 406. LICENSED GENETIC COUNSELORS [AMENDED]

[PERMANENT] Presented by Nena West / Hank Hartsell

PROPOSED RULES: Subchapter 7. Application for Licensure: 310:406-7-2 [AMENDED]; Subchapter 15. Fees: 310:406-15-2 [AMENDED]; Subchapter 17. Continuing Education Requirements: 310:406-17-3 [AMENDED]; 310:406-17-4 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-569

SUMMARY: 310:406-7-2 The current Rule requires the licensure application to be notarized. This proposal relinquishes that requirement to allow the Department to facilitate the acceptance of on-line licensure applications. This change is necessary for the Department to be in compliance with Title 62 O.S., Section 41.5p-1 requiring state agencies to accept on-line licensure applications. The effect of

this Rule will be an increased convenience and the reduction in travel and reductions in other transaction costs that would otherwise be borne by persons submitting licensure applications to the Department using traditional submission methods. **310:406-15-2** The current Rule allows payment of fees to be made in the form of cash, check, money order or cashier's check. This proposal allows the Department to accept credit card payments and other electronic payments for application and renewal fees. This change is necessary for the Department to be in compliance with Title 62 O.S., Section 41.5p-1 requiring state agencies to accept on-line licensure applications and license renewals. The effect of this Rule will be an increased convenience and the reduction in travel, payment of late fees and other reductions in transaction costs that would otherwise be borne by persons submitting licensure applications and license renewals to the Department using traditional payment methods. **310:406-17-3** - The current Rule requires ten hours of continuing education to be approved by the American Board of Genetic Counselors (ABGC). This proposal relinquishes that requirement because ABGC no longer approves the continuing education for genetic counselors. This change is necessary because the current Rule is unenforceable. The effect of this Rule will be the ability for licensees to accrue continuing education from qualified sources and the ability to renew licenses in compliance with the Rule. **310:406-17-4** - The current Rule requires licensees to submit individual verification of attendance documents of continuing education to renew the license. This proposal relinquishes that requirement to allow the Department to facilitate the acceptance of on-line license renewals. This change is necessary for the Department to be in compliance with Title 62 O.S., Section 41.5p-1 requiring state agencies to accept on-line license renewals. The effect of this Rule will be an increased convenience and the reduction in travel and reductions in other transaction costs that would otherwise be borne by persons submitting license renewals to the Department using traditional submission methods.

19. CHAPTER 615. AMBULATORY SURGICAL ~~CENTER REGULATIONS~~ CENTERS
[AMENDED]

[PERMANENT] Presented by Tom Welin / Hank Hartsell

PROPOSED RULES: Subchapter 1. General Provisions: 310:615-1-2.2 [NEW]; 310:615-1-3.1 [NEW]; 310:615-1-3.2 [NEW]; Subchapter 3. Administration and Organization: 310:615-3-8 [AMENDED]; Subchapter 5. Minimum Standards: 310:615-5-1 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, Title 63 O.S. Section 1-104; Title 63 O.S. Section 1-106.1(E); and Title 63 O.S. Sections 2662 and 2666

SUMMARY: 310:615-1-2.2 This new rule language describes the requirements of the license application process for new and renewing ambulatory surgical centers which has not been well defined previously. The proposed rule also establishes an initial license fee for new ambulatory surgical centers of two thousand dollars (\$2,000.00) and a renewal license fee for existing ambulatory surgical centers of five hundred dollars (\$500.00). Title 63 O.S., Section 1-106(E) authorizes the State Board of Health to establish a system of fees in the issuance and renewal of licenses through the rulemaking process within specified ranges. The license fee currently in place for ambulatory surgical centers was established in statute in 1976 in the amount of one hundred dollars (\$100.00) and has not been changed since. These proposed amendments related to the licensure process are necessary in order to provide clarity for providers of ambulatory surgical center services and to establish a well defined, transparent and predictable application process for licensure of these facilities. The increased fee for initial licensure and renewal is necessary to partially offset the cost of providing administrative licensure services and regulatory oversight for these facilities.

310:615-1-3.1 and 310:615-1-3.2 - The current rule does not address procedures or fees for the submission of design and construction documents for Department staff review prior to the start of any new construction or significant renovation of existing licensed ambulatory surgical center space. The proposal establishes procedures and sets a review fee that ranges from two hundred fifty dollars (\$250.00) up to two thousand dollars (\$2000.00) on a sliding scale based on the cost of the design and construction of the specific project to be reviewed. These proposed amendments related to plan submission and review are necessary in order to provide clarity for providers of ambulatory surgical center services and to establish a well defined, transparent and predictable plan review process for

these facilities. The new fee for review of construction documents for new ambulatory surgical centers and renovated spaces of existing ambulatory surgical centers is necessary to partially offset the cost of providing plan review and construction inspection services and related regulatory oversight for these facilities.

310:615-3-8 - The existing rule language contains an incorrect reference to the Oklahoma Administrative Code related to the standards for hospital licensure. The language incorrectly references Chapter 655. This proposed rule corrects the reference to the current chapter of rule as Chapter 667 Hospital Standards. This correction is necessary so that the requirements in the hospital standards related to the performance of the consultant pharmacist can be applied to licensed ambulatory surgical centers.

310:615-5-1 - The current rule language requires ambulatory surgical centers to have a formal transfer agreement with a general hospital located not more than a twenty (20) minute travel distance from the center. The proposed amendments offer ambulatory surgical centers the option of not entering into such an agreement if all physicians performing surgery in the center have admitting privileges at such a hospital. This proposed change is necessary to conform with a statutory change effected by HB 1375 effective November 1, 2007 and codified in Title 63 O.S., Section 2666 and is consistent with the federal Medicare Conditions for Coverage for ambulatory surgical centers.

20. CHAPTER 642. EMERGENCY RESPONSE SYSTEMS STABILIZATION AND IMPROVEMENT REVOLVING FUND [NEW]

[PERMANENT] Presented by Tom Welin / Hank Hartsell

PROPOSED RULES: Subchapter 1. General Provisions: 310:642-1-1 [NEW]; 310:642-1-2 [NEW]; 310:642-1-3 [NEW]; Subchapter 3. Applications: 310:642-3-1 [NEW]; 310:642-3-2 [NEW]; Subchapter 5. Scoring: 310:642-5-1 [NEW]; Subchapter 7. Disbursement: 310:642-7-1 [NEW]; 310:642-7-2 [NEW]; Subchapter 9. Evaluation: 310:642-9-1 [NEW].

AUTHORITY: Oklahoma State Board of Health: Title 63 O.S. Section 1-2512.1

SUMMARY: This new chapter of rule is being proposed in response to the statutory mandates established by SB 1918 of the 2nd Session of the 51st Oklahoma Legislature, effective November 1, 2008 and codified at Title 63 O.S., Section 1-2512.1. This law creates the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund (OERSSIRF) and requires the State Board of Health to promulgate rules establishing a formula and procedure for the distribution of funds accruing to the benefit of the fund. The monies in this fund shall be expended by the Department for the purpose of funding assessment activities, stabilization and/or reorganization of at-risk emergency medical services, development of regional emergency medical services, training for emergency medical directors, access to training front line emergency medical services personnel, capital and equipment needs. This proposed rule is intended to establish a well defined, predictable and transparent mechanism to distribute monies accruing to OERSSIRF to support the availability of high quality, sustainable pre-hospital medical care in Oklahoma. The proposed rule establishes the following sections:

310:642-1-1. Purpose [NEW] establishes rules to distribute the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund (OERSSIRF);

310:642-1-2. Program description [NEW] defines the Department's authority to distribute funds;

310:642-1-3. Definitions [NEW] identifies the meaning of words and terms utilized in the Chapter;

310:642-3-1. Application review and disposition [NEW] defines the application, review and disposition process for applications for OERSSIRF fund;

310:642-3-2. Applicable law, deadline for applications, eligible project costs, maximum award [NEW] identifies OERSSIRF application submission deadlines, projects eligible for OERSSIRF funds and maximum awards;

310:642-5-1 OERSSIRF funding priority point system [NEW] defines the process by which applications for OERSSIRF will be prioritized and awarded in accordance with a defined scoring (point)system for comparing applications;

310:642-7-1. Content of application. [NEW] defines the documentation required for project submission for OERSSIRF funding;

310:642-7-2. Disbursement of funds. [NEW] defines the Departments notification to applicants of OERSSIRF award approval, bid filing, and conditions to be met by award applicant;
310:642-9-1. Evaluation of Projects. [NEW] describes evaluation of benchmark measures identified in the project application by the department.

21. CHAPTER 663. CONTINUUM OF CARE AND ASSISTED LIVING [AMENDED]

[PERMANENT] Presented by Dorya Huser / Hank Hartsell

PROPOSED RULES: Subchapter 19. Administration, Records and Policies: 310:663-19-4 [NEW].

AUTHORITY: Oklahoma State Board of Health, 63 O.S. Section 1-104 and 63 O.S. Section 1-890 et seq

SUMMARY: 310:663-19-4 There is currently, no Rule that addresses the prevention and mitigation of abuse, neglect and the misappropriation of resident's property. This proposal promulgates procedures addressing abuse, neglect and the misappropriation of resident's property by requiring written policy statements and sets training criteria and timeframes. This change is necessary because no current rule defines the facility's responsibility to identify, investigate and take protective measures to ensure residents are free from abuse and neglect. The effect of the Rule change will be that actions are taken to prevent and mitigate abuse, neglect and the misappropriation of resident's property. The proposal allows the Department to meet the requirement as set forth in statute at, 43A O.S. Section 10-104.

22. CHAPTER 667. HOSPITAL STANDARDS [AMENDED]

[PERMANENT] Presented by Tom Welin / Hank Hartsell

PROPOSED RULES: Subchapter 59. Classification of Hospital Emergency Services: 310:667-59-20 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, 63 O.S. Section 1-104, 1-705, and 1-707

SUMMARY: The existing rule language specifies the requirements a licensed hospital must meet in order to be classified as a Primary Stroke Center or a Secondary Stroke Facility. The proposed amendments to the rules for the classification of emergency stroke services remove certain requirements for some nonessential supplies, medications, and equipment that have become a barrier to certain hospitals classifying at a specific level for emergency stroke services that otherwise would meet the classification requirements. The deleted elements duplicate requirements that are included in other sections of the rule that describe the classification of emergency neurology services. Removal of these requirements in the stroke section does not adversely impact the intent of the rule which is to improve access to peripheral thrombolytic therapy for patients suffering from acute onset of ischemic stroke. Removal of these nonessential requirements may allow several additional licensed hospitals to classify as Primary Stroke Centers thereby improving the availability of peripheral thrombolytic therapy for the citizens of Oklahoma.

23. CHAPTER 669. TRAUMA CARE ASSISTANCE REVOLVING FUND [AMENDED]

[PERMANENT] Presented by Tom Welin / Hank Hartsell

PROPOSED RULES: Subchapter 1. General Provisions: 310:669-1-3 [AMENDED].

AUTHORITY: Oklahoma State Board of Health; Title 63 O.S. § 1-104; and Title 63 O.S. §§ 1-2530.1 et seq

SUMMARY: The purpose of the proposed amendment is to delete the language specifying the manner that distribution calculations of the pro rata share are computed to ensure that smaller, primarily rural, distribution entities are not excluded in participation of the fund. The analysis conducted upon the release of the final report by the OSDH Internal Auditing Division on April 9, 2009 revealed that if the Rule language at 310:669-1-3 is strictly interpreted, all licensed ground ambulance services in the state of Oklahoma, with the exception of two urban and one rural services, would be excluded from participation in the fund and many rural hospitals would also be excluded. Removal of this restrictive language is critical to the successful application of the Trauma Care Assistance Revolving Fund to develop and support a sustainable trauma system in Oklahoma. The proposal deletes rounding language that requires calculations to be rounded to the third decimal

place.

24. CHAPTER 675. NURSING AND SPECIALIZED FACILITIES [AMENDED]

[PERMANENT] Presented by Dorya Huser / Hank Hartsell

PROPOSED RULES: Subchapter 9. Resident care services: 310:675-9-5.1 [AMENDED]; Subchapter 13. Staff requirements: 310:680-13-5 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, 63 O.S. Section 1-104 and 63 O.S. Section 1-1901 et seq

SUMMARY: 310:675-9-5.1 The current Rule provides for the procedures and terms of resident assessments that shall include a minimum data set (MDS) in the form required under 42 CFR 483.20. This proposal removes the requirement for Intermediate Care Facilities for the Mentally Retarded (ICF/MR) to use the MDS for resident assessment. This change is necessary because the MDS was federally designed for use in nursing facilities but not intended for assessment of the developmentally disabled. The effect of the Rule change will be elimination of the requirement for ICF/MR to use a MDS form for resident assessment and will allow facilities to align resources in addressing the active treatment needs of residents.

310:675-13-5 The current Rule sets forth inservice training intervals for pain screening, management and assessment. The proposal establishes an annual requirement for facilities to provide all direct care staff with two hours of inservice training in addition to training in orientation. The effect of the Rule change will be assurance of a competent workforce through incorporation of a diverse curriculum in patient care.

25. CHAPTER 680. RESIDENTIAL CARE HOMES [AMENDED]

[PERMANENT] Presented by Dorya Huser / Hank Hartsell

PROPOSED RULES: Subchapter 3. Licensure requirements: 310:680-3-6 [AMENDED]; 310:680-3-14 [NEW]; Subchapter 9. Dietary requirements: 310:680-9-1 [AMENDED].

AUTHORITY: Oklahoma State Board of Health, 63 O.S. Section 1-104; and 63 O.S. Section 1-819 et seq

SUMMARY: 310:680-3-6 The current Rule provides for the procedures and terms of incidents reportable to the Department. This proposal clarifies incidents required to be reported to the Department. This change is necessary because current rule is not clear as to the criteria pertaining to incidents reportable to the Department. The effect of the Rule change will be clarification regarding those incidents that result in fractures, head injuries and require treatment at a hospital as being reportable incidents. The proposal will allow for incidents, which result in serious injuries, to be more accurately quantified.

310:680-3-14 There is no Rule promulgated to enforce the statutory definition of a Residential Care Home. This proposal establishes the requirement for licensed facilities to comply with the definition of "Residential Care" as defined in statute at, 63 O.S. Section 1-820. The effect of the Rule change will be the ability to ensure a safe and healthy environment is provided and maintained for individuals residing in these entities. The proposal will make certain that residents are appropriately placed thereby receiving appropriate care.

310:680-9-1 The current Rule provides for the procedures and terms a licensed facility shall be in compliance with pertaining to food service. This proposal establishes OAC 310:257 (food service establishment rules) as the governing regulation for the storage, preparation and serving of food. This change is necessary because current rule requires compliance with obsolete versions of the food service establishment rules and the milk and milk product regulations. The effect of the Rule change will be the effectuation of the current food service establishment rules with a direct benefit to residents by reducing the potential for foodborne illnesses through safe food practices.

D. OTHER BUSINESS

Social Marketing – Leslea Bennett-Webb

E. CONSIDERATION OF STANDING COMMITTEES' REPORTS AND ACTION

Executive Committee, Mr. Smith, Chair
Discussion and Possible Action

Finance Committee – Dr. Alexopoulos, Chair
Discussion and Possible Action

Accountability, Ethics & Audit Committee - Mr. Baldwin, Chair
Discussion and Possible Action

Public Health Policy Committee - Dr. Krishna, Chair
Discussion and Possible Action

F. COMMISSIONER'S REPORT
Discussion and Possible Action

G. PRESIDENT'S REPORT
Discussion and Possible Action
 a) Assign Members to the Nominating Committee

H. NEW BUSINESS - Not reasonably anticipated 24 hours in advance of meeting

I. PROPOSED EXECUTIVE SESSION
Executive Session pursuant to 25 O.S. Section 307(B)(4) for confidential communications to discuss pending litigation and investigations.

Possible action taken as a result of Executive Session.

J. ADJOURNMENT